

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

A P P E A R A N C E S

THE LAW OFFICES OF YVONNE M. HOMEYER, P.C.
BY: Yvonne M. Homeyer
Attorney at Law
The Parkway Tower
225 South Meramec, Suite 325
St. Louis (Clayton), Missouri 63105
On behalf of the Petitioners.

LAW OFFICES OF JOHN BARICEVIC
BY: John Baricevic
Attorney at Law
4010 North Illinois
Swansea, Illinois 62226
On behalf of Village of Fairmont City.

PEDERSEN & HOUPT
BY: Donald J. Moran
Attorney at Law
161 North Clark Street, Suite 3100
Chicago, Illinois 60601
On behalf of Waste Management of Illinois, Inc.

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

WITNESS

PAGE NUMBER

KATHY ANDRIA

Direct Examination by Ms. Homeyer..... 9
Cross Examination by Mr. Moran..... 125

FLOSSIE HUNT

Direct Examination by Mr. Moran..... 250
Cross Examination by Ms. Homeyer..... 266

KEEFE REPORTING COMPANY
1-800-244-0190

		E X H I B I T S		
	NUMBER		MARKED FOR I.D.	ENTERED
3	Petitioner Exhibit 1	1	10	10
	Petitioner Exhibit 2	2	11	11
4	Petitioner Exhibit 3	3	17	17
	Petitioner Exhibit 4	4	26	denied
5	Petitioner Exhibit 5	5	21	21
	Petitioner Exhibit 6	6	22	22
6	Petitioner Exhibit 7	7	44	44
	Petitioner Exhibit 8	8	47	47
7	Petitioner Exhibit 9	9	50	50
	Petitioner Exhibit 10	10	57	57
8	Petitioner Exhibit 11	11	60	60
	Petitioner Exhibit 12	12	69	69
9	Petitioner Exhibit 13	13	69	69
	Petitioner Exhibit 14	14	85	85
10	Petitioner Exhibit 15	15	85	85
	Petitioner Exhibit 16	16	85	85
11	Petitioner Exhibit 17	17	96	96
	Petitioner Exhibit 18	18	100	100
12	Petitioner Exhibit 19	19	105	105
	Petitioner Exhibit 20	20	110	110
13	Petitioner Exhibit 21	21	111	111
	Petitioner Exhibit 22	22	112	112
14	Petitioner Exhibit 23	23	113	113
	Petitioner Exhibit 24	24	107	107
15	Petitioner Exhibit 25	25	115	115
	Petitioner Exhibit 26	26	94	94
16	Petitioner Exhibit 27	27	120	120
	Petitioner Exhibit 28	28	70	denied
17	Petitioner Exhibit 29	29	104	104
	Petitioner Exhibit 30	30	76	denied
18	Petitioner Exhibit 31	31	122	122

19

20

21

22

23

24

KEEFE REPORTING COMPANY
1-800-244-0190

1

P R O C E E D I N G S

2

(August 22, 2000; 10:07 a.m.)

3

4

5

6

HEARING OFFICER KNITTLE: Good morning. My name is John Knittle. I am the Chief Hearing Officer with the Illinois Pollution Control Board. Today is August 22nd. It is approximately 10:07 a.m.

7

8

9

10

11

12

13

14

15

16

17

18

We are here on Pollution Control Board matter PCB 2000-200, entitled American Bottom Conservancy, East St. Louis Community Action Network, Kathy Andria and Jack Norman versus the Village of Fairmont City and Waste Management of Illinois, Incorporated.

I want to note for the record that the room we initially scheduled this hearing for, the County Board Conference Room, Room B-564, is adjacent to this room. We are in the larger facility. I do want to note that I have posted a sign on the door of the initially noticed room in case any members of the public come and want to attend the hearing. They will be able to see that we are right next door and they will hopefully come here.

19

20

21

22

23

24

I do note that there are, to the best of my knowledge, two members of the public present. Just so you know, folks, we do encourage and are receptive to all public comments in this matter. Generally we do that at the end of the hearing after both parties have presented their cases-in-chief. I would ask that you be sworn in and subject to cross-examination by either

KEEFE REPORTING COMPANY
1-800-244-0190

1 of the parties.

2 We are also are going to have a written public comment
3 period after the hearing is over where you can submit any
4 comments that you have in a written form to the Illinois
5 Pollution Control Board. We have not set the time line for that
6 written public comment period yet. We will do that later, but it
7 will be a very brief public comment period because of the time
8 lines of this case.

9 This hearing was noticed pursuant to Board regulations and
10 the Illinois Environmental Protection Act. It will be run
11 pursuant to Board regulations and conducted specifically pursuant
12 to Sections 103.202 and 203, which prescribes the order and
13 conduct of hearings.

14 Just so everybody knows, and I think most of the
15 participants probably do. I don't make the ultimate decision in
16 this matter. That is the Illinois Pollution Control Board,
17 comprised of seven members throughout the State of Illinois.
18 They get together and have board meetings and vote on matters,
19 and they will be addressing this by October 20th of the year
20 2000, which is the statutory decision deadline in this case. To
21 the best of my recollection there is a Board meeting on October
22 19th. I would imagine that is when the decision will be
23 rendered.

24 My job is to make sure we have an orderly hearing and to

6

KEEFE REPORTING COMPANY
1-800-244-0190

1 get a transcript that the Board can take back and review and rule
2 on any evidentiary and discovery matters and things like that.

3 So, that being said, I would like the parties to introduce
4 themselves starting with the petitioner.

5 MS. HOMEYER: Yvonne Homeyer, attorney for all of the
6 petitioners, American Bottom Conservancy, East St. Louis
7 Community Action Network, Kathy Andria and Jack Norman.

8 HEARING OFFICER KNITTLE: Thank you. And I will note for
9 the record that both Mr. Norman and Ms. Andria are here today
10 with us.

11 All right, Mr. Moran.

12 MR. MORAN: Donald Moran, on behalf of respondent, Waste
13 Management of Illinois, Inc.

14 HEARING OFFICER KNITTLE: Thank you.

15 MR. BARICEVIC: John Baricevic, representing the Village of
16 Fairmont City.

17 HEARING OFFICER KNITTLE: Thank you very much. To the best
18 of my knowledge, we do not have preliminary matters, but now is
19 the time if we want to address them.

20 Ms. Homeyer, do you have anything that -- am I saying your
21 name correctly?

22 MS. HOMEYER: That's correct.

23 HEARING OFFICER KNITTLE: Do you have anything?

24 MS. HOMEYER: No, I do not have any preliminary matters to

7

KEEFE REPORTING COMPANY
1-800-244-0190

1 discuss.

2 HEARING OFFICER KNITTLE: Mr. Moran?

3 MR. MORAN: None.

4 HEARING OFFICER KNITTLE: Mr. Baricevic?

5 MR. BARICEVIC: No.

6 HEARING OFFICER KNITTLE: Okay. Let's get started. Ms.

7 Homeyer, you have an opportunity to provide an opening statement

8 if you would like.

9 MS. HOMEYER: No, I am ready to just go ahead and put the
10 witness on.

11 HEARING OFFICER KNITTLE: Any opening statement from the
12 respondents?

13 MR. MORAN: None.

14 MR. BARICEVIC: No.

15 HEARING OFFICER KNITTLE: All right. Ms. Homeyer, your
16 first witness, please.

17 MS. HOMEYER: Thank you. I am going to call Kathy Andria
18 as my first witness.

19 HEARING OFFICER KNITTLE: If you will just have a seat.
20 The court reporter will swear you in.

21 (Whereupon the witness was sworn by the Notary Public.)

22 HEARING OFFICER KNITTLE: All right. Ms. Homeyer, your

23 witness.

24 MS. HOMEYER: Thank you.

8

KEEFE REPORTING COMPANY
1-800-244-0190

1 K A T H Y A N D R I A,
2 having been first duly sworn by the Notary Public, saith as
3 follows:

4 DIRECT EXAMINATION

5 BY MS. HOMEYER:

6 Q. State your name, please.

7 A. Kathy Andria.

8 Q. What is your address?

9 A. 3488 Collinsville Avenue, East St. Louis.

10 Q. Are you one of the individual petitioner's in this
11 matter?

12 A. Yes, I am.

13 Q. Are you associated with American Bottom Conservancy?

14 A. Yes, I am.

15 Q. What is American Bottom Conservancy?

16 A. It is a not-for-profit organization incorporated in the
17 State of Illinois, whose mission is to preserve, protect,
18 enhance, restore and promote the natural, cultural and historical
19 resources of the American bottom and to educate the public as to
20 the value of those resources.

21 MS. HOMEYER: Mr. Hearing Officer, I would like to
22 introduce into evidence Petitioner's Exhibit Number 1, which is a

23 certificate of good standing for American Bottom Conservancy.

24 HEARING OFFICER KNITTLE: Mr. Moran?

9

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: No objection.

2 HEARING OFFICER KNITTLE: Mr. Baricevic?

3 MR. BARICEVIC: No objection.

4 HEARING OFFICER KNITTLE: This will be admitted.

5 (Whereupon said document was duly marked for purposes of
6 identification as Petitioner's Exhibit 1 and admitted into
7 evidence as of this date.)

8 MS. HOMEYER: Thank you.

9 HEARING OFFICER KNITTLE: I am going to call this P-1 on my
10 exhibit list, for your records.

11 MS. HOMEYER: Thank you.

12 Q. (By Ms. Homeyer) What is your connection with American
13 Bottom Conservancy?

14 A. I am one of the directors.

15 Q. And who are the other directors?

16 A. Kathleen O'Keefe, Jack Norman, and John Kelly.

17 Q. Do you work in close proximity to the Milam Landfill?

18 A. Yes, I do.

19 Q. And would you be impacted by the siting of the
20 expansion?

21 A. Yes, I will.

22 Q. What is East St. Louis Community Action Network?

23 A. It is a direct action umbrella coalition of 26
24 neighborhood and community groups that have formed to work to

10

KEEFE REPORTING COMPANY
1-800-244-0190

1 empower citizens and to work to improve the quality of life of
2 the citizens -- the residents and the businesses of East St.
3 Louis, the City of East St. Louis.

4 Q. Is it a not-for-profit corporation?

5 A. Yes, it is a not-for-profit and it is incorporated in
6 the State of Illinois.

7 MS. HOMEYER: I would like to offer into evidence
8 Petitioner's Exhibit Number 2, which is a certificate of good
9 standing for East St. Louis Community Action Network.

10 HEARING OFFICER KNITTLE: Mr. Moran?

11 MR. MORAN: No objection.

12 HEARING OFFICER KNITTLE: Mr. Baricevic?

13 MR. BARICEVIC: No objection.

14 HEARING OFFICER KNITTLE: This is admitted.

15 (Whereupon said document was duly marked for purposes of
16 identification as Petitioner's Exhibit 2 and admitted into
17 evidence as of this date.)

18 Q. (By Ms. Homeyer) What is your affiliation with East St.
19 Louis Community Action Network?

20 A. I am an officer and secretary of the organization, and
21 as such a member of the board, and I am also the chair of the

22 environment committee.

23 Q. Do the residents of East St. Louis live in close
24 proximity to the site of the Milam Landfill?

11

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes, they do.

2 Q. Would they be impacted by the proposed expansion?

3 A. Yes, they will.

4 Q. Ms. Andria, were you present at the hearing in front of
5 the Village of Fairmont City on March 17th, 2000?

6 A. Yes, I was.

7 Q. Who else did you represent at that hearing?

8 A. I represented American Bottom Conservancy, East St.
9 Louis Community Action Network and myself.

10 Q. And are you here on behalf of yourself and American
11 Bottom Conservancy and East St. Louis Community Action Network
12 today?

13 A. Yes, I am.

14 Q. Do you have a college degree?

15 A. Yes, I do.

16 Q. What is it?

17 A. It is a Bachelor of Arts.

18 Q. Have you taken any post graduate studies?

19 A. Yes, I have.

20 Q. In what?

21 A. Some public administration course work and
22 not-for-profit management and communication.

23 Q. Where did you take those courses?

24 A. SIU.

12

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Have you been involved in environmental and community
2 activities prior to your involvement with this petition?

3 A. Yes, I have.

4 Q. Could you just briefly describe in the past year what
5 some of those community and environmental activities have been?

6 A. I work with a county -- a two county -- actually, it is
7 three county, stormwater, Metro-East stormwater management group.
8 We are working to try to get legislation for stormwater
9 management for the area. I am working with the City of East St.
10 Louis to try to identify the causes of flooding in the city and
11 to try to do something -- to do something to fix the sewers.

12 I am a member of the Metro-East Sustainable Growth
13 Resources Group that is working on the task force -- the Illinois
14 State Growth Task Force that is trying to put together
15 legislation on growth. And I do wetlands education.

16 Q. Have you been involved in any siting hearings before?

17 A. Yes, I have.

18 Q. How many?

19 A. Three others.

20 Q. Did any of them involve Waste Management as the

21 applicant?

22 A. No.

23 Q. Have you ever been involved in any prior expansion of
24 the Milam Landfill?

13

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. No, I have not.

2 Q. Are you familiar with the Milam Landfill?

3 A. Yes, I am.

4 Q. In what city and county is it located?

5 A. It is located in Fairmont City, the Village of Fairmont
6 City, in St. Clair County.

7 Q. And roughly where is it located in reference to highways
8 and other major --

9 A. It is at kind of the juncture of Highway 55, 70, 40 and
10 Highway 203. The ones are interstates and the other one is, I
11 believe, a state highway. It is on the Cahokia Canal, directly
12 on the Cahokia Canal. And it is about, I would say, a mile north
13 of East St. Louis.

14 Q. Is it across from Gateway International Raceway?

15 A. It is directly across from Gateway International Race
16 Track.

17 Q. What neighborhood or neighborhoods in East St. Louis are
18 the closest in proximity to the landfill?

19 A. The Goose Hill neighborhood is -- would be located on

20 the other side of the race track. And the Emerson Park
21 neighborhood is the first -- it is adjacent to Fairmont City,
22 right there.

23 Q. And how far do you estimate that to be?

24 A. It is about a mile.

14

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. How far is your office on Collinsville Road from the
2 Milam Landfill?

3 A. It is about two miles.

4 Q. How close is the Milam Landfill to Cahokia Mounds?

5 A. It is -- from the landfill to the mound, the Cahokia
6 Mounds, it is about 2.8 miles, two and a half, somewhere in
7 there. It is also about a mile from some other Mounds that are
8 located in East St. Louis and Fairmont City.

9 Q. Ms. Andria, when and how did you first become aware that
10 Waste Management was going to file an application for a vertical
11 expansion of the Milam Landfill?

12 A. It was -- there was a notice in the Belleville
13 News-Democrat. I think it was October 30th. It was a public
14 notice.

15 Q. Of what year?

16 A. Of 1999, stating of their intent to file an application.

17 Q. For the vertical expansion?

18 A. For the vertical expansion.

19 Q. Was a hearing eventually held on Waste Management's

20 application in front of the trustees of the Village of Fairmont
21 City?

22 A. Yes, there was.

23 Q. What was the day of the hearing?

24 A. March 17th, 2000.

15

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And did you attend that hearing?

2 A. Yes, I did.

3 Q. I believe you already testified that you attended not
4 only individually but on behalf of American Bottoms Conservancy
5 and East St. Louis Community Action Network; is that correct?

6 A. American Bottom, no S.

7 Q. I am sorry. Thank you.

8 A. Yes, American Bottom Conservancy and ESL CAN.

9 Q. Now, ESL CAN --

10 A. That is E-S-L, space, C-A-N. That's the abbreviation
11 for the East St. Louis Community Action Network.

12 Q. Are you claiming that the hearing of March 17th, 2000,
13 and the procedures that preceded and followed it up to the date
14 of the public comment were fundamentally unfair?

15 A. Most definitely I am claiming that.

16 Q. And are you further claiming that as a result of the
17 fundamental unfairness of the hearing and the procedures before
18 and after, up to the date of the public comment, that as a result

19 of that you have been prejudiced and harmed?

20 A. Absolutely.

21 Q. Would you please tell us in what respects you are
22 claiming that the public hearing and the procedures that
23 proceeded and followed it were fundamentally unfair?

24 A. Well, the hearing itself started out -- it was unfair

16

KEEFE REPORTING COMPANY
1-800-244-0190

1 from the very moment it started to the very end of the hearing.
2 The hearing officer, we later learned, is the brother-in-law of
3 the county board chairman, who is also the Village attorney for
4 Fairmont City, which was the siting authority.

5 Q. And who is that?

6 A. That is John Baricevic and Grey Chatham.

7 MS. HOMEYER: I would like to offer --

8 THE WITNESS: Mr. Chatham was the hearing officer.

9 MS. HOMEYER: I would like to offer into evidence
10 Petitioner's Exhibit Number 3, which is a letter from Baricevic
11 to myself dated August 14th, 2000, stating that Mr. Chatham and
12 Mr. Baricevic are brother's-in-law.

13 HEARING OFFICER KNITTLE: Mr. Moran?

14 MR. MORAN: No objection.

15 HEARING OFFICER KNITTLE: Mr. Baricevic?

16 MR. BARICEVIC: No objection.

17 HEARING OFFICER KNITTLE: This will be admitted.

18 MS. HOMEYER: Thank you.

19 (Whereupon said document was duly marked for purposes of
20 identification as Petitioner's Exhibit 3 and admitted into
21 evidence as of this date.)

22 Q. (By Ms. Homeyer) Are there any other respects in which
23 you are claiming that the hearing and the procedures preceding
24 and following it were fundamentally unfair?

17

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Well, Mr. Baricevic and Mr. Chatham, the hearing
2 officer, also share a law office.

3 Q. And on what do you base that conclusion?

4 A. We learned about that in the newspaper -- the next day
5 in a newspaper from the reporter who had been at the hearing.
6 And then it was confirmed by driving past the office and it is in
7 the phone book that they share the same phone numbers.

8 Q. Okay. What address do they have law offices at?

9 A. I think it is 4010 Illinois Street.

10 Q. In Belleville?

11 A. I think it is in Swansea.

12 Q. How many local phone directories cover the area of
13 Belleville, Fairmont City, East St. Louis and other cities in St.
14 Clair County?

15 A. I don't know total how many. There is a McLeod
16 Directory which is published, which I don't know anything about
17 the company. But it is one that is commonly used. And the

18 Ameritech Directory, and they have one for East St. Louis and one
19 for Granite City, but they include other areas of the Metro-East
20 area.

21 Q. Now, did you examine the directories that cover the
22 period of March 17th, 2000?

23 A. Yes, I did.

24 Q. And what did you learn from the directories about the

18

KEEFE REPORTING COMPANY
1-800-244-0190

1 phone numbers of Mr. Chatham and Mr. Baricevic's law office?

2 A. Mr. Baricevic and Mr. Chatham have the same phone
3 number. Mr. Baricevic's listing under attorney has the same
4 phone number as Mr. Chatham's number under the attorney.

5 Q. How many phone listings are there for Mr. Grey Chatham?

6 A. There may be two, but I think there is only one in the
7 business pages. He may have a personal --

8 Q. I am just talking about the business pages.

9 A. Business pages, one.

10 Q. How many listings for Mr. Baricevic?

11 A. There are two.

12 Q. Okay. I am handing you what has been marked as
13 Petitioner's Exhibit Number 5. What directory does this purport
14 to be?

15 A. This is the -- I think this is the 1999-2000.

16 Q. Which directory?

17 A. This one.

18 Q. Which directory?

19 A. The McLeod USA, May 1999 to 2000, Madison and St. Clair
20 County Directory.

21 Q. According to that directory, what phone number is listed
22 for Mr. Grey Chatham's law office?

23 A. Mr. Grey Chatham, attorney, is 233-2200.

24 Q. And how many listings are there for Mr. John Baricevic?

19

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. There are two.

2 Q. What are the phone listings?

3 A. The one that they have first, that is 222-2000, and then
4 they have down John Baricevic, attorney, is 233-2200, which is
5 the same as the one listed for Mr. Chatham.

6 Q. Okay. Have you also had a chance to examine the
7 Ameritech Directory?

8 A. Yes, I have.

9 Q. Which directory did you examine?

10 A. The one that was enforce at the public hearing, which is
11 Ameritech 1999 to 2000. It says keep until December 2000.

12 Q. All right. How many listings are there for Mr. Grey
13 Chatham?

14 A. For Mr. Chatham, there is one listing for Mr. Chatham,
15 233-2200.

16 Q. And for Mr. John Baricevic?

17 A. And for Mr. Baricevic there are two, 222-2000 and
18 233-2200.

19 Q. Thank you.

20 A. I need better glasses.

21 MS. HOMEYER: I would like to offer Petitioner's Exhibit
22 Number 5 and Petitioner's Exhibit Number 6 into evidence.

23 HEARING OFFICER KNITTLE: Could we take them one by one.
24 Which is Number 5?

20

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: Petitioner's Exhibit Number 5 is from the
2 McLeod Directory.

3 HEARING OFFICER KNITTLE: This is a photocopy of a McLeod
4 directory phonebook --

5 MS. HOMEYER: Yes, we have the original.

6 HEARING OFFICER KNITTLE: -- with Mr. Baricevic's and Mr.
7 Chatham's telephone numbers highlighted, correct?

8 MS. HOMEYER: Yes.

9 HEARING OFFICER KNITTLE: Is there an objection, Mr. Moran?

10 MR. MORAN: None.

11 HEARING OFFICER KNITTLE: Mr. Baricevic?

12 MR. BARICEVIC: No.

13 HEARING OFFICER KNITTLE: That is Petitioner's 5. That is
14 admitted.

15 (Whereupon said document was duly marked for purposes of
16 identification as Petitioner's Exhibit 5 and admitted into

17 evidence as of this date.)

18 MS. HOMEYER: I would also like to offer into evidence
19 Petitioner's Exhibit Number 6 which is from the Ameritech
20 Directory and contains highlights of Mr. Chatham's phone listing
21 and two listings for Mr. John Baricevic.

22 HEARING OFFICER KNITTLE: Any objection, Mr. Moran?

23 MR. MORAN: No.

24 HEARING OFFICER KNITTLE: Mr. Baricevic?

21

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. BARICEVIC: No.

2 HEARING OFFICER KNITTLE: Okay. Both of those are
3 admitted.

4 MS. HOMEYER: Thank you.

5 (Whereupon said document was duly marked for purposes of
6 identification as Petitioner's Exhibit 6 and admitted into
7 evidence as of this date.)

8 Q. (By Ms. Homeyer) In what other respects are you claiming
9 that fundamental unfairness occurred?

10 A. Well, when the hearing started, Mr. Moran, the attorney
11 for Waste Management, gave a little slide show presentation to
12 the Board and then presented his application and rested on his
13 application, period. He was -- he said he was not going to call
14 any witnesses.

15 Q. Were you surprised by that?

16 A. Totally surprised. I have been to three hearings. I
17 had never seen that before. I assumed it was legal because Mr.
18 Moran is an expert on siting, but it was just totally -- I mean,
19 it was just -- I thought it was totally fundamentally unfair.

20 Q. How were you prejudiced by that strategy?

21 A. Well, we were put in the position of having to call the
22 witnesses. We were put in the position of having to have known
23 what everything was in without hearing each expert come, as in
24 other hearings I have been to, to testify what it is that is in

22

KEEFE REPORTING COMPANY
1-800-244-0190

1 their report. There was -- that was not done in this case. The
2 burden was on us, the citizens, to carry the whole hearing
3 forward.

4 Q. Are you making any other claims of fundamental
5 unfairness?

6 A. Yes. When Mr. Moran put his exhibit and said this is
7 our application and we rest on it, it was marked as an Exhibit 1
8 and I asked to see it and I asked to examine it and I asked him
9 to please --

10 Q. When you say "him," who did you direct it to?

11 A. Him, I asked Mr. Moran to -- the hearing officer to let
12 Mr. Moran to let me see it, and the hearing officer said no. He
13 said, it has been down at the Village and if you wanted to see it
14 you could have seen it by now.

15 Q. Were there any other respects in which you are claiming

16 fundamental unfairness?

17 A. Yes. The hearing officer throughout the hearing
18 sustained every objection of Mr. Moran's. He even made
19 objections of his own. He ruled on things before hearing my
20 argument. He wouldn't let me pursue argument. He wouldn't let
21 me -- he stopped a number of what I thought were relevant lines
22 of inquiry. There were just a whole bunch of different things
23 that he did.

24 He kept -- throughout the hearing he kept saying -- he

23

KEEFE REPORTING COMPANY
1-800-244-0190

1 would not let me put anything into exhibit. He said you will
2 have your turn, you will have your turn. He kept saying this is
3 cross-examination. Well, it wasn't cross-examination because
4 there hadn't been testimony. He said at the -- the hearing
5 officer said at the hearing to Mr. Moran, he said, Mr. Moran, put
6 whatever witness. I had to call the witness. Mr. Norman and I
7 had to call the witness to say what we wanted and they would
8 provide who was to come up, and then he -- the hearing officer
9 said to Mr. Moran, somewhat qualify him, not what is his
10 testimony, what is his report, somewhat qualify, meaning don't
11 give us too much to go on. Then when I would start to pursue
12 lines of questioning, he would say that is beyond what he
13 testified to. Well, I would have only been able to ask him about
14 what his history was or where he works or something. I mean,

15 that is fundamentally unfair.

16 Q. What about exhibits?

17 A. The exhibits, he would not let me hand in. He kept
18 saying, you will have your turn. You will be able to hand them
19 in. You will be able to do it. So he kept leading me on like I
20 was going to be able to do it. So I didn't fight too hard, I
21 guess. I objected, but he wouldn't -- he kept saying you will be
22 able to hand them in.

23 Q. What happened when you tried to introduce your exhibits?

24 A. He denied my exhibits and he denied a floodplain map.

24

KEEFE REPORTING COMPANY
1-800-244-0190

1 He said --

2 Q. Without going into specifics, was there any exhibit he
3 did admit?

4 A. He admitted the Cahokia Mounds brochure.

5 Q. Was there any objection to that exhibit?

6 A. There was no objection.

7 Q. Is that the only exhibit that you were allowed to
8 introduce into evidence?

9 A. That was the only exhibit that I was allowed to
10 introduce.

11 Q. What were you told you could do with your exhibits?

12 A. Well, throughout the hearing when he said I could hand
13 them in at the end and then he wouldn't let me, and then --

14 Q. And then at the end what did he say?

15 A. -- at the end he said, well, you can put them in public
16 comment.

17 Q. Let's talk about some of those claims separately. When
18 did you first hear that Mr. Chatham and Mr. Baricevic were
19 brothers-in-law?

20 A. After you got involved. After we retained an attorney.

21 Q. And have you raised that allegation in your amended
22 petition?

23 A. Yes, we did.

24 Q. Does Mr. Baricevic's client, the Village of Fairmont

25

KEEFE REPORTING COMPANY
1-800-244-0190

1 City, benefit in any way from a host agreement entered into
2 between Waste Management and the Village of Fairmont City?

3 A. Most definitely.

4 (Whereupon a document was duly marked for purposes of
5 identification as Petitioner's Exhibit 4 as of this date.)

6 Q. Ms. Andria, I am handing you what has been marked as
7 Petitioner's Exhibit Number 4. What is this?

8 A. This is the host agreement between the Village of
9 Fairmont City and Waste Management of Illinois.

10 Q. What date was that signed?

11 A. It was signed on May 19th, 1999.

12 Q. And do you recall approximately when Waste Management's
13 application for the vertical expansion was filed?

14 A. The application, I believe, was filed November 19th. I
15 am not --

16 Q. Of what year?

17 A. Of 1999.

18 Q. Okay. And in what ways does the Village of Fairmont
19 City benefit economically from its agreement with Waste
20 Management?

21 A. Well, as soon as they receive a permit from --

22 Q. A nonappealable?

23 A. A nonappealable permit from the IEPA they get
24 \$330,000.00. They also get an increase in the fees that have

26

KEEFE REPORTING COMPANY
1-800-244-0190

1 been being paid to them from the waste that is put into the
2 landfill. That increased at the beginning of this year, and it
3 says in the agreement that if they don't get siting then they
4 have to pay that increase back.

5 Q. Are there other economic benefits in that agreement as
6 well?

7 A. Yes, there are.

8 MS. HOMEYER: Okay. I would like to offer into evidence
9 Petitioner's Exhibit Number 4.

10 THE WITNESS: I want to point out one thing.

11 Q. (By Ms. Homeyer) Certainly.

12 A. I noticed, as I was looking at this, that there are
13 certain exhibits that are referred to that are not a part of

14 this, and we have not been privy to the exhibits.

15 Q. All right. Where did you find Petitioner's Exhibit
16 Number 4, the host agreement?

17 A. The host agreement was with the application.

18 Q. Were the exhibits to the host agreement with the
19 application?

20 A. They were not.

21 MS. HOMEYER: I would like to offer into evidence
22 Petitioner's Exhibit Number 4.

23 HEARING OFFICER KNITTLE: Mr. Moran?

24 MR. MORAN: The only point I would make is this is already

27

KEEFE REPORTING COMPANY
1-800-244-0190

1 part of the record. There is really no need to admit it
2 separately. It was part of the siting application. It is part
3 of the record that was certified by the Village. It is merely
4 duplicative to add it here.

5 HEARING OFFICER KNITTLE: Is that an objection --

6 MR. MORAN: Yes.

7 HEARING OFFICER KNITTLE: -- or just a point of --

8 MR. MORAN: Well, no, it is an objection. We don't need to
9 clutter this record with more paper than is already in the
10 record.

11 HEARING OFFICER KNITTLE: Mr. Baricevic, anything to add?

12 MR. BARICEVIC: Well, similar objections. If she is

13 introducing it separately as an exhibit, she needs to prove it
14 up. That would have to be from the Village clerk or from the
15 parties. If she wants to admit it or reference it as part of the
16 application, then I don't have any objection.

17 HEARING OFFICER KNITTLE: Ms. Homeyer, in light of the fact
18 that this is part of the record before the Pollution Control
19 Board, do you still want to admit this as a separate exhibit?

20 MS. HOMEYER: I would. I think it would be easier to
21 address in the briefing if I could refer to the exhibit rather
22 than go back to the C pages. Since it is simply repetitive of
23 the application, which includes this, among many other pages, I
24 would like to offer it for the purpose of clarity to more easily

28

KEEFE REPORTING COMPANY
1-800-244-0190

1 address it in the briefing.

2 HEARING OFFICER KNITTLE: Is there any objection if she
3 introduces it just for ease of writing and clarity in terms of
4 the post hearing briefs?

5 MR. MORAN: Well, in fact, I don't think it would
6 contribute to any clarity. I think it would just confuse matters
7 because we have the record, as was pointed out, that have C
8 numbers identifying each of the pages of the agreement. It would
9 be easier to refer to that agreement that is currently in the
10 record than to refer to what would be I guess a P-5 or 6
11 designation and then identify different pages of this separate
12 agreement.

13 HEARING OFFICER KNITTLE: Mr. Baricevic?
14 MR. BARICEVIC: Concur.
15 MS. HOMEYER: May I respond?
16 HEARING OFFICER KNITTLE: Yes, and then I will make a
17 ruling.
18 MS. HOMEYER: We have not been provided with a copy of the
19 record on appeal.
20 HEARING OFFICER KNITTLE: So this is your only copy of the
21 host community agreement? You don't have a copy of the record on
22 appeal?
23 MS. HOMEYER: No, it was not provided to us.
24 HEARING OFFICER KNITTLE: It was not served on the

29

KEEFE REPORTING COMPANY
1-800-244-0190

1 Petitioners?
2 MR. MORAN: Well, certainly, the notice of what was
3 contained in the record, I believe, was served on all of the
4 parties, which is all the Village has to do. The Village is
5 under no obligation to provide the record on appeal to all of the
6 parties who may be interested. That is the obligation of the
7 petitioners to, obviously, obtain the record if they should so
8 choose.
9 MR. BARICEVIC: None has ever been requested.
10 HEARING OFFICER KNITTLE: By?
11 MR. BARICEVIC: (Indicating.)

12 HEARING OFFICER KNITTLE: You are indicating Ms. Homeyer?

13 MR. BARICEVIC: Correct. Well, Ms. Homeyer, Ms. Andria,
14 anybody.

15 MS. HOMEYER: Well, that is because they would charge us
16 for it, and we can't afford to pay for 13,000 some copies. I am
17 just saying that I don't believe that anyone is disputing the
18 authenticity of this exhibit. This is my case, and I believe it
19 would be clearer for me to present my case if I were allowed to
20 present this as a separate exhibit.

21 HEARING OFFICER KNITTLE: Right. I am going to deny this
22 exhibit or not admit this exhibit, but not because I don't think
23 it would be clear. It is because I don't think this has been
24 properly qualified via foundation. I think Mr. Baricevic's

30

KEEFE REPORTING COMPANY
1-800-244-0190

1 arguments are correct that I have no way of knowing, looking at
2 this, by what the testimony has already provided, that this is
3 the valid host community agreement and the same as in the record.

4 So in light of that I am going to have to go with what we
5 have in the record at the Board, because I know it is an exact
6 and more accurate copy. So I am denying this exhibit. But I
7 will take it back to the Board, and if you want to appeal my
8 decision to the Illinois Pollution Control Board in your post
9 hearing brief or in a separate motion, they will entertain that.

10 MS. HOMEYER: I didn't hear any attorney say this was not
11 the correct host agreement copy.

12 HEARING OFFICER KNITTLE: No, but Mr. Baricevic did, in
13 fact, say that he is objecting because he doesn't think the
14 proper foundation is being laid, and that's the objection I am
15 sustaining.

16 MS. HOMEYER: All right.

17 THE WITNESS: Could I ask a question?

18 Q. (By Ms. Homeyer) Ms. Andria, who provided you with a
19 copy of that agreement?

20 A. Waste Management.

21 Q. Does the County of St. Clair stand to benefit in any way
22 if the siting is approved for the vertical expansion?

23 MR. MORAN: Objection. Relevance.

24 HEARING OFFICER KNITTLE: Ms. Homeyer?

31

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: Mr. Baricevic is not only the attorney for
2 the Village of Fairmont City, he is also the chairman of the
3 board of St. Clair County.

4 HEARING OFFICER KNITTLE: Anything further, Mr. Moran?

5 MR. MORAN: Well, clearly the fact that Mr. Baricevic may
6 also hold an office within the county does not come away with any
7 explanation as to the relevance objection because what we are
8 dealing with here, I believe, is a fundamental fairness claim and
9 some implied claim that somehow any indirect benefit that might
10 flow to the county somehow affects the fundamental fairness of

11 these proceedings. I don't think there is any connection or link
12 between the two. Frankly, there was not a link between Fairmont
13 City benefits and the proposed application either, based on the
14 case law. Here we are going one step further and now trying to
15 draw St. Clair County into this web. I don't see any basis for
16 connecting any possible benefit, which we have not heard about,
17 to St. Clair County to this application and some claim of
18 fundamental unfairness.

19 HEARING OFFICER KNITTLE: Ms. Homeyer, your response?

20 MS. HOMEYER: Yes. This is a matter of common knowledge.
21 It is not prejudicial to any party and it certainly is relevant
22 to show all of the hats that Mr. Baricevic was wearing.

23 HEARING OFFICER KNITTLE: I am going to overrule the
24 objection and allow the question to stand.

32

KEEFE REPORTING COMPANY
1-800-244-0190

1 Do you need it read back, Ms. Andria?

2 THE WITNESS: I do. I am sorry.

3 HEARING OFFICER KNITTLE: Could you read it back.

4 (Whereupon the requested portion of the record was read
5 back by the Reporter.)

6 THE WITNESS: Yes, it does.

7 Q. (By Ms. Homeyer) In what way?

8 A. It currently is getting tipping fees from the landfill,
9 probably a million dollars a year. That would stop if the
10 landfill were not expanded. It would continue for another four

11 years if it were expanded.

12 Q. Did Mr. Baricevic ever make any statements to you
13 concerning his involvement in the negotiation of the host
14 agreement between the Village of Fairmont City and Waste
15 Management?

16 A. Yes.

17 Q. When did he make that statement to you?

18 A. We were talking at a break during the hearing.

19 Q. What hearing?

20 A. During the public hearing --

21 Q. On March 17th?

22 A. -- of March 17th.

23 Q. What did he tell you?

24 A. He indicated that he had worked with drafting it.

33

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Do you claim that you were prejudiced by the fact that
2 the hearing officer of the March 17th public hearing, Mr. Grey
3 Chatham, was related to Mr. Baricevic as brother-in-law?

4 A. I didn't hear the first couple of lines of your
5 statement.

6 Q. Do you claim that were you prejudiced --

7 A. Yes.

8 Q. -- by the fact that the hearing officer of the March
9 17th, 2000 hearing, Mr. Grey Chatham, is the brother-in-law of

10 Mr. John Baricevic?

11 A. Yes.

12 Q. In what way do you believe that you and the petitioner's
13 were prejudiced?

14 A. Mr. Chatham seemed to conduct the hearing in a none
15 partial way -- or in a partial way, and not in an impartial way
16 and seemed to favor the Village and Waste Management.

17 Q. And you base that on what conduct of the hearing
18 officer?

19 A. In that it was one-sided. Everything was -- that we
20 tried to do was objected to. Everything that they did was
21 accepted.

22 Q. Okay.

23 A. And he acted more as an advocate or like a third lawyer
24 in the room for them, frankly.

34

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Does that claim of prejudice extend to the fact that Mr.
2 Chatham and Mr. Baricevic have some relationship with respect to
3 their law practices?

4 A. Absolutely. I think it is very unfair to bring in your
5 own person to be a hearing officer. A hearing officer is
6 supposed to be impartial and fair.

7 Q. Now, you earlier claimed that one of your claims of
8 fundamental unfairness was the fact that Mr. Moran did not call
9 any witnesses to testify on behalf of Waste Management; is that

10 correct?

11 A. That's correct.

12 Q. All right. How were you prejudiced by that?

13 A. As I started to say earlier, the burden of carrying on
14 the hearing was on us. We are not attorneys. We are citizens.
15 We had to -- we were supposed to know what -- everything that was
16 contained in the report because they just gave a little sketch, a
17 bio sketch to qualify them as experts. But then he didn't refer
18 to what their testimony was. We had to elicit material.

19 Q. Were you allowed to see the Waste Management application
20 at the hearing?

21 A. No. The hearing officer said, no, you can't see it. I
22 mean, it was entered -- it was an exhibit and he did not let us
23 see it.

24 Q. Were all of the experts that had reports in the

35

KEEFE REPORTING COMPANY
1-800-244-0190

1 application present at the hearing?

2 A. I don't know how many of them were present. I know that
3 the traffic person was not there.

4 Q. How were you prejudiced and -- how were you and the
5 other petitioners prejudiced by the hearing officer's refusal to
6 show you or make Mr. Moran show you the Waste Management
7 application after it had been admitted as Exhibit Number 1?

8 A. Well, first of all, we didn't know what was in it. We

9 had not seen the application at the Village. We didn't know if
10 this was the same thing that had been there. We didn't have an
11 opportunity to look at it, to go through to then ask each of
12 the -- for the experts what was going on and, you know, what they
13 said and ask them questions from their report.

14 Q. Now, did you -- have you ever been given any papers from
15 Waste Management that were represented to you to be the Waste
16 Management application?

17 A. Yes, we have.

18 Q. Okay. And how soon prior to the March 17th hearing did
19 you see documents given you by Waste Management that were
20 represented to be the application?

21 A. About two weeks.

22 Q. Okay. Did you make photocopies of part of the
23 application?

24 A. Yes, we did.

36

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And did you have part of that application, as
2 represented to you by Waste Management, at the hearing?

3 A. Yes, we did.

4 Q. Now, how were you prejudiced by not being able to see
5 Exhibit Number 1, when you had part of the application with you?

6 A. Because we had not known that we were going to have to
7 carry the burden of the questioning. I mean, we had questions
8 framed and we had not had a lot of time. We just had two weeks

9 that we had this document. So we didn't have time to go into it
10 to get -- to have experts help us with the different areas.

11 Q. But by not being allowed to see it at the hearing, how
12 were you prejudiced?

13 A. We couldn't refer to it. We couldn't see if it was the
14 same thing that we had. We couldn't -- I found out that it is
15 not because reading through it, it does not have the exhibits
16 that were referred to. So I don't know what we were given at
17 Waste Management. I do not know to this day how it compares with
18 what was submitted officially as an exhibit.

19 Q. And you were not allowed at that hearing on March 17th
20 to even look at Exhibit Number 1, correct?

21 A. Not even to look at it. And I asked specifically if
22 could enumerate what was in it, just to make sure that we knew
23 what was being admitted, and the hearing officer denied that.

24 Q. You earlier said that part of your claim of fundamental

37

KEEFE REPORTING COMPANY
1-800-244-0190

1 unfairness involved being cut off by the hearing officer with
2 respect to certain lines of questioning?

3 A. Yes.

4 Q. Do you recall what some of those lines of questioning
5 were?

6 A. One of the lines of questioning he stopped was when I
7 was attempting to find out if -- to talk about the change in

8 ownership of Waste Management. It was -- I wanted to show that
9 it was not the same company and he cut that line of questioning
10 off.

11 Q. Do you recall any other lines of questioning that you
12 were not allowed to pursue?

13 A. Yes. Any kind of financial information he cut off. Any
14 of the host agreement, he would not let us ask any questions. I
15 mean, we started to and then he cut it off.

16 Q. Did you feel that information would have been relevant
17 to the decision of the board of trustees?

18 A. Absolutely. I think the board of trustees should have
19 had that information. It was -- we put some reasons why. The
20 financial assurance was very important. The change in ownership
21 is necessary for them to know, because it is in the siting
22 criteria from the flood proofing on criteria four that refers to
23 new law that was passed in 1998. In 1997. Excuse me. That
24 refers to a change in ownership and whether a landfill in a

38

KEEFE REPORTING COMPANY
1-800-244-0190

1 floodplain is allowed to expand. That is extremely relevant.
2 The financial assurance has to do with whether if they locate in
3 the floodplain and expand then that landfill has financial -- has
4 to provide closure for 100 years, not 30.

5 Q. I believe you told me earlier that you were told
6 throughout the hearing that you would have an opportunity to
7 present exhibits; is that correct?

8 A. Yes. I wanted to say one other thing, an area that he
9 stopped me from going into.

10 Q. What is that?

11 A. Landfills have problems. They leak. And they have
12 Super Fund liability. That is another reason that the Village
13 should have been allowed to have information about them being
14 potentially liable for any kind of problems. And that was unfair
15 to us, but it was very unfair to the Board.

16 Q. How were you prejudiced by the hearing officer's refusal
17 to allow you to put your exhibits into evidence and being told to
18 put them in public comment?

19 A. Well, first of all, it is like you don't matter, your
20 exhibits are not important. His is important, Waste Management's
21 is important, but whatever you have is not important. It is
22 relegated to some lesser degree. I understand that public
23 comment is considered with less import than that. And another
24 thing is that the Village would have had a chance throughout the

39

KEEFE REPORTING COMPANY
1-800-244-0190

1 whole 30 day comment period to look at what we had submitted and
2 to maybe go through and look at some of the things and
3 investigate.

4 Q. Was one of the things that you tried to offer into
5 evidence a Flood Insurance Rate Map from the Federal Emergency
6 Management Agency?

7 A. Yes.

8 Q. Ms. Andria, I am handing you what has been marked as
9 Petitioner's Exhibit Number 7. What is this?

10 A. It is a National Flood Insurance Program, FIRM, Flood
11 Insurance Rate Map, County of St. Clair, Illinois, panel ten of
12 145, community panel number 1706160010A, effective date, December
13 15th, 1981. It is a FEMA map.

14 Q. And, Ms. Andria, did you have Petitioner's Exhibit
15 Number 7 with you at hearing?

16 A. I did.

17 Q. Is this the document that you were tendering to Mr.
18 Chatham when you described a Flood Insurance Rate Map on the
19 record of the hearing?

20 A. Yes.

21 MS. HOMEYER: I would like to offer Petitioner's Exhibit
22 Number 7 into evidence.

23 HEARING OFFICER KNITTLE: Mr. Moran?

24 MR. MORAN: I don't have a copy of Petitioner's Exhibit

40

KEEFE REPORTING COMPANY
1-800-244-0190

1 Number 7 here.

2 MS. HOMEYER: That's because it is very big.

3 HEARING OFFICER KNITTLE: Would you mind letting Mr. Moran
4 take a look, please.

5 Mr. Moran, do you need a minute? Should we go off the
6 record?

7 MR. MORAN: Probably.

8 HEARING OFFICER KNITTLE: We will go off the record. We
9 will take a five minute recess, folks.

10 (Whereupon a short recess was taken.)

11 HEARING OFFICER KNITTLE: All right. We are back on the
12 record.

13 Mr. Moran, have you had a chance to look at Petitioner's
14 Exhibit Number 7?

15 MR. MORAN: Yes.

16 HEARING OFFICER KNITTLE: Do you have any objection to that
17 exhibit being offered?

18 MR. MORAN: Yes, I do.

19 HEARING OFFICER KNITTLE: What is your objection?

20 MR. MORAN: The objection is that the document first has
21 not been authenticated.

22 Secondly, it is the same exhibit that was offered at the
23 public hearing, which by virtue of the testimony of at least two
24 expert witnesses, was the effect that this map is outdated. It

41

KEEFE REPORTING COMPANY
1-800-244-0190

1 is no longer accurately representing the conditions at the
2 proposed site.

3 Third, this document, for whatever it was worth, was
4 submitted as part of the public comment and is, for whatever
5 reason, still part of the underlying record here. So for those

6 three reasons I object to the admission of this exhibit.

7 HEARING OFFICER KNITTLE: Mr. Baricevic?

8 MR. BARICEVIC: I support those objections.

9 HEARING OFFICER KNITTLE: Ms. Homeyer?

10 MS. HOMEYER: Mr. Hearing Officer, I have a series of
11 exhibits that I am going to show the witness for purposes of
12 identifying them as the documents that she had at the March 17th
13 hearing which she described on the record as exhibits that she
14 was proffering into evidence. And the purpose of my introducing
15 them at this hearing is to make a record of what it is that the
16 hearing officer kept out. And to refer to public comment is not
17 fair because we are building a record here on fundamental
18 unfairness.

19 The Pollution Control Board should have an opportunity to
20 see the exhibit that Ms. Andria offered on March 17th that was
21 kept out. It appears no where in the transcript of the March
22 17th hearing. It is described on the record but the document
23 itself is not there. So if I am not allowed to introduce that as
24 an exhibit to support fundamental unfairness, then the Board is

42

KEEFE REPORTING COMPANY
1-800-244-0190

1 not going to be able to see what Mr. Chatham denied as being
2 admitted into evidence. If they can't see what he denied, how
3 can they determine whether there was fundamental unfairness.

4 HEARING OFFICER KNITTLE: Mr. Moran?

5 MR. MORAN: Well, that is absolutely wrong because this

6 record has in it this flawed and inaccurate map. It was
7 submitted as public comment. If the Board, as indeed it does,
8 needs to consider these exhibits that were offered, they were all
9 submitted as public comment. They can be viewed in that light.
10 The hearing officer's ruling was based upon the fact that this
11 map is outdated. It does not apply anymore.

12 So for purposes of arguing a fundamental fairness point,
13 the record is sufficient. The map is in this record. It was
14 submitted as public comment and considered, presumably, by the
15 Village as part of its deliberations. So it is very easy to
16 identify this map that was sought to be introduced at the public
17 hearing and was denied for a whole list of reasons.

18 HEARING OFFICER KNITTLE: I am going to allow the exhibit
19 to go in. I am not going to make any judgment on whether or not
20 it is relevant to the underlying hearing. But I think in terms
21 of fundamental unfairness I would like to have all of the
22 exhibits -- are you going to introduce them one by one?

23 MS. HOMEYER: Yes.

24 HEARING OFFICER KNITTLE: I think it would be easier for

43

KEEFE REPORTING COMPANY
1-800-244-0190

1 the Board to take a look at them instead of going through the
2 record. So that is why I am admitting it, more for ease of use
3 for the Board purposes. I don't think, just for the record, that
4 the respondents are prejudiced in any way because they are, in

5 fact, a matter of record. So this will be admitted over
6 objection.

7 (Whereupon said document was duly marked for purposes of
8 identification as Petitioner's Exhibit 7 and admitted into
9 evidence as of this date.)

10 Q. (By Ms. Homeyer) How and when did you acquire
11 Petitioner's Exhibit 7?

12 A. I obtained it the day before the hearing, the public
13 hearing on March 17th. I obtained it on this floor in the
14 building and zoning -- I mean, in the zoning maps and planning
15 office of St. Clair County, the official office for that -- for
16 this purpose.

17 Q. And you requested the current FEMA map?

18 A. Yes, I did.

19 Q. And that's what you were given?

20 A. Yes.

21 Q. And how do you claim that you were prejudiced by not
22 being allowed to introduce Petitioner's Exhibit Number 7 at the
23 March 17th hearing?

24 A. Well, the exhibit shows very clearly that the Milam

44

KEEFE REPORTING COMPANY
1-800-244-0190

1 Landfill sits in the floodplain. When I asked the Waste
2 Management expert who had no documentation to the contrary --

3 Q. This is Mr. Connor?

4 A. This is Mr. Thomas Connor from Hurst-Roche. When I

5 asked him -- I showed him the map. I asked him what the map was,
6 to read it. I asked him what does this entail. Is this in the
7 area in the floodplain. Where is Waste Management. And he read
8 and it was in the floodplain. And then the hearing officer turns
9 around and says that he is not going to allow it. It is the
10 current FEMA map.

11 Q. And you feel that the floodplain is a relevant issue --

12 A. Absolutely.

13 Q. -- regarding the application?

14 A. It is crucial. It is absolutely crucial.

15 MS. HOMEYER: I am going to move on to Petitioner's
16 Exhibit Number 8, which I do not have a copy of. So I am going
17 to show it to both Mr. Moran and Mr. Baricevic now. This, again,
18 was something that Ms. Andria had at the hearing.

19 HEARING OFFICER KNITTLE: Let's go off the record while he
20 looks.

21 (Whereupon a short recess was taken.)

22 HEARING OFFICER KNITTLE: All right. We are back on the
23 record.

24 This is Petitioner's Exhibit Number 8. Mr. Moran, do you

45

KEEFE REPORTING COMPANY
1-800-244-0190

1 have any objection to this exhibit?

2 MR. MORAN: Yes. The objection relates to each of the
3 areas that I identified for the previous exhibit, which are

4 relevance, authenticity, and the fact that, again, we have a
5 document that was submitted as public comment that was sought to
6 be introduced at the hearing, that for a number of reasons was
7 denied admission, principally because of relevance and
8 significance in terms of any of the statutory criteria, which is
9 now still part of this record which contains, in addition,
10 significant hearsay. I mean, this clearly was not an exhibit
11 that ever would have been admitted as part of that public hearing
12 because no one was there to authenticate it. It was submitted
13 anyway. Now we continue with the argument that we got the
14 documents in as public comment but somehow it is fundamentally
15 unfair that a hearing officer ruled against us. So, yes, I
16 object to this document for those same reasons.

17 HEARING OFFICER KNITTLE: Mr. Baricevic?

18 MR. BARICEVIC: Concur.

19 MS. HOMEYER: May I go ahead and question the witness?

20 HEARING OFFICER KNITTLE: Well, I am going to rule on the
21 exhibit unless you had something about that exhibit being
22 offered.

23 MS. HOMEYER: I was going to have her testify that this is,
24 again, an exhibit that she had with her at the hearing and was

46

KEEFE REPORTING COMPANY
1-800-244-0190

1 described on the record.

2 HEARING OFFICER KNITTLE: I am sorry. I didn't mean to cut
3 you off. I don't think that is the objection. For the same

4 reasons I admitted Petitioner's Exhibit Number 7, I am going to
5 admit this as well. Once again, I want it clear that I am not
6 admitting it for what the exhibit offers as evidence. I am
7 admitting strictly in terms of whether the hearing underlying
8 this hearing was conducted in a fundamentally fair manner. So
9 that will be admitted.

10 MS. HOMEYER: Thank you.

11 (Whereupon said document was duly marked for purposes of
12 identification as Petitioner's Exhibit 8 and admitted into
13 evidence as of this date.)

14 Q. (By Ms. Homeyer) Ms. Andria, I am handing you what has
15 been marked as Petitioner's Exhibit 8. What is this document?

16 A. It is a form 424B5 for Waste Management, Incorporated,
17 filed on February 15th, 2000. It is the prospectus supplement to
18 prospectus, dated February 14th, 2000. It is the file that was
19 filed by Waste Management with the Security and Exchange
20 Commission and --

21 Q. Now, did you have this document with you at the March
22 17th, 2000 hearing?

23 A. Yes, I did.

24 Q. And did you attempt to offer this into evidence?

47

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes, I did.

2 Q. And do you recall what the hearing officer did?

3 A. He would not let it in.

4 Q. All right. Now, why do you claim that you were
5 prejudiced by not being allowed to admit that Exhibit 8 into
6 evidence?

7 A. Well, it is -- I think it is relevant in that it talks
8 about the company. It talks about the fact that there are class
9 action suits. That there are lawsuits pending. That it is being
10 investigated by the Security and Exchange Commission. That there
11 are a number of problems that may affect the outcome of the
12 financial condition and the results of the operation in the
13 future. It goes into the risk factors. I thought this was
14 important that the Village look at this.

15 They have had -- they are looking into -- the Securities
16 and Exchange Commission was looking into the accounting of Waste
17 Management, and it says here they are undergoing changes in
18 management. There are a lot of things that they really should
19 see. It says we face uncertainties relating to pending
20 litigation and investigations. That is very important for the
21 Village to be able to consider that in doing something as
22 important as expanding a landfill.

23 MS. HOMEYER: Mr. Knittle, here is Exhibit Number 8. Thank
24 you.

48

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Ms. Homeyer) Ms. Andria, did you ever see a legal
2 notice for a public hearing to be held on the Waste Management

3 vertical expansion --

4 A. Yes.

5 Q. -- to be held on March 13th, 2000?

6 A. Yes, I did.

7 Q. And did you bring a legal notice of that sort with you
8 to the hearing?

9 A. Yes, I did.

10 Q. And I am handing you what has been marked as
11 Petitioner's Exhibit Number 9. What is this?

12 A. This is a public notice in the Belleville News-Democrat
13 in the legal section, notice of public hearing.

14 Q. What was the public hearing date?

15 A. That there will be -- that the Village of Fairmont City
16 will hold a public hearing on Monday the 13th of March, 2000.

17 Q. Now, Ms. Andria, did you have this Petitioner's Exhibit
18 9 with you at the March 17th, 2000 hearing?

19 A. Yes, I did.

20 Q. And did you offer it into evidence?

21 A. Yes, I did.

22 Q. And what was the hearing officer's ruling?

23 A. He said no.

24 Q. All right. Why do you claim that you were prejudiced by

49

KEEFE REPORTING COMPANY
1-800-244-0190

1 not being allowed to introduce the legal notice of the March 13,

2 2000 hearing date?

3 A. Well, I wanted to let them know that there was confusion
4 about it, that some people might have seen just this and gone to
5 the public hearing that --

6 Q. You mean gone on the 13th?

7 A. Gone on the 13th to -- thinking that there was a public
8 hearing. It was an inaccurate notice.

9 MS. HOMEYER: I would like to offer Petitioner's Exhibit
10 Number 9 into evidence.

11 HEARING OFFICER KNITTLE: Mr. Moran?

12 MR. MORAN: No objection.

13 MR. BARICEVIC: No objection.

14 HEARING OFFICER KNITTLE: Okay. That is admitted.

15 (Whereupon said document was duly marked for purposes of
16 identification as Petitioner's Exhibit 9 and admitted into
17 evidence as of this date.)

18 Q. (By Ms. Homeyer) Ms. Andria, did you ever attempt to
19 purchase a copy of the Waste Management application from the
20 Village of Fairmont City?

21 A. Yes, I did.

22 Q. Was that application on file with the Village?

23 A. Yes, it was.

24 Q. When was the first time that you recall trying to obtain

50

KEEFE REPORTING COMPANY
1-800-244-0190

1 a copy of the Waste Management application?

2 A. Sometime, oh, in the first week or two of December I
3 called.

4 Q. Of what year?

5 A. Of 1999.

6 Q. What did you do?

7 A. I called the Village Hall and asked if I could get a
8 copy of the application.

9 Q. Okay.

10 A. And I --

11 Q. Do you know who you spoke with?

12 A. I spoke with a woman named Karen Manso, who is the
13 Village assistant, deputy clerk.

14 Q. What did you ask her?

15 A. I asked her if I could get a copy of the transcript.

16 Q. Of the application?

17 A. I mean of the application.

18 Q. What did she say?

19 A. She said that it was very large and that it would
20 probably cost \$500.00 or so and that she would check with the
21 chief and see. She said that it would have to be sent out to be
22 copied and she would check with the chief and call me back.

23 Q. Who is the chief?

24 A. The chief is the chief of police, Scott Penny, who I

1 heard him introduce himself as the administrator. So I guess
2 that's his title, too.

3 Q. Did she call you back?

4 A. Yes, she did.

5 Q. And what did she tell you about the cost of the
6 application?

7 A. She said that it was -- that it would cost between
8 \$600.00 and -- I am not sure, \$10.00, \$20.00 and \$670.00. And
9 that I would have to pay the time for a policeman to take it to a
10 copy store to be copied and the mileage. I would have to pay for
11 his time and the mileage.

12 Q. What did you -- first of all, did you express any
13 reaction?

14 A. I said, well, I could get it copied at Office Max or
15 Kinkos for two cents to six cents at Office -- two cents at
16 Office Max and six cents at Kinkos at the time.

17 Q. Did you ask her to do anything further?

18 A. I asked her to put -- give me that information in
19 writing.

20 Q. Did she do so?

21 A. Yes, she did.

22 Q. Do you have that letter today?

23 A. You have it there.

24 Q. Did you have a letter with you at the hearing on March

1 17th, 2000, from Karen Manso, dated December 15th, 1999?

2 A. Yes, I did.

3 Q. Ms. Andria, I am handing you what has been marked today
4 as Petitioner's Exhibit 10. What is this exhibit?

5 A. This is the letter from the Fairmont City -- the Village
6 of Fairmont City, addressed to me, dated December 15th, 1999.

7 Q. Who signed it?

8 A. Signed by Karen Manso.

9 Q. That is dated December 15th, 1999?

10 A. Yes, December 15th, 1999.

11 Q. What is attached to the letter?

12 A. It is the envelope in which it was sent.

13 Q. All right. What did she say in the letter to you about
14 the copying charges?

15 A. She said that anyone wishing to attain a copy of the
16 contract would have to pay for the copies, mileage and travel
17 time. There are two binder bound volumes involved with the
18 contract. There are approximately 1,200 to 1,500 single pages,
19 many of which are double spaced. The copy companies charge from
20 20 to 22 cents per copy on double-sided copies. This would
21 estimate the cost of the copies alone anywhere from \$600.00 to
22 \$660.00. The Village would charge approximately \$12.00 for the
23 time and \$2.00 for the mileage. This would estimate the total
24 cost to be somewhere between \$612.00 to \$672.00, if there are no

1 more than 1,500 sheets.

2 Q. Based on that letter, what did you decide to do?

3 A. I didn't pursue getting a copy. We couldn't afford it.
4 We didn't have that money.

5 Q. Did you see Karen Manso on the March 17th, 2000 hearing?

6 A. Yes, I did.

7 Q. Had you ever seen her before?

8 A. No.

9 Q. Did she identify herself at the hearing?

10 A. Yes, she did.

11 Q. Did she make any statements at the hearing about the
12 charge that was made to an attorney?

13 MR. BARICEVIC: Objection, Your Honor -- Mr. Hearing
14 officer. Hearsay.

15 HEARING OFFICER KNITTLE: Ms. Homeyer?

16 MS. HOMEYER: She is an employee of the Village. They are
17 a party and this is an admission against interest.

18 MR. BARICEVIC: The employee is not a party. The employee
19 is not an elected official. She is an employee. There is no
20 testimony that she was directed, it is official policy of the
21 Board, any of that.

22 HEARING OFFICER KNITTLE: Anything further, Ms. Homeyer?

23 MS. HOMEYER: Pardon?

24 HEARING OFFICER KNITTLE: Anything further, Ms. Homeyer?

1 MS. HOMEYER: You mean in arguing about whether this should
2 be admissable?

3 HEARING OFFICER KNITTLE: Correct.

4 MS. HOMEYER: No.

5 HEARING OFFICER KNITTLE: All right. Could you read back
6 the question.

7 (Whereupon the requested portion of the record was read
8 back by the Reporter.)

9 HEARING OFFICER KNITTLE: Sustained. The objection is
10 sustained.

11 Q. (By Ms. Homeyer) Did Karen Manso make any statements at
12 the hearing that any other person had obtained a copy of the
13 application?

14 MR. BARICEVIC: Objection. The same.

15 HEARING OFFICER KNITTLE: Ms. Homeyer?

16 MS. HOMEYER: It is an admission.

17 HEARING OFFICER KNITTLE: Explain to me how it is an
18 admission.

19 MS. HOMEYER: Oh. Because -- and I will put on an offer of
20 proof if this issustained. The offer of proof will be that
21 Karen Manso stated at the hearing on March 17th that an attorney
22 had obtained a copy of the application for \$120.00, which is
23 substantially less than what they told -- what the Village told
24 Ms. Andria what it would cost.

1 HEARING OFFICER KNITTLE: And you are saying as an employee
2 of the county this is an admission against the --

3 MS. HOMEYER: It most definitely is.

4 HEARING OFFICER KNITTLE: Who is she employed by?

5 MS. HOMEYER: The Village of Fairmont of City.

6 HEARING OFFICER KNITTLE: Oh, she is employed by the
7 Village, not the county, correct?

8 MS. HOMEYER: The Village of Fairmont City and she is the
9 deputy clerk.

10 HEARING OFFICER KNITTLE: Okay. I am going to overrule
11 that objection, and if I -- I think I misunderstood initially. I
12 would have allowed the first question, as well. I thought she
13 was an employee of the county --

14 MS. HOMEYER: Oh, I am sorry.

15 HEARING OFFICER KNITTLE: -- and they are not a party to
16 this case. That is probably my error. My apologies.

17 MS. HOMEYER: I will rephrase the question.

18 Q. (By Ms. Homeyer) At the hearing, did Ms. Manso make any
19 statement about the fact that an attorney had obtained a copy of
20 the application?

21 A. Yes.

22 Q. And what did she say about the charge to that attorney?

23 A. She said that it was less than she thought it was going
24 to be. She said that he got it for \$120.00.

1 Q. Now, Ms. Andria, referring back to Petitioner's Exhibit
2 Number 10, did you offer the December 15th, 1999 letter signed by
3 Karen Manso, did you attempt to offer this into evidence at the
4 March 17th, 2000 hearing?

5 A. Yes, I did.

6 Q. What was the hearing officer's ruling?

7 A. He denied it.

8 MS. HOMEYER: I would like to offer Petitioner's Exhibit
9 Number 10 into evidence.

10 HEARING OFFICER KNITTLE: Mr. Moran?

11 MR. MORAN: No objection.

12 HEARING OFFICER KNITTLE: Mr. Baricevic?

13 MR. BARICEVIC: No objection.

14 HEARING OFFICER KNITTLE: This is admitted.

15 Whereupon said document was duly marked for purposes of
16 identification as Petitioner's Exhibit 10 and admitted into
17 evidence as of this date.)

18 Q. (By Ms. Homeyer) Why did you want to get that letter
19 from Ms. Manso, dated December 15th, 1999, into the record of the
20 March 17th, 2000 proceeding?

21 A. Well, it also shows -- it shows that we were not being
22 treated fairly. It also shows why we didn't have all of the
23 information that we should have and it shows that -- I mean, it
24 was -- I think it was important for the Village to know and I

1 don't -- I didn't know if all of them knew that that was the
2 case, that we had been charged so much. I mean, it is unfair to
3 citizens.

4 Q. Do you know what the statute says about making copies
5 available to the public?

6 A. Well, it is supposed to be offered to the public at the
7 cost of reproduction. And the cost of reproduction -- I mean, if
8 you can get it for two cents a copy, why should you go to a store
9 that is getting it for 25 cents a copy, and they had a copy
10 machine.

11 Q. At the hearing on March 17th, 2000, you found out that
12 someone had obtained it for \$120.00, correct?

13 A. For \$120.00.

14 Q. Do you know whether an attorney did, in fact, ever
15 inspect the application at the Village?

16 A. Yes, yes, he did.

17 Q. Who do you believe inspected that application?

18 MR. MORAN: Objection. What possible relevance could some
19 other attorney reviewing the application at the Village have to
20 do with the fundamental fairness claims in this case?

21 HEARING OFFICER KNITTLE: Ms. Homeyer?

22 MS. HOMEYER: Just to substantiate the fact that there was
23 an attorney who saw it. It substantiates what Karen Manso said.

24 MR. BARICEVIC: Then the objection is foundation.

1 HEARING OFFICER KNITTLE: I am going to sustain this
2 objection.

3 Q. (By Ms. Homeyer) I am handing you what has been marked
4 as Petitioner's Exhibit Number 11. What is this?

5 A. This is a log sheet from the Village of Fairmont City.
6 It is -- it says viewers of the preliminary contract for
7 expansion between Milam Landfill Waste Management and the Village
8 of Fairmont City, volumes two and one, available November 19th,
9 1999.

10 Q. Now, did we obtain a copy -- did we obtain Petitioner's
11 Exhibit Number 11 from the Village of Fairmont City?

12 A. Yes, we did.

13 Q. Is this part of the record on appeal?

14 A. Yes, it is.

15 Q. What is the C number?

16 A. It is from book 37, C13,732.

17 Q. And what does the log sheet reveal?

18 A. That only one person viewed the application/contract,
19 Brian Konzen.

20 Q. Is he an attorney?

21 A. Yes, he is.

22 Q. Do you know him personally?

23 A. Yes, I do.

24 Q. Where is his law office?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Granite City.

2 MS. HOMEYER: I would like to offer Petitioner's Exhibit
3 Number 11 into evidence.

4 HEARING OFFICER KNITTLE: Mr. Moran?

5 MR. MORAN: No objection.

6 HEARING OFFICER KNITTLE: Mr. Baricevic?

7 MR. BARICEVIC: No objection.

8 HEARING OFFICER KNITTLE: All right. No objection. This
9 is admitted.

10 (Whereupon said document was duly marked for purposes of
11 identification as Petitioner's Exhibit 11 and admitted into
12 evidence as of this date.)

13 Q. (By Ms. Homeyer) Are you claiming that there was
14 unfairness in the way that you were treated when you attempted to
15 obtain a copy of the application?

16 A. Yes.

17 Q. What steps did you take to either -- did you ever take
18 any steps to actually order a copy of the application?

19 A. Yes.

20 Q. To order it?

21 A. Yes, to order it when I called her first.

22 Q. No, I am sorry. After the telephone conversation and
23 after the letter where you found out it was going to cost over
24 \$600.00 to get a copy of the application, did you ever ask the

KEEFE REPORTING COMPANY
1-800-244-0190

1 Village to copy it for you?

2 A. No, I did not. To copy it and pay that much money, no.
3 Absolutely not.

4 Q. Did you have the ability to pay it?

5 A. No.

6 Q. Now, did you ever have any conversations with the
7 Village concerning attempts to see the application?

8 A. Yes.

9 Q. Would you tell us when you spoke with someone from the
10 Village and what results occurred?

11 A. I do not know of dates. I went once, I think twice, to
12 take a look at it when I had time to look at the application.
13 And another time when I was there for another thing the chief of
14 police was there and he said something about it being there, but
15 it was not at a time when I was able to stay. But I went several
16 times to look at it.

17 Q. Now, the one time that you say Officer Penny offered to
18 let you see it, you were not there for that purpose, were you?

19 A. No.

20 Q. And what did you tell Officer Penny on that occasion?

21 A. He asked -- I forget what I specifically said, but I was
22 not there for that purpose.

23 Q. What did he say to you?

24 A. I don't remember specifically. He said something that

KEEFE REPORTING COMPANY
1-800-244-0190

1 it was in a little room or if I wanted to see it.

2 Q. And what did you do that day?

3 A. I didn't stay. I had someone with me. We were on an
4 errand. It was another -- we were very, very busy.

5 Q. That was not your purpose in going that day?

6 A. No.

7 Q. Did you ever have any conversations with anyone from the
8 Village where you called the Village for the purpose of trying to
9 set up a time to go see the application?

10 A. I called the Village asking if Karen Manso was there,
11 since she was the person who was the conduit to the clerk. She
12 was the person who was supposed to be there. And I would see if
13 she was there, and then I would go to -- and that happened once
14 or twice. I do not know precisely.

15 Q. And what happened when you called?

16 A. When I called they said she was there. I went over and
17 then she wasn't there.

18 Q. How soon between the phone call and your arriving at
19 Village Hall was that?

20 A. Not very long.

21 Q. Can you be more specific?

22 A. No, I can't. I am sorry.

23 Q. And did you ever make any other attempts to see the
24 application at Village Hall?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I don't believe so.

2 Q. Okay. This was a long document, was it not, according
3 to Ms. Manso's letter?

4 A. Well, she said it was between 1,200 and 1,500 pages, so
5 if I -- if I were going to view it, it would take some time.

6 Q. How were you prejudiced in not being able to get a copy
7 of the application as opposed to being able to see it at
8 Village Hall?

9 A. We were incredibly prejudiced. We did not have -- we
10 could have had from December, January, February, would have had
11 three months to contact experts to have them look at -- people
12 who we could have talked to, engineers who work with groups. We
13 could have looked and dissected, gone to see what had been done
14 before. We could have analyzed and formulated questions, gone
15 prepared if such an eventuality as them just resting on the
16 application, we would have been able to maybe have a decent
17 public hearing if we had had the application. We were not able
18 to do that. We were -- I mean, we were extremely disadvantaged.

19 Q. And what, again, happened with your attempts to see the
20 application at Village Hall?

21 A. We didn't get to see it. I mean, we went -- I mean, it
22 was as if -- and it is really, if you look at the log, only one
23 person, and that was an attorney, ever got to see the document.

24 Q. Well, let's talk about you.

63

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I am sorry.

2 Q. All right. What happened when you tried to call Village
3 Hall to talk to Karen Manso for purposes of seeing the
4 application?

5 A. Karen Manso became increasingly not available.

6 Q. In what way?

7 A. In that if I would call she would not be there.

8 Q. Ever?

9 A. Ever. And if someone else would call to find out if she
10 was there and then we would go over -- now, this is -- part of
11 this is with the application and part of it is with the
12 transcript.

13 Q. I am referring to the application.

14 A. I know. But in my mind it is like sort of a long
15 continuum of unfairness.

16 Q. Have you ever gone to Village Hall and found Karen Manso
17 available?

18 A. No.

19 Q. Okay.

20 A. Nor the clerk.

21 Q. How soon before the hearing, now, did you receive
22 documents from Waste Management that were represented to be the
23 application?

24 A. I am sorry. Would you repeat that?

64

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. How soon before the hearing of March 17th did you get
2 documents from Waste Management that were represented to be the
3 application?

4 A. On the March 3rd, so it was like two weeks.

5 Q. And were you prejudiced by getting to look at the
6 application just two weeks before the hearing?

7 A. Extremely. It was -- it was a big document. We were
8 not able to really get involved. We had other things that we
9 were working on. We could not really assess the application in
10 that short of time. And it was -- given the fact that we didn't
11 know when the hearing was going to be, it was very confusing.

12 Q. Ms. Andria, at the hearing on March 17th did you attempt
13 to introduce any documents to show that the Waste Management that
14 exists today is actually a different company that used to be
15 called U.S.A. Waste?

16 A. Yes, I did.

17 Q. I am handing you what has been marked as Petitioner's
18 Exhibit Number 12. Could you tell me what this is?

19 A. This is a document called Form S-8 for Waste Management
20 filed on July 16th, 1998 with the Securities and Exchange
21 Commission. It is a registration statement under the Securities
22 Act of 1933.

23 Q. Did you have this document, Petitioner's Exhibit Number
24 12, with you at the March 17th, 2000 hearing?

65

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes, I did.

2 Q. And did you offer this into evidence?

3 A. Yes, I did.

4 Q. And what was the result?

5 A. It was denied.

6 Q. By the hearing officer?

7 A. By the hearing officer.

8 Q. What does it say at the beginning on the title page of
9 Petitioner's Exhibit 12?

10 A. It says Waste Management, Inc., formerly known as U.S.A.
11 Waste Services, Inc.

12 Q. And I am handing you what has been marked as
13 Petitioner's Exhibit Number 13. What is this exhibit?

14 A. This is Form 8-K for Waste Management, Inc., filed on
15 July 16th, 1998, with the Securities and Exchange Commission, and
16 this is registration. It is Form 8-K and it has got Waste
17 Management, the exact name. And then former name or address if
18 changed since last report, and it has got there U.S.A. Waste
19 Services, Inc., and the employer number has changed from Waste
20 Management, the old Waste Management's number to U.S.A. Waste's
21 number.

22 Q. Now, Ms. Andria, did you also have Petitioner's Exhibit

23 Number 13 with you at the March 17th, 2000 hearing?

24 A. Yes, I did.

66

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And did you offer this into evidence on the record?

2 A. Yes, I did.

3 Q. What did the hearing officer do?

4 A. He denied them.

5 MS. HOMEYER: I would like to offer Petitioner's Exhibit
6 Numbers 12 and 13 into evidence.

7 HEARING OFFICER KNITTLE: On Petitioner's 12, Mr. Moran?

8 MR. MORAN: Yes, I object.

9 HEARING OFFICER KNITTLE: This is the same objection as in
10 Petitioner's 7 and 8, the flood insurance map and the prospectus?

11 MR. MORAN: Yes. And in addition, the fact that these
12 documents do not even relate to the applicant who submitted this
13 proposed expansion application. So there is no conceivable link
14 between any fundamental fairness claim and these documents.

15 HEARING OFFICER KNITTLE: How do they not relate to the
16 applicant? I thought that --

17 MR. MORAN: The applicant in this case is Waste Management
18 of Illinois, Inc. The documents that are set forth here refer to
19 a merger between two corporate entities that occurred back in
20 July of 1998.

21 HEARING OFFICER KNITTLE: Is one of those entities Waste

22 Management of Illinois, Inc.?

23 MR. MORAN: One of the entities is not referred to as Waste
24 Management of Illinois, Inc. The merger that occurred was

67

KEEFE REPORTING COMPANY
1-800-244-0190

1 between the entities identified within these documents. Waste
2 Management of Illinois, Inc., was a second tier subsidiary of one
3 of the holding companies that was, at one point, owned by these
4 entities. But for purposes of what these documents were offered,
5 it was for the purpose of establishing that the applicant was
6 somehow different than the applicant that existed two years ago,
7 at least as best as I understand this argument, for purposes of
8 determining what regulations might apply with respect to
9 floodplain and financial assurance.

10 HEARING OFFICER KNITTLE: Mr. Baricevic?

11 MR. BARICEVIC: I concur with the stated objections.

12 HEARING OFFICER KNITTLE: Ms. Homeyer?

13 MS. HOMEYER: Yes. First of all, it is not who the
14 applicant is. It is whether there has been a change in ownership
15 of a landfill. And these exhibits were tendered to the hearing
16 officer on the record at the March 17th, 2000 hearing. And I am
17 offering them today for purposes of making a record of what
18 exhibits were refused by the hearing officer.

19 HEARING OFFICER KNITTLE: I am going to allow these. Once
20 again, Mr. Moran, I am not admitting these -- I know this is a
21 strange analogy -- but for the truth of the matter that the

22 exhibits assert, more for the fact that it makes a more coherent
23 record if we have these grouped together. Are these public
24 comments, as well?

68

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: I think so.

2 MR. MORAN: Yes, Mr. Hearing Officer.

3 HEARING OFFICER KNITTLE: So if these are all public
4 comments, I don't see how Waste Management can be prejudiced at
5 all by the admission of these. So these are admitted.

6 (Whereupon said documents were duly marked for purposes of
7 identification as Petitioner's Exhibits 12 and 13 and
8 admitted into evidence as of this date.)

9 Q. (By Ms. Homeyer) Ms. Andria, going back for a moment to
10 your prior testimony that you asked on the record to see Waste
11 Management Exhibit 1, the application, and the hearing officer
12 said no; is that correct?

13 A. Yes.

14 Q. At the time that you requested to see the exhibit, did
15 the hearing officer have any knowledge of what documents you had
16 in your possession at that hearing?

17 A. No.

18 Q. How do you feel that the hearing officer became an
19 advocate for the applicant or against you?

20 A. Well, he -- throughout the hearing he sort of took

21 over -- at first Mr. Moran would object, and then it was like the
22 hearing officer was objecting.

23 Q. Were there exhibits that were kept out to which no
24 objection was made by Mr. Moran?

69

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. Okay.

3 A. And the hearing officer would just make his own
4 objection and at one point he said, well, I am not going to let
5 that in. I said, well, could I make -- tell you why it is
6 related. And he said you want to hear what I think. And I
7 thought you had a chance to say why you were introducing
8 something.

9 Q. And that's what you expected to happen, right?

10 A. Well, that's the way I understand that it is supposed to
11 work.

12 Q. Did you have any other -- did you eventually get
13 discouraged about introducing exhibits, Ms. Andria?

14 A. Well, I kept -- everything he said no to except the
15 Cahokia Mounds brochure.

16 Q. Were you looking for other documents?

17 A. Yes, I was.

18 Q. Did you have a photograph that you wanted to offer into
19 evidence?

20 A. Yes.

21 (Whereupon a document was duly marked for purposes of
22 identification as Petitioner's Exhibit 28 as of this date.)

23 Q. Ms. Andria, I am handing you what has been marked as
24 Petitioner's Exhibit Number 28. It is an aerial map?

70

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. A photograph.

2 Q. Excuse me. It is an aerial photograph.

3 (Ms. Homeyer showing the document to Counsel.)

4 Q. (By Ms. Homeyer) Ms. Andria, I am handing you
5 Petitioner's Exhibit Number 28. What is this?

6 A. This is an aerial photograph taken of the area that we
7 are talking about. It shows the highways there. It shows the
8 landfill, Milam Landfill up in this area. And it shows where it
9 is located across from the Gateway Race Track and on the Cahokia
10 Canal, and it also shows its proximity to Horseshoe Lake State
11 Park.

12 Q. Did you have this aerial map, this aerial photograph
13 with you at the March 7th, 2000 hearing?

14 A. Yes, I did.

15 Q. And was this one of the exhibits that you wanted to
16 introduce into evidence but got discouraged and did not?

17 A. Yes, it is.

18 MS. HOMEYER: I would like to offer Petitioner's Exhibit
19 Number 28 into evidence.

20 HEARING OFFICER KNITTLE: Number 28?

21 MS. HOMEYER: Yes.

22 HEARING OFFICER KNITTLE: Mr. Moran?

23 MR. MORAN: Yes, I object to this exhibit. We have no
24 foundation as to who took this photograph, when it was taken,

71

KEEFE REPORTING COMPANY
1-800-244-0190

1 what it purports to show, how it relates to any fundamental
2 unfairness, other than this conclusory statement by Ms. Andria
3 that she was discouraged from even offering it.

4 HEARING OFFICER KNITTLE: Mr. Baricevic?

5 MR. BARICEVIC: If she didn't admit it at the hearing then,
6 obviously, nobody could react to it. By her own testimony, she
7 did not try to admit it. She didn't make a record. She is bound
8 by her own case and her own record, and I object.

9 HEARING OFFICER KNITTLE: Ms. Homeyer, anything further?

10 MS. HOMEYER: No.

11 HEARING OFFICER KNITTLE: I am going to sustain the
12 objection to this exhibit. I have been allowing these in that
13 she has offered and was denied at the underlying hearing. I
14 think it is a bit of a leap for me to allow this, because she was
15 discouraged and would have offered it otherwise. I am just
16 afraid that under those circumstances just about anything could
17 be offered.

18 MS. HOMEYER: Well, it is her testimony.

19 HEARING OFFICER KNITTLE: Sure. Her testimony is a matter

20 of the record.

21 MS. HOMEYER: Correct.

22 HEARING OFFICER KNITTLE: And this is going to go with me
23 to the Board. Once again, if you disagree with my ruling please
24 feel free to address it to the Illinois Pollution Control Board.

72

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Ms. Homeyer) Ms. Andria, in addition to Exhibit 28,
2 the aerial photograph, did you have other documents that you were
3 prepared to offer into evidence but did not in light of the
4 hearing officer's attitude toward you?

5 A. Yes, I did.

6 Q. What other documents did you have?

7 A. I had a number of hazardous waste documents citing
8 different kinds of problems with landfills in the area about
9 liners leaking, about groundwater contamination. I had profiles
10 on both U.S.A. Waste and Waste Management that I got from the
11 environmental background. I am losing the title of it. But it
12 was -- it is a web site for citizens that provides information on
13 companies. And that's all I can think of right now.

14 Q. All right. Do you believe that the hearing officer
15 allowed the parties who were present that day, including yourself
16 and the organizations that you represented, to make a full and
17 fair record for the Village trustees?

18 A. Absolutely not.

19 Q. Do you feel that there was any prejudice to you in terms
20 of a chilling affect that might be had on others?

21 A. Well, I mean, there was an article in the following --
22 first of all, the people who were there, the residents, I mean, I
23 would imagine most of them had never been to a siting hearing
24 before. They should have been allowed to feel free to go and ask

73

KEEFE REPORTING COMPANY
1-800-244-0190

1 questions and to do the same thing. There were two people who
2 had registered to speak but they didn't. They ended up not
3 speaking. I do not know the reasons, but when they see people
4 like Mr. Norman and myself, who have been through siting
5 hearings, when they see us get treated the way we were treated in
6 a very unfair manner, they would be afraid to come forward and
7 ask questions.

8 And then there was a further chilling affect because the
9 next day in the paper, the Belleville News-Democrat wrote an
10 article -- published an article about the hearing and the conduct
11 of the hearing and how it was unfair and how it was -- the
12 citizens were not allowed to enter any exhibits. I mean, that
13 then goes to all of the readers.

14 MR. MORAN: Mr. Hearing Officer, I make a motion to strike
15 Ms. Andria's testimony for a number of reasons. First, she is
16 referring to articles that appeared in a newspaper publication,
17 apparently, clearly hearsay. She is trying to characterize what
18 was said in that article. She is trying to assume and conclude

19 what was in the minds of other people attending this hearing. It
20 is all inappropriate. It lacks any foundation, whatsoever. And
21 it simply is not a sufficient basis to admit any testimony
22 relating to fundamental fairness. I move to strike it.

23 HEARING OFFICER KNITTLE: Ms. Homeyer, do you have a
24 response to Mr. Moran's motion and objection?

74

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: I have the article available and I will be
2 happy to mark it as an exhibit and have her qualify it. I think
3 the point is that the reporter picked up on the same hostility
4 and unfairness that Ms. Andria is testifying about. When people
5 read this article, it confirmed the fact that the public was not
6 treated well at that hearing.

7 HEARING OFFICER KNITTLE: Mr. Moran, would that cure your
8 objection and motion.

9 MR. MORAN: I think it just exacerbates the reasons for the
10 objection. That is, what is attempted here is statements made by
11 some person outside this hearing to establish the truth of what
12 this petitioner is trying to establish, and that is that these
13 hearings were fundamentally unfair. If, indeed, this individual
14 has any information that would support that contention, he ought
15 to be here testifying. She can't testify through a newspaper
16 article or through Ms. Andria trying to recharacterize it or
17 rephrase it.

18 HEARING OFFICER KNITTLE: I have to sustain that objection.

19 Do you have further argument, Ms. Homeyer?

20 MS. HOMEYER: No.

21 HEARING OFFICER KNITTLE: Are you offering that into
22 evidence?

23 MS. HOMEYER: I will have her identify it

24 (Whereupon a document was duly marked for purposes of

75

KEEFE REPORTING COMPANY
1-800-244-0190

1 identification as Petitioner's Exhibit 30 as of this date.)

2 Q. (By Ms. Homeyer) I am handing you what has been marked
3 as Petitioner's Exhibit 30. Is this a photocopy of the paper
4 that I am holding in my hand?

5 A. Yes, it is.

6 Q. And what newspaper is this from?

7 A. The Belleville News-Democrat.

8 Q. And the date?

9 A. It is Saturday, March 18th, 2000.

10 Q. So that's the day after the hearing?

11 A. Yes.

12 Q. And is this the article that you were referring to in
13 your testimony just now?

14 A. Yes.

15 MS. HOMEYER: I will offer it into evidence.

16 HEARING OFFICER KNITTLE: Okay. Mr. Moran?

17 MR. MORAN: I am objecting to it.

18 HEARING OFFICER KNITTLE: Okay. This will be denied. Mr.
19 Baricevic, do you want to get on the record, as well?

20 MR. BARICEVIC: I object, as well.

21 HEARING OFFICER KNITTLE: All right. And just a
22 housekeeping, I am granting your motion to strike any testimony
23 characterizing the writing of the paper.

24 MR. MORAN: And the motion as it related to her assumption

76

KEEFE REPORTING COMPANY
1-800-244-0190

1 as to what was in the minds of these other participants at the
2 hearing as to why they didn't come forward to offer testimony or
3 to comment in any way on the application?

4 HEARING OFFICER KNITTLE: Are you moving to strike that
5 testimony, as well?

6 MR. MORAN: Yes.

7 HEARING OFFICER KNITTLE: Ms. Homeyer?

8 MS. HOMEYER: My client, Ms. Andria, specifically said she
9 doesn't know why they didn't testify, but I think her testimony
10 of what she observed, there were people who signed up and then no
11 one who testified, should not be stricken from the record.

12 HEARING OFFICER KNITTLE: Okay. I will allow that specific
13 testimony in, what she saw in terms of signing up and people who
14 didn't testify, but any supposition on her behalf as to why those
15 people decided not to testify will also be stricken.

16 MS. HOMEYER: Okay.

17 MR. MORAN: Mr. Hearing officer, just so that we are clear,
18 is this newspaper article being offered as part of -- admitted as
19 part of an offer of proof on this whole issue on --

20 HEARING OFFICER KNITTLE: I -- go ahead. I am sorry.

21 MR. MORAN: As part of the whole issue of the fundamental
22 fairness, because, as I pointed out, I don't think there is any
23 connection here that is supported or supports a claim of
24 fundamental unfairness with this newspaper reporter unless he is

77

KEEFE REPORTING COMPANY
1-800-244-0190

1 here to testify.

2 HEARING OFFICER KNITTLE: Right. I denied this exhibit. I
3 don't think you made it as an offer of proof, did you, Ms.
4 Homeyer?

5 MS. HOMEYER: I believe before I even showed her the
6 article she had characterized it, but I would offer her testimony
7 that has been stricken as an offer of proof on what that article
8 contained.

9 HEARING OFFICER KNITTLE: Mr. Moran, do you have any
10 response to that?

11 MR. MORAN: Well, if it is an offer of proof, that is fine,
12 because then it is not going to be able to be argued in terms of
13 any brief. I just want to make sure that when you said you
14 admitted this -- or you were denying my objection, that --

15 HEARING OFFICER KNITTLE: I didn't deny any of your
16 objections, I don't think.

17 MR. MORAN: I thought you said denied in terms of the
18 objection on this specific exhibit. That is why I wanted a
19 clarification.

20 HEARING OFFICER KNITTLE: No, what I denied -- the only
21 thing I denied was your request that testimony of this witness,
22 Ms. Andria, regarding the fact that she saw people sign up at the
23 underlying hearing and then choose not to testify be stricken. I
24 don't think that should be stricken. I think she can properly

78

KEEFE REPORTING COMPANY
1-800-244-0190

1 testify that she saw people sign up and then not testify.

2 I am granting your motion to strike on everything else,
3 including her supposition as to why those people chose not to
4 testify. The only thing that I am allowing in from that line of
5 testimony is the fact that she saw people who had signed up not
6 testify. I think that's probably within her realm.

7 This exhibit, Petitioner's Exhibit 30, will be denied. It
8 is not going to be admitted into evidence. I granted your motion
9 to strike on everything other than that statement relating to the
10 motion and the objection.

11 MS. HOMEYER: I understand. Mr. Hearing Officer, may I ask
12 the witness a question to make an offer of proof about what
13 Petitioner's Exhibit 30 said?

14 HEARING OFFICER KNITTLE: Yes.

15 Q. (By Ms. Homeyer) Ms. Andria, I am handing you

16 Petitioner's Exhibit Number 30, which you previously identified
17 as the article in the Belleville News-Democrat that appeared the
18 day after the hearing; is that correct?

19 A. I am sorry. Am I supposed to be reading?

20 Q. No.

21 A. I didn't understand. I am sorry.

22 MS. HOMEYER: Could you read the question back for her,
23 please.

24 (Whereupon the requested portion of the record was read

79

KEEFE REPORTING COMPANY
1-800-244-0190

1 back by the Reporter.)

2 THE WITNESS: This is correct.

3 Q. (By Ms. Homeyer) And, Ms. Andria, what in that article
4 indicates that the hearing was conducted in a manner that was
5 unfair to you or other members of the public? You can just
6 summarize what you remember seeing in the article.

7 MR. BARICEVIC: I object to a summary. If she is making an
8 offer of proof, the exhibit should stand for itself and --

9 Q. (By Ms. Homeyer) All right. Well, go ahead and read
10 from the --

11 MR. BARICEVIC: Anybody can read it.

12 Q. (By Ms. Homeyer) All right. Go ahead and read from the
13 article, then, the parts that you feel --

14 HEARING OFFICER KNITTLE: Are you objecting to that, as
15 well, Mr. Baricevic?

16 MR. BARICEVIC: Well, I don't -- if she is going to read it
17 then my only objection there would be it stands for itself. We
18 are wasting our time. If you want it read into the record, as
19 long as it is read verbatim.

20 MS. HOMEYER: Well, it is my offer of proof. I don't think
21 you can object to an offer of proof.

22 HEARING OFFICER KNITTLE: Well, they can object to the form
23 of the offer of proof. There is a variety of forms, as you know,
24 and I --

80

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: And I am agreeing with his objection.

2 HEARING OFFICER KNITTLE: How about this. I don't think I
3 want her testifying as to what she thinks the article did to the
4 general public, in terms of that. But, Ms. Homeyer, you can tell
5 me what you think she would testify to as your offer of proof.
6 Do you understand?

7 MS. HOMEYER: You want me to do it?

8 HEARING OFFICER KNITTLE: I want you to tell me what you
9 think her testimony would show. I don't want to get into her
10 whole --

11 MS. HOMEYER: I believe her testimony would show that this
12 article states that she was not allowed to get any exhibits into
13 evidence. Specifically, there was some discussion about the fact
14 that the floodplain map was not allowed into evidence. And there

15 is also statements in this article that she was told to put her
16 exhibits into public comment.

17 HEARING OFFICER KNITTLE: Right. She has testified to all
18 of that. So the offer of proof is to what, exactly, I guess?

19 MS. HOMEYER: That is what the article states.

20 HEARING OFFICER KNITTLE: Okay. Is there an objection to
21 that, Mr. Baricevic?

22 MR. BARICEVIC: The form of the offer of proof, no.

23 HEARING OFFICER KNITTLE: Okay. Ms. Homeyer, is that
24 sufficient?

81

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: Yes, thank you.

2 Q. (By Ms. Homeyer) Ms. Andria, how many notices for the
3 date of the public hearing on the Milam expansion of Waste
4 Management's application did you see in the newspaper?

5 A. Three.

6 Q. What newspaper did you see these three notices in?

7 A. The Belleville News-Democrat.

8 Q. And how often do you check the legal notices section of
9 the Belleville News-Democrat?

10 A. I try to do it daily. Sometimes I get behind.

11 Q. At the hearing on March 17th, you testified that you
12 tried to introduce one of these three notices, correct?

13 A. I am sorry? Say it again.

14 Q. Earlier today you testified that at the hearing on March

15 17th, 2000, you were not allowed to introduce one of those three
16 notices; is that correct?

17 A. That's correct.

18 Q. That was Petitioner's Exhibit Number 9 today, I believe?

19 A. Whatever.

20 Q. All right. What is the first notice of a public hearing
21 date that you did see for the hearing that eventually took place
22 on Friday, March 17th, 2000?

23 A. The first notice was for Monday, March 13th.

24 Q. I am handing you Petitioner's Exhibit Number 14. Can

82

KEEFE REPORTING COMPANY
1-800-244-0190

1 you tell me what this is?

2 A. This is the Belleville News-Democrat, classified ads,
3 page 1E, for Wednesday, February 23rd, 2000.

4 Q. And is there a legal notice there for the Milam
5 expansion pertaining to Waste Management's application?

6 A. Yes, there is. It is the first one in the column on the
7 first column.

8 Q. And according to Exhibit Number 14, what was the hearing
9 date going to be?

10 A. Monday, March the -- the 13th day of March, 2000.

11 Q. Okay. Did you see any other notices besides the one
12 that I just showed you?

13 A. Yes.

14 Q. I am handing you what has been marked as Petitioner's
15 Exhibit Number 15. What is this?

16 A. This is the Belleville News-Democrat, Section C,
17 Tuesday, February 29th, 2000.

18 Q. And did you see another notice of a hearing date for
19 Waste Management's application?

20 A. Yes, I did.

21 Q. And what date is in this exhibit, Petitioner's Exhibit
22 Number 15?

23 A. This is on page 7C and it is, again, the first column,
24 the first notice. It is for Monday, the 17th of March of 2000.

83

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Now, did you check your calendar?

2 A. Yes, I did.

3 Q. Is there such a date as Monday, March 17th, 2000?

4 A. No.

5 Q. Did you see a third notice about the hearing date on the
6 Waste Management application?

7 A. Yes, I did.

8 Q. I am handing you what has been marked as Petitioner's
9 Exhibit Number 16. What is this?

10 A. This is the Belleville News-Democrat, classified
11 section, section E, Wednesday, March 1st, 2000.

12 Q. And what is the hearing date shown in Petitioner's
13 Exhibit Number 16?

14 A. This is the second -- in the first column, the second
15 item. The public hearing will be on Friday, the 17th of March,
16 2000.

17 MS. HOMEYER: I would like to offer into evidence
18 Petitioner's Exhibit Numbers 14, 15 and 16.

19 HEARING OFFICER KNITTLE: Any objection, Mr. Moran?

20 MR. MORAN: None.

21 HEARING OFFICER KNITTLE: Mr. Baricevic?

22 MR. BARICEVIC: No objection to 15 and 16. Previous
23 Exhibit Number 9 and 14 are the same, and so only because of
24 redundancy.

84

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER KNITTLE: It looks like Number 9 was a copy
2 of this, Ms. Homeyer; is that correct?

3 MS. HOMEYER: Petitioner's Exhibit Number 9 is the actual
4 document that Ms. Andria had with her at the hearing and that she
5 showed to the hearing officer.

6 HEARING OFFICER KNITTLE: Okay. Yes, I think I am going to
7 allow them both in, Mr. Baricevic, in light of that fact. Do you
8 still have an objection to that?

9 MR. BARICEVIC: No.

10 HEARING OFFICER KNITTLE: Okay. Then all three,
11 Petitioner's Exhibits 14, 15 and 16 will be admitted.

12 (Whereupon said documents were duly marked for purposes of

13 identification as Petitioner's Exhibits 14, 15 and 16 and
14 admitted into evidence as of this date.)

15 MS. HOMEYER: I had previously said that I thought I had
16 about an hour's more testimony. It has been an hour and I still
17 have some additional testimony. I wanted to ask you what you
18 wanted to do.

19 HEARING OFFICER KNITTLE: All right. Let's go off the
20 record.

21 (Discussion off the record.)

22 HEARING OFFICER KNITTLE: We will take a five minute
23 recess.

24 (Whereupon a short recess was taken.)

85

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER KNITTLE: All right. We are back on the
2 record.

3 We are continuing with the direct examination of Ms.
4 Andria.

5 Q. (By Ms. Homeyer) Ms. Andria, after you saw the three
6 notices, what was your reaction?

7 A. I was very confused.

8 Q. In what way?

9 A. Well, I mean, one was on the 13th. One was the 17th and
10 one was for a day that didn't exist.

11 Q. Did you take any steps to --

12 A. And all within a week of each other, the notices.

13 Q. Did you take any steps to clarify what the date was?
14 A. I called the city, the Village of Fairmont City.
15 Q. Who did you talk with?
16 A. I called and someone --
17 Q. Whoever answered the phone?
18 A. I do not know who it was.
19 Q. What did you ask?
20 A. I asked when the hearing was, and whoever it was didn't
21 know. And they said, you know, to call back another time.
22 Q. All right. Did you take any further steps to clarify
23 which of the three dates was, in fact, the correct one?
24 A. I called the -- I called Joe Durako of Waste Management

86

KEEFE REPORTING COMPANY
1-800-244-0190

1 and asked him, and I didn't really know until I went by on Monday
2 that --
3 Q. What did Mr. Durako tell you?
4 A. I think he told me -- at that point I think he told me
5 that it was Friday.
6 Q. Do you remember how many days prior to Friday he told
7 you that?
8 A. No, I don't. I am sorry.
9 Q. All right. What did you do on Monday, March the 13th?
10 A. On Monday, March 13th, I went to the Village Hall.
11 Q. For what purpose?

12 A. To see if there was a public hearing.
13 Q. So you were still uncertain?
14 A. That's right.
15 Q. What did you find when you drove to Village Hall on
16 Monday, March 13th?
17 A. That there was not a hearing.
18 Q. Then you did attend on March 17th; is that correct?
19 A. Yes, I did.
20 Q. Were you prejudiced by seeing three different notices
21 for two different dates, and one that was not even on the
22 calendar?
23 A. Absolutely.
24 Q. And how?

87

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Well, for one thing, our energies went to trying to find
2 out whether there was a hearing, when it was going to be, you
3 know, if this -- what was going on. So instead of being -- when
4 we finally got a copy of the -- to look at something, our
5 energies were not on that. We had to go and see what was
6 happening, whether there was going to be a hearing or not. When
7 the first hearing notice came out, I called some people and told
8 them that there was going to be a hearing on this date. And then
9 the --
10 Q. You are referring to which date?
11 A. The first date that something came out, the Monday,

12 March 13th. I called them initially so they -- because we didn't
13 know -- we kept going by the Village Hall to see when there would
14 be something posted about the hearing. We didn't hear anything
15 about a hearing schedule.

16 Q. So in addition to calling the Village Hall once and
17 speaking with Joe Durako you actually went by Village Hall?

18 A. Yes. Mr. Durako, I believe, thought it was going to be
19 on Monday, March 13th also.

20 Q. At some point he thought it was going to be Friday,
21 March 17th?

22 A. Right.

23 Q. On any of your visits to city hall in that time frame
24 did you see any notice published?

88

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Say that again?

2 Q. In any of your visits to the Village Hall prior to March
3 17th, did you see any notice on display?

4 A. In the beginning I didn't, no. I don't know whether I
5 did later, whether -- I don't know how soon I went.

6 Q. How were you prejudiced by the confusion over the three
7 dates? Is there anything you would have done differently if you
8 had had a certain date from the beginning with no changes?

9 A. Well, I would have had time to line people up and to say
10 definitely that there is going to be a hearing on this. My time

11 could have been better spent than all of that.

12 Q. Did you speak to anyone who expressed interest in
13 attending the hearing?

14 A. Yes.

15 Q. Who was that?

16 A. There was one gentleman who is with the Cahokia Mounds
17 Society.

18 Q. What is his name?

19 A. Ken Williams.

20 Q. And at the time that you spoke with him, what did he say
21 about his interest level in the hearing?

22 MR. BARICEVIC: I object. Hearsay.

23 HEARING OFFICER KNITTLE: Ms. Homeyer?

24 MS. HOMEYER: We are trying to establish that there were

89

KEEFE REPORTING COMPANY
1-800-244-0190

1 people who would have come if they had known when the hearing
2 was.

3 MR. BARICEVIC: Then call that witness and let them be
4 here. How do we know that -- that is why you have hearsay. She
5 wants to testify for the truth of the matter asserted that they
6 would not have come.

7 HEARING OFFICER KNITTLE: I am going to have to sustain
8 that.

9 MS. HOMEYER: We are trying to show the fundamental
10 unfairness and three notices is part of the claim as fundamental

11 unfairness. We need to establish what might have happened
12 differently if the notice had been handled properly from the
13 beginning.

14 HEARING OFFICER KNITTLE: I understand that, but it is
15 still a hearsay situation and Mr. Baricevic's claims are
16 well-founded.

17 Q. (By Ms. Homeyer) Did you tell Mr. Williams when the
18 hearing date was?

19 A. I told Mr. Williams the initial and I only talked to Mr.
20 Williams once, I believe. At that point I think I thought it was
21 going to be the 13th, but I can't say for sure.

22 Q. Did Mr. Williams come to the hearing on March 17th?

23 A. No, he did not.

24 Q. Was there anyone else -- was there anyone that you would

90

KEEFE REPORTING COMPANY
1-800-244-0190

1 have asked to come to the hearing had you not been confused about
2 the date?

3 A. There were members of the Emerson Park Group that
4 expressed an interest in coming. A board member of ESL CAN
5 expressed an interest.

6 MR. BARICEVIC: I object and ask that that be stricken.
7 The question was who did you talk to or who would you have
8 called. It is not who expressed an interest in a landfill
9 hearing. The question was who would not have come. That's not

10 the answer we are getting.

11 HEARING OFFICER KNITTLE: Ms. Homeyer?

12 MS. HOMEYER: I will refocus the question.

13 Q. (By Ms. Homeyer) Ms. Andria, would you have taken steps
14 to get people to the hearing if you had not been confused about
15 the date?

16 A. Yes.

17 Q. And which people would you have called or which kind of
18 people would have you liked to have gotten to the hearing?

19 A. I would have called ESL CAN members who expressed an
20 interest in coming to the hearing. I would have called some
21 people through the -- through another organization, the
22 Metro-East Green Way Alliance, who had expressed an interest in
23 coming. I would have called a number of environmental people,
24 conservation people, who had expressed an interest in coming.

91

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay. Would you have called anyone from any state
2 agency?

3 A. Yes, I would have.

4 Q. Who?

5 A. I would have called -- I would have asked Paul Osman
6 from the Illinois Department of Natural Resources, I would have
7 asked if he could come.

8 Q. Anyone else that you had in mind generally that you
9 might have liked to have seen come to the hearing?

10 A. I would have liked if -- this is not specific to the
11 notice, but in the general way it was. I would have liked to
12 have gotten a couple of engineer people who would have been able
13 to look at what was going on, if I could have had them. I had
14 spoken to one of them. Again, I didn't have a date.

15 Q. Okay. I would like to direct your attention now to the
16 issues concerning the availability or the unavailability of the
17 transcript of the proceedings of March 17th, 2000.

18 A. Uh-huh.

19 Q. Are you claiming that there was any due process
20 violation or fundamental unfairness concerning the unavailability
21 of that transcript prior to the exploration of the public
22 comment?

23 A. It was fundamentally unfair, since it was part of the
24 record, for us not to be able to get a transcript of it when it

92

KEEFE REPORTING COMPANY
1-800-244-0190

1 was ready. We needed it to be able to properly prepare our
2 public comment. We needed to be able to see what exactly
3 happened, since we were the ones who were all involved, actively
4 involved in it and unable to take proper notes. We needed to be
5 able to counter some of the things that were said. We needed to
6 be able to address the various issues that were brought out.

7 Q. When was the transcript ready?

8 A. When was it really ready?

9 Q. Yes.

10 A. March 24th, one week after the hearing.

11 Q. And when did you first find out that the transcript was
12 available or that the transcript had been prepared by the court
13 reporter and finished by March 24th, 2000?

14 A. I guess last week when we got a copy of the transcript
15 from --

16 Q. Are you referring to the transcript that I requested and
17 received from Mr. Baricevic?

18 A. Yes.

19 Q. I am handing you Petitioner's Exhibit Number 26. Have
20 you seen this before?

21 A. Yes.

22 Q. Where did you see this?

23 A. In your office.

24 Q. Where is it from?

93

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. It is the notary public seal and the -- I don't know
2 what it is called.

3 Q. Is this the last two pages of --

4 A. The last two pages of the transcript.

5 Q. All right. And is this the court reporter's certificate
6 stating when the transcript was, in fact, finished?

7 A. Yes, it is.

8 MS. HOMEYER: I would like to offer Petitioner's Exhibit

9 Number 26 into evidence.

10 HEARING OFFICER KNITTLE: Mr. Moran?

11 MR. MORAN: No objection.

12 MR. BARICEVIC: No objection.

13 HEARING OFFICER KNITTLE: All right. It is admitted.

14 (Whereupon said document was duly marked for purposes of
15 identification as Petitioner's Exhibit 26 and admitted into
16 evidence as of this date.)

17 Q. (By Ms. Homeyer) Ms. Andria, did you make any attempts
18 prior to the deadline of the public comment to obtain a copy of
19 the transcript?

20 A. Yes, I did.

21 Q. What did those attempts consist of?

22 A. Telephone calls to the city, stopping by the city, the
23 Village, and I think I wrote letters and I called -- I talked to
24 Mr. Baricevic.

94

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. All right. Now I am going to hand you what has been
2 marked as Petitioner's Exhibit Number 17. What is this document?

3 A. It is a letter to the Village Clerk, attention Karen
4 Manso, saying I would like to purchase a copy of the transcript
5 of the hearing of the Village Board held on the Milam Landfill
6 expansion.

7 Q. Is this a letter that you sent to Karen Manso?

8 A. Yes, I --

9 Q. What is the date?

10 A. It is dated April 5th, 2000.

11 Q. How did you transmit this letter to the city?

12 A. I sent it fax. I had spoken with her earlier in the

13 conversation -- earlier in the day with her. She told me --

14 Q. Well, let me ask you this. How did you transmit it to

15 the city?

16 A. Via fax.

17 Q. Did you also mail it?

18 A. I believe I also mailed it to her.

19 Q. All right. And you were saying, then, that Petitioner's

20 Exhibit Number 17 followed a telephone conversation that you had

21 with Ms. Manso?

22 A. Yes.

23 Q. On the same date?

24 A. Yes.

95

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. That date would be what?

2 A. April 5th, 2000.

3 Q. All right. What happened in the conversation between

4 you and Ms. Manso earlier that day?

5 A. She said that they didn't have a copy yet. She thought

6 that it might be at the courthouse, but they didn't have a copy

7 of it.

8 Q. At the Village?

9 A. At the Village.

10 MS. HOMEYER: I would like to offer into evidence
11 Petitioner's Exhibit Number 17.

12 HEARING OFFICER KNITTLE: Mr. Moran?

13 MR. MORAN: No objection.

14 MR. BARICEVIC: No objection.

15 HEARING OFFICER KNITTLE: It is admitted.
16 (Whereupon said document was duly marked for purposes of
17 identification as Petitioner's Exhibit 17 and admitted into
18 evidence as of this date.)

19 Q. (By Ms. Homeyer) Did you receive a reply from Ms. Manso
20 after you sent her that letter?

21 A. I can't remember. I am sorry.

22 Q. Well, do you recall today getting any answer from Ms.
23 Manso?

24 A. I don't remember.

96

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Did she call you?

2 A. No.

3 Q. Okay. Did she write you a letter?

4 A. I don't believe so.

5 Q. Did she make the transcript available?

6 A. Did she make the transcript available? Absolutely not.

7 Q. Okay. Did you have any conversations with Mr. Baricevic
8 about the availability of the transcript?
9 A. Yes.
10 Q. And when did you call Mr. Baricevic?
11 A. I called him on the 14th of April.
12 Q. Of this year?
13 A. Of this year, on Friday.
14 Q. On Friday. And how do you remember that date so
15 precisely?
16 A. Because one of the reasons for the phone call was that I
17 didn't know what the date of the public comment period ending --
18 it was officially ending on a Sunday.
19 Q. That would be Sunday, April 16th?
20 A. April 16th.
21 Q. And you wanted to know?
22 A. I wanted to know -- I had called the Pollution Control
23 Board.
24 Q. Well, just focus on your conversation with Mr.

97

KEEFE REPORTING COMPANY
1-800-244-0190

1 Baricevic, please.
2 A. Okay. I wanted to know if since the period ended on
3 Sunday, would it kick over to Monday.
4 Q. Did you also -- well, did you speak with him on the 14th
5 of April?
6 A. No, I did not.

7 Q. When did you speak with him?
8 A. I spoke with him on Monday.
9 Q. How did that conversation start? Who called who?
10 A. He called me.
11 Q. All right. And in that conversation, did you discuss
12 the availability or the unavailability of the transcript of the
13 March 17th hearing?
14 A. Yes.
15 Q. Who said what to whom in that conversation on April
16 17th?
17 A. He said that he would be making the transcript available
18 to me and this was after the public comment period closed. And
19 that someone from the Village would call me in a couple of days.
20 Q. Did he say that it actually was available or that he
21 would make it available?
22 A. He said he would make it available to me.
23 Q. And that someone from the Village would call you?
24 A. That someone from the Village would call me.

98

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Ms. Andria, did anyone from the Village ever call you?
2 A. No.
3 Q. At the time that the public comment expired, did you
4 have a copy of the transcript available to you?
5 A. No.

6 Q. Had anyone at Village Hall ever said it was at Village
7 Hall?
8 A. No.
9 Q. To the contrary, what did they tell you?
10 A. Ms. Manso told me that she thought it was at the
11 courthouse.
12 Q. It was not at the Village?
13 A. It was not at the Village.
14 Q. Did you submit public comment?
15 A. Yes.
16 Q. When did you mail it?
17 A. I mailed it on Sunday, April 16th.
18 Q. How did you mail it?
19 A. I mailed it from the airport mail facility in St. Louis.
20 Q. Was your public comment postmarked, then, on Sunday,
21 April 16th, 2000?
22 A. Yes.
23 Q. I am handing you what has been marked as Petitioner's
24 Exhibit Number 18. What is this?

99

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. This is the U.S. Postal delivery service showing that I
2 mailed it on April 16th, 2000, the delivery confirmation receipt,
3 priority mail, and also the customer receipt for the amount that
4 it cost me to mail it for that date.

5 MS. HOMEYER: I would like to offer Petitioner's Exhibit

6 Number 18 into evidence.

7 HEARING OFFICER KNITTLE: Mr. Moran?

8 MR. MORAN: No objection.

9 MR. BARICEVIC: No objection.

10 HEARING OFFICER KNITTLE: So admitted.

11 (Whereupon said document was duly marked for purposes of
12 identification as Petitioner's Exhibit 18 and admitted
13 into evidence as of this date.)

14 Q. (By Ms. Homeyer) Ms. Andria, in your public comment were
15 you able to refer to the transcript of the March 17th, 2000
16 hearing?

17 A. No, I had not seen it.

18 Q. How were you prejudiced by not being able to refer to
19 that in your public comment?

20 A. I could not specifically address the things that were
21 testified to. I could not hone in on things. I could not
22 counter things that were -- it would have been a guide to go by
23 and we didn't have that.

24 Q. Why did you not take notes at the hearing?

100

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Because I was walking and giving exhibits to people
2 who -- and I had to run the thing. I mean...

3 Q. You were at the hearing, you were active, were you not?

4 A. I was very active.

5 Q. You were not sitting at a table taking notes?
6 A. I was not sitting at a table taking notes.
7 Q. You were questioning witnesses?
8 A. I was.
9 Q. You were on your feet?
10 A. Yes.
11 Q. You were up in front of the witness, correct?
12 A. Yes.
13 Q. Did you start to tape-record the proceedings?
14 A. Yes, I did.
15 Q. Did you have permission to do that?
16 A. Yes.
17 Q. And what happened to the attempt to tape-record those
18 proceedings?
19 A. Well, the tape recorder -- apparently, I tried to start
20 it and I thought it started, but it didn't start. I thought that
21 it had. But, I mean, I was not sitting at the table. I was up
22 at the podium.
23 Q. You did not get to tape it, then?
24 A. No.

101

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. So you didn't have a tape to listen to either?
2 A. No.
3 Q. By the way, did you file additional public comment after
4 you postmarked the bulk of your public comment?

5 A. Yes, I did.

6 Q. What did you do?

7 A. The next day, on Monday, April 17th, Mr. Norman and I
8 went to Village Hall. It was 4:45, I believe, and we had -- I
9 had the end of one exhibit, I had put it into two parts, and I
10 had part of one exhibit and then a soil survey of St. Clair
11 County, and I think another document. I don't remember what it
12 was. But we took it to the window and offered it.

13 Q. So you submitted your public comment, most of it by mail
14 and a little bit the following day in person at Village Hall?

15 A. Right.

16 Q. Okay. Now, directing your attention to the time period
17 after the deadline for public comment, but before the deadline
18 for your petition for review?

19 A. Yes.

20 Q. At any time did the Village make the transcript of the
21 March 17th proceedings available to you in that time frame?

22 A. No.

23 Q. I am handing you a letter that has been marked as
24 Petitioner's Exhibit Number 29. What is this letter?

102

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. It is a letter to Mr. Prsha, the Village Clerk of the
2 Village of Fairmont City, April 26th, 2000.

3 Q. Did you write that letter?

4 A. Yes, I did.

5 Q. How did you send it to the city?

6 A. I sent it to --

7 Q. By mail?

8 A. By mail. I think it was by mail.

9 Q. Do you have any notes that indicate that you faxed it?

10 A. I don't see it, but I couldn't be sure.

11 Q. All right. But you definitely mailed it?

12 A. No, I cannot be sure if it was mailed or just faxed. I

13 think it was mailed.

14 Q. One or the other?

15 A. It was definitely one or the other.

16 Q. All right. What are you requesting in your letter of

17 April 26th, 2000?

18 A. I am asking to purchase a copy of the -- I had faxed --

19 I am saying to him on April 5th of 2000 I had faxed a request to

20 purchase a copy of the transcript. And I said I needed to get a

21 copy as soon as possible in the last letter I said. And then I

22 tell him again that I talked to his office and to Mr. Baricevic,

23 who said he was going to make one available to me. And then I

24 told him that I have not heard from anyone in this matter. Could

103

KEEFE REPORTING COMPANY
1-800-244-0190

1 you please let me know as soon as possible when I might get a

2 copy of the transcript. I asked him to call me. I left my phone

3 number.

4 MS. HOMEYER: I would like to offer into evidence
5 Petitioner's Exhibit Number 29.

6 MR. MORAN: I have not seen that, I believe.

7 MR. BARICEVIC: Neither have I.

8 MS. HOMEYER: Okay. I am sorry.

9 (Ms. Homeyer showing the document to Counsel.)

10 MR. MORAN: I have no objection.

11 MR. BARICEVIC: No objection.

12 HEARING OFFICER KNITTLE: All right. This is admitted.

13 (Whereupon said document was duly marked for purposes of
14 identification as Petitioner's Exhibit 29 and admitted into
15 evidence as of this date.)

16 Q. (By Ms. Homeyer) Did Mr. Prsha call you?

17 A. No.

18 Q. Did you continue to make requests to obtain a copy of
19 that transcript?

20 A. Yes.

21 Q. I am handing you what has been marked as Petitioner's
22 Exhibit Number 19. What is this?

23 A. This is the letter of May 3rd, 2000, to Mr. Prsha. This
24 was sent by fax to the Clerk of Fairmont City and --

104

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Is this your letter?

2 A. This is my letter.

3 Q. Okay.

4 A. And in this letter I asked him under the Freedom of
5 Information Act I hereby request to examine the record of
6 proceedings.

7 Q. Why were you making a FOIA request?

8 A. Because they didn't give me access to documents when I
9 just asked.

10 MS. HOMEYER: All right. I would like to introduce into
11 evidence Petitioner's Exhibit Number 19.

12 HEARING OFFICER KNITTLE: Mr. Moran?

13 MR. MORAN: No objection.

14 HEARING OFFICER KNITTLE: Mr. Baricevic?

15 MR. BARICEVIC: No.

16 HEARING OFFICER KNITTLE: All right. This is admitted.

17 (Whereupon said document was duly marked for purposes of
18 identification as Petitioner's Exhibit 19 and admitted into
19 evidence as of this date.)

20 Q. (By Ms. Homeyer) Ms. Andria, did you ever receive a
21 response from the Village to your FOIA request?

22 A. I believe I did.

23 Q. What did they say? Did they ever give you the
24 transcript pursuant to the FOIA request?

105

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. No, they sent me a letter saying the transcript was not
2 done yet.

3 Q. Okay. We will get to that in a moment. I am handing
4 you what has been marked as Petitioner's Exhibit Number 24. Can
5 you identify this clearly for the record, please?

6 A. Yes. It is a letter to me from the Village of Fairmont
7 City, dated May 8th.

8 Q. Who signed it?

9 A. Signed by Mr. Prsha, Nicholas Prsha, the Village Clerk.

10 Q. Is that an original letter?

11 A. Yes.

12 Q. That is what you received from Mr. Prsha?

13 A. Yes.

14 Q. What is attached to it?

15 A. An envelope.

16 Q. And what is the postmark?

17 A. May 8th, 2000.

18 Q. And what did the Village tell you on May 8, 2000?

19 A. This will acknowledge your letter of May 7th in which
20 you request to examine the record of proceedings of the Waste
21 Management application for siting. We are unable to comply with
22 your request for the following reasons. The written recorded
23 transcript has not been finished by the court reporter. We have
24 not received a copy as of today's date. That is dated May 8th,

2 MS. HOMEYER: I would like to offer Petitioner's Exhibit 24
3 into evidence.

4 HEARING OFFICER KNITTLE: Thank you. Mr. Moran, have you
5 seen this?

6 MR. MORAN: Yes. I have no objection.

7 MR. BARICEVIC: No objection.

8 HEARING OFFICER KNITTLE: All right. It is admitted.

9 (Whereupon said document was duly marked for purposes of
10 identification as Petitioner's Exhibit 24 and admitted into
11 evidence as of this date.)

12 Q. (By Ms. Homeyer) Ms. Andria, at the time that you
13 received the letter of May 8, did you know at that time that the
14 transcript had, in fact, been ready since March 24th?

15 A. Did I know for sure?

16 Q. Did you know at that time when you got the letter dated
17 May 8 that the transcript had been prepared as of March 24th,
18 2000?

19 A. I did not know.

20 Q. Did you believe them when they told you it was not ready
21 yet?

22 A. It does not seem logical. It had been a month and a
23 half after the hearing.

24 Q. So you were not sure if they were telling the truth or

2 A. It doesn't seem logical.

3 Q. Okay. Now, in this time period, did you have any other
4 correspondence with the city where you requested both the minutes
5 of the April -- excuse me. What night did the Village actually
6 approve an ordinance granting siting approval?

7 A. The day after my public comment got there.

8 Q. What date was that?

9 A. April --

10 Q. April 19th?

11 A. April 19th, Wednesday night.

12 Q. 2000?

13 A. 2000.

14 Q. Now, did you also send correspondence to the Village
15 requesting a copy of the minutes from April 19th, 2000?

16 A. Yes, I did.

17 Q. And did you also send --

18 A. I didn't send it. I took it.

19 Q. All right. Did you also communicate correspondence to
20 the Village requesting a copy of Ordinance 573, dated April 19th,
21 2000?

22 A. Yes.

23 Q. Did they send you the minutes?

24 A. No. I got -- I picked up the minutes. I got the

1 minutes.

2 Q. Did they send you the ordinance?

3 A. I believe so.

4 Q. So when you wrote them about the minutes you got an
5 answer, correct?

6 A. Yes.

7 Q. When you wrote them about the ordinance you got an
8 answer, correct?

9 A. Yes.

10 Q. When you wrote them about a transcript, what did you
11 get?

12 A. It is not ready yet.

13 Q. I am going to hand you what has been marked as
14 Petitioner's Exhibit Number 20. What is this?

15 A. This is a letter from the Village of Fairmont City,
16 dated May 4th. This will acknowledge receipt of your fax
17 dated -- I thought that I -- I did deliver it in person, too --
18 dated 05-03, 2000, requesting a copy of the minutes of the
19 meeting held on April 19th. I have been informed by Mr. Scott
20 Penny that he personally provided you with a copy of these
21 minutes at the conclusion of the meeting held on May 3rd. Please
22 be advised that we do not accept fax requests for information.
23 Also be advised that minutes are available for public
24 distribution two days following their approval by the Village

1 Board and that requests for the minutes may be made in person at
2 the lobby or by conventional mail.

3 MS. HOMEYER: I would like to offer Petitioner's Exhibit
4 Number 20 into evidence.

5 HEARING OFFICER KNITTLE: Mr. Moran?

6 MR. MORAN: No objection.

7 MR. BARICEVIC: No objection.

8 HEARING OFFICER KNITTLE: This is admitted.

9 (Whereupon said document was duly marked for purposes of
10 identification as Petitioner's Exhibit 20 and admitted into
11 evidence as of this date.)

12 Q. (By Ms. Homeyer) I am handing you Petitioner's Exhibit
13 Number 21. What is this?

14 A. It is a letter on May 5th that I wrote to Mr. Prsha. I
15 sent it via fax. Could you please provide us with a copy of
16 Ordinance Number 573 setting forth the decision of the Village
17 regarding a siting application for the vertical expansion of the
18 Milam Landfill. I say we stopped by the Village Hall today to
19 get a copy but were told we had to write a letter to you to get
20 one. We can pick it up Tuesday, May 9th, at the window.

21 MS. HOMEYER: I would like to offer Petitioner's Exhibit
22 Number 21 into evidence.

23 MR. MORAN: No objection.

24 MR. BARICEVIC: No objection.

1 HEARING OFFICER KNITTLE: This is admitted.

2 (Whereupon said document was duly marked for purposes of
3 identification as Petitioner's Exhibit 21 and admitted into
4 evidence as of this date.)

5 Q. (By Ms. Homeyer) Ms. Andria, I am handing you what has
6 been marked as Petitioner's Exhibit Number 22. What is this?

7 A. A May 7th, 2000 --

8 Q. Is this a letter?

9 A. This is a letter from the American Bottom Conservancy
10 signed by me. It is to Nicholas Prsha, dated May 7th, 2000, the
11 Village Clerk of Village of Fairmont City.

12 Q. What were you discussing in this letter?

13 A. This is a letter that I took to the Village so that it
14 was -- they couldn't say that they didn't get it. I am in
15 receipt of your letter of May 4th.

16 Q. Oh, you don't have to read the entire thing. What are
17 you asking him for?

18 A. He said that -- in the letter that I just read he said
19 that he didn't accept fax requests for information. Well,
20 previously I had been told by Ms. Manso that I could fax
21 something over. You do not acknowledge my fax of the same day
22 requesting information under the Freedom of Information Act. In
23 that letter I ask to examine the record of proceedings on the
24 application. I am once again requesting that information. Since

1 you have accepted request by fax in the past and since you did
2 not address this request, I am considering May 4th to be the
3 start of the seven days allowed by the Act. I hope you will
4 concur and allow me to come examine the records. As I previously
5 stated, I can do so at your convenience day or night.

6 Q. All right. Thank you.

7 MS. HOMEYER: I would like to offer Petitioner's Exhibit
8 Number 22 into evidence.

9 HEARING OFFICER KNITTLE: Mr. Moran?

10 MR. MORAN: No objection.

11 MR. BARICEVIC: No objection.

12 HEARING OFFICER KNITTLE: So admitted.

13 (Whereupon said document was duly marked for purposes of
14 identification as Petitioner's Exhibit 22 and admitted into
15 evidence as of this date.)

16 Q. (By Ms. Homeyer) I am handing you what has been marked
17 as Petitioner's Exhibit Number 23. What is this?

18 A. This is a letter from Village of Fairmont City, signed
19 by Mr. Prsha, the Village Clerk.

20 Q. What did he send you?

21 A. This is to me. This is enclosing the Municipal
22 Ordinance Number 573, as per my request.

23 Q. And that is dated the same date as a separate letter
24 from him saying the transcript was not ready, correct?

1 A. Correct.

2 Q. So he sent you two letters with the same date?

3 A. Yes.

4 MS. HOMEYER: I would like to offer into evidence

5 Petitioner's Exhibit Number 23.

6 HEARING OFFICER KNITTLE: Mr. Moran?

7 MR. MORAN: No objection.

8 HEARING OFFICER KNITTLE: Mr. Baricevic?

9 MR. BARICEVIC: No objection.

10 HEARING OFFICER KNITTLE: This is admitted.

11 (Whereupon said document was duly marked for purposes of

12 identification as Petitioner's Exhibit 23 and admitted into

13 evidence as of this date.)

14 Q. (By Ms. Homeyer) Ms. Andria, did the Village ever tell

15 you that the transcript was, in fact, finally ready?

16 A. Yes.

17 Q. I am handing you what has been marked as Petitioner's

18 Exhibit Number 25. What is this?

19 A. It a letter from Mr. Prsha, Village clerk, Village of

20 Fairmont City, dated May 9th, 2000.

21 Q. What is attached to it?

22 A. The envelope.

23 Q. What date is the postmark on that envelope?

24 A. May 10th.

1 Q. Of this year?

2 A. Of 2000.

3 Q. All right. And in this letter did he tell you that the
4 transcript was ready?

5 A. Yes. He said we have today received our copy of the
6 transcript.

7 Q. Did he tell you what to do if you simply wanted to see
8 the transcript? What were you supposed to do?

9 A. To -- it is available for inspection in the office of
10 the Village Clerk, but to avoid confusion, please schedule
11 through Deputy Clerk Karen Manso.

12 Q. All right. Is that the same person that you were having
13 trouble getting through to whenever you called?

14 A. Yes.

15 Q. Did he offer you another alternative for obtaining the
16 transcript?

17 A. Yes.

18 Q. What did he say?

19 A. Should you desire a copy, one is available for the
20 actual cost of reproduction. The reproduction cost is \$41.75,
21 payable in advance. Should you wish to receive a copy please
22 send a written request with your payment, and then it tells me
23 where to send it.

24 Q. So first you were supposed to send them a check,

1 correct?

2 A. Right.

3 Q. Then they would send you the transcript?

4 A. Correct.

5 Q. Okay. That was postmarked May 10th, correct?

6 A. Correct.

7 Q. Now, to what address did they send that?

8 A. To my address, the American Bottom Conservancy, Post
9 Office Box 326, East St. Louis.

10 Q. And how often do you -- excuse me.

11 MS. HOMEYER: I would like to offer Petitioner's Exhibit
12 Number 25 into evidence.

13 HEARING OFFICER KNITTLE: Mr. Moran?

14 MR. MORAN: No objection.

15 MR. BARICEVIC: No objection.

16 HEARING OFFICER KNITTLE: Admitted.

17 (Whereupon said document was duly marked for purposes of
18 identification as Petitioner's Exhibit 25 and admitted into
19 evidence as of this date.)

20 Q. (By Ms. Homeyer) How often do you check your post office
21 box?

22 A. It depends if I am having something that I know is
23 coming, I check it frequently. If not, then I maybe check it
24 once a week.

1 MS. HOMEYER: May I have Petitioner's Exhibit 24 for a
2 moment.

3 HEARING OFFICER KNITTLE: Yes.

4 MS. HOMEYER: Thank you.

5 Q. (By Ms. Homeyer) Ms. Andria, I am handing you both
6 Petitioner's Exhibit Number 24 and 25. Number 24 is the letter
7 dated May 8, postmarked May 8, correct?

8 A. Correct.

9 Q. And Petitioner's Exhibit Number 25 is a letter dated May
10 9th and postmarked May 10th, correct?

11 A. Correct.

12 Q. Now, Ms. Andria, when you went to your post office box
13 and found in it the letter dated May 8th that has been marked as
14 Petitioner's Exhibit Number 24, was Petitioner's Exhibit Number
15 25 in that batch of mail?

16 A. No.

17 Q. Okay. Did you have the transcript available to you
18 prior to the time that you filed the petition for review?

19 A. No.

20 Q. And were you prejudiced by the fact that you did not
21 have the transcript available when you prepared the petition for
22 review?

23 A. Extremely prejudiced.

24 Q. How were you prejudiced?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Well, the petition for review is based on fundamental
2 fairness -- fundamental unfairness, and among other of the siting
3 criteria. And a great deal of the fundamental unfairness was the
4 treatment of the citizens in the public hearing, and I didn't
5 have it to refer to.

6 Q. At the time that we finally got the transcript in late
7 July, what did we do with it?

8 A. I am sorry.

9 Q. Did we finally get the transcript on or about July 28th
10 of this year?

11 A. Yes.

12 Q. And what did we do in terms of the petition for review
13 when we got it?

14 A. We have an amended petition.

15 Q. Does that state with more specificity some of the
16 allegations of fundamental unfairness?

17 A. Yes, it does.

18 Q. Okay. Now at the time that you were preparing the
19 petition for review, were you having others look at it?

20 A. I am sorry?

21 Q. At the time that you were preparing the petition for
22 review --

23 A. Oh, the petition.

24 Q. -- did you have others look at it?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. So you couldn't wait until the last minute to prepare
3 it, could you?

4 A. No.

5 Q. Who else signed that original petition for review?

6 A. Flossie Hunt, the president of the ESL CAN.

7 Q. Who else?

8 A. Jack Norman.

9 Q. And yourself?

10 A. And myself.

11 Q. All right. At the time that you filed your petition for
12 review, you did not have a copy of the transcript available to
13 you, correct?

14 A. At the time I filed my petition for review, no, I did
15 not have a copy of the transcript.

16 Q. In fact, you never got it until I got it on July 28th;
17 is that right?

18 A. That's correct.

19 Q. Were you surprised when you saw the transcript and saw
20 that the court reporter had certified it on March 24th of 2000?

21 MR. MORAN: Objection. It is irrelevant whether she was
22 surprised or not surprised.

23 HEARING OFFICER KNITTLE: Sustained.

24 Q. (By Ms. Homeyer) I am handing you what has been marked

KEEFE REPORTING COMPANY
1-800-244-0190

1 as Petitioner's Exhibit Number 27. What is this?

2 A. This is the Ordinance Number 573 setting forth the
3 decision of the Village of Fairmont City regarding the site
4 location application for the vertical expansion of the Milam
5 recycling and disposal facility submitted by Waste Management of
6 Illinois.

7 Q. Are you claiming that there is any flaw or defect in the
8 text of the ordinance?

9 A. Well, this was signed and voted on.

10 Q. On what date?

11 A. On April 19th, 2000, and one of the things that they
12 referred to as -- that they have got the transcript in front of
13 them, the transcript of the public hearing. And it was May the
14 8th that they were still saying it was not ready yet, that they
15 didn't have a copy at Village Hall.

16 Q. Were you interested in attending the meeting at which
17 that vote was taken?

18 A. I would have liked to have been there, yes.

19 Q. Were you at city hall on Monday, April 17th?

20 A. Yes, we were.

21 Q. About what time of day?

22 A. It was a quarter to five.

23 Q. Where are notices published or where are they put out in
24 city hall?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. There is a little bulletin board to the right of window.

2 Q. Did you look at the bulletin board on that day?

3 A. Yes, I did.

4 Q. What was there?

5 A. It was the -- I believe it was the agenda from the
6 previous meeting two weeks before.

7 Q. Did you look at that bulletin board and see anything
8 that told you that there would be a meeting on Wednesday, April
9 19th?

10 A. No.

11 Q. Had you known, would you have attended?

12 A. Yes, I would have.

13 MS. HOMEYER: I would like to offer Petitioner's Exhibit
14 Number 27 into evidence.

15 HEARING OFFICER KNITTLE: Mr. Moran?

16 MR. MORAN: No objection.

17 MR. BARICEVIC: No objection.

18 HEARING OFFICER KNITTLE: Admitted.

19 (Whereupon said document was duly marked for purposes of
20 identification as Petitioner's Exhibit 27 and admitted into
21 evidence as of this date.)

22 Q. (By Ms. Homeyer) Just for the record, could you identify
23 Petitioner's Exhibit Number 28?

24 A. This is a letter from me to Mr. Prsha, the Village Clerk

120

KEEFE REPORTING COMPANY
1-800-244-0190

1 of Fairmont City, with a copy to Karen Manso, the Deputy Clerk
2 with a --

3 Q. What were you asking for?

4 A. I am asking to receive a copy of the minutes of the
5 meeting held on the 19th.

6 Q. Did you personally deliver this?

7 A. Yes, I delivered it with Jennifer Lucky (spelled
8 phonetically). We gave it to the dispatcher.

9 Q. Did you ask for Karen Manso when you delivered it?

10 A. Yes, we did.

11 Q. What were you told?

12 A. I asked if Karen was there. She said, don't know.

13 Might have left. I asked what her hours were and she said they
14 vary. And this is something that -- this is not the first time
15 that I heard this. She said sometimes she gets here at 6:00 in
16 the morning. I asked who is in the clerk's office. And they
17 said he was just here and he left. And then I asked if I could
18 leave this for the clerk's office, which I did. And they let me
19 leave it.

20 MS. HOMEYER: I am offering Petitioner's Exhibit Number 28
21 into evidence.

22 HEARING OFFICER KNITTLE: I just want to note -- do you
23 have a copy of this, Mr. Moran?

24 MR. MORAN: Yes.

121

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER KNITTLE: It has handwritten notes on this,
2 as well.

3 MR. MORAN: Yes.

4 HEARING OFFICER KNITTLE: Okay. Do you have an objection
5 to this?

6 MR. MORAN: No.

7 HEARING OFFICER KNITTLE: Mr. Baricevic?

8 MR. BARICEVIC: Only that wasn't the aerial photo P-28?

9 HEARING OFFICER KNITTLE: Yes, it was Mr. Baricevic.

10 MS. HOMEYER: Thank you. Then I would like to change this
11 to 31.

12 HEARING OFFICER KNITTLE: Do you mind if I go ahead and do
13 it?

14 MS. HOMEYER: No. Thank you very much.

15 HEARING OFFICER KNITTLE: Other than the numbering, Mr.
16 Baricevic?

17 MR. BARICEVIC: No, no objection.

18 HEARING OFFICER KNITTLE: This will be admitted as
19 Petitioner's Exhibit Number 31.

20 (Whereupon said document was duly marked for purposes of
21 identification as Petitioner's Exhibit 31 and admitted into
22 evidence as of this date.)

23 Q. (By Ms. Homeyer) Was that the pattern of your attempts
24 to contact Ms. Manso?

122

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. After -- at a certain point, that was the pattern all of
2 the time.

3 Q. When did that certain point come about?

4 A. I think when she told us something that --

5 Q. I said when did --

6 A. I know.

7 Q. Just approximately. Before the March 17th hearing?

8 A. Yes.

9 Q. What are you asking the Pollution Control Board to do on
10 your petition for review or amended petition?

11 A. To totally reverse it.

12 Q. And why are you asking for the Board to reverse it
13 outright?

14 A. Because given the incredible amount of fundamental
15 unfairness. I think just to remand it would not cure that.

16 Q. And are you also planning to submit a brief, a post
17 trial brief that will address not only fundamental unfairness but
18 also the siting criteria?

19 A. Yes, we are.

20 MS. HOMEYER: Okay. I don't have --

21 THE WITNESS: One thing.

22 (The witness talking to Ms. Homeyer.)

23 MS. HOMEYER: Could we take a short break?

24 HEARING OFFICER KNITTLE: Any objection to that.

123

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: Let the record reflect that the witness has
2 requested that she be allowed to take a break with her lawyer.
3 We have no objection to that.

4 MS. HOMEYER: May I speak with my client for a moment?

5 HEARING OFFICER KNITTLE: The record will note that, and we
6 will take a two minute recess.

7 (Whereupon a short recess was taken.)

8 HEARING OFFICER KNITTLE: All right. We are back on the
9 record.

10 MS. HOMEYER: I don't have any further questions for Ms.
11 Andria.

12 HEARING OFFICER KNITTLE: All right. We are finished with
13 the direct. I think we want to take a lunch break before we do
14 cross. I would like to take a lunch break before we do cross. I
15 am assuming that unless you have like a 20 minute cross --

16 MR. MORAN: I don't think that is reasonable.

17 HEARING OFFICER KNITTLE: Okay. Then we will take a lunch
18 recess. We will break and we will take 45 minutes. So we will
19 be back at a quarter to 2:00.

20 (Whereupon a lunch recess was taken from approximately 1:00
21 p.m. to 2:00 p.m.)

22

23

24

124

KEEFE REPORTING COMPANY
1-800-244-0190

1 A F T E R N O O N S E S S I O N

2 (August 22, 2000; 2:00 p.m.)

3 HEARING OFFICER KNITTLE: All right. We are back on record
4 after a short lunch recess, commencing with the
5 cross-examination, starting with Mr. Moran, of Kathy Andria.

6 Ms. Andria, let me remind you that you are still under
7 oath.

8 THE WITNESS: (Nodded head up and down.)

9 CROSS EXAMINATION

10 BY MR. MORAN:

11 Q. Good afternoon, Ms. Andria.

12 A. Good afternoon, Mr. Moran.

13 Q. Now, Ms. Andria, you have been involved in siting
14 proceedings prior to this one; is that correct?

15 A. That's correct.

16 Q. I believe you testified on direct examination that you
17 have been involved in three siting proceedings prior to this one;
18 is that correct?

19 A. I believe that is correct.

20 Q. Would it be accurate to say that in those three siting
21 hearings you were also appearing in opposition to the application

22 that was being made by the applicant for a pollution control
23 facility?

24 A. That's correct.

125

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Is it also accurate to say that you attended the public
2 hearings on each of those siting applications?

3 A. That's correct.

4 Q. Would it also be accurate to say that with respect to
5 your participation in those siting hearings that you also had
6 prepared evidence or testimony that you intended to present in
7 opposition to those applications?

8 A. That's not correct.

9 Q. In which of those three siting hearings did you not
10 present or attempt to present some evidence in support of your
11 position?

12 A. I don't believe I tried to, and I may be wrong, my
13 memory may be wrong, but I am not sure that I tried to present
14 evidence in the National City siting. I don't remember whether I
15 did or not.

16 Q. Well, would it be accurate to say, then, that for the
17 other two siting proceedings that, in fact, you did attempt to
18 present some evidence in opposition to the siting request?

19 MS. HOMEYER: Mr. Hearing Officer, I am going to object on
20 the grounds of relevance that the other siting proceedings are

21 not relevant to this one. There is no relationship to those
22 prior proceedings and the claims that are being presented at the
23 hearing today.

24 HEARING OFFICER KNITTLE: Mr. Moran?

126

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: This witness has claimed a certain amount of
2 harm and prejudice as a result of what she has alleged to be
3 procedural deficiencies or irregularities in connection with this
4 siting proceedings. And the reason that this testimony is
5 relevant is because Ms. Andria, by virtue of her experience in
6 these prior siting proceedings, knows the procedures, knows the
7 manner in which public hearings occur, in which they are
8 transcribed, and how to move forward from those. That's simply
9 what I am trying to establish.

10 HEARING OFFICER KNITTLE: The objection is overruled.

11 Do you recall the last question, Ms. Andria?

12 THE WITNESS: No, I don't. Would you read it back, please.

13 (Whereupon the requested portion of the record was read
14 back by the Reporter.)

15 THE WITNESS: In terms of the first one, it was my first
16 siting hearing ever. I don't exactly know. I don't remember.
17 It was five years ago. It was the first time I had been to one
18 of them, so I don't know exactly what I tried to do at that time.

19 Q. (By Mr. Moran) Just so that we are clear, let's
20 reference these two siting proceedings.

21 A. Okay.

22 Q. The first one involved a proposal by the Wood River
23 Partners; is that correct?

24 A. Yes.

127

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And that petition was filed with the City of Wood River?

2 A. Yes.

3 Q. And in that siting proceeding there was an approval of
4 that request, wasn't there?

5 A. I believe so.

6 Q. And there was an appeal of that siting approval; isn't
7 that true?

8 A. I believe so.

9 Q. And as part of the appeal in that case, one of the
10 contentions was that the public hearing transcript was not made
11 available on a timely basis to the petitioners; is that correct?

12 MS. HOMEYER: I am going to object on the grounds of
13 relevance. Each of these siting hearings was its own set of
14 facts. And I don't think it makes any difference to our claim of
15 fundamental unfairness on our own petition here what claims were
16 made in prior petitions, because it depends on what the facts
17 were of those. I do not see any relevance between three other
18 hearings with three completely different set of facts. He is not
19 establishing knowledge of procedures. He is trying to show that

20 she has a common complaint in all of these and that is totally
21 irrelevant.

22 He is not asking her questions designed to elicit what he
23 said he was trying to elicit, which is knowledge of how siting
24 procedures are conducted. He is going far afield of his stated

128

KEEFE REPORTING COMPANY
1-800-244-0190

1 purpose. And what he is trying to do, I believe, is show that
2 she has a perpetual claim of unavailability of transcript. Every
3 case is going to turn on its own facts.

4 I think this is prejudicial to bring in facts not in
5 evidence of another siting hearing and what the appeal consisted
6 of. He has also not established that she was even involved in
7 the appeal. I think this line of questioning is totally
8 irrelevant and prejudicial.

9 HEARING OFFICER KNITTLE: Mr. Moran?

10 MR. MORAN: I agree it is very prejudicial to Ms. Andria
11 and to her participation in this proceeding what she has
12 contended. My point is that Ms. Andria has been involved in
13 proceedings where she has acquired not only experience but
14 knowledge of the manner by which a public hearing transcript is
15 prepared and that, indeed, the attempt here to claim that a
16 public hearing transcript was not made available is the same
17 claim that she has asserted or seen asserted in prior
18 proceedings. So that when she claims here that she was unaware
19 of the process by which a hearing transcript is prepared, and

20 that she is unaware of the process by which that public hearing
21 transcript can be made available that that testimony is not
22 credible.

23 HEARING OFFICER KNITTLE: I am going to let this line of
24 questioning go on for a little bit. Your objection is noted for

129

KEEFE REPORTING COMPANY
1-800-244-0190

1 the record. I do think it impacts credibility. And I think the
2 Board is capable of distinguishing between the facts of this case
3 and the facts of the other cases. But I don't want to get too
4 involved in these other cases, Mr. Moran.

5 MS. HOMEYER: Well, I am going to object on the grounds he
6 has not established yet that she was involved in the appeal.

7 HEARING OFFICER KNITTLE: You may want to lay some
8 additional foundation requirements.

9 MR. MORAN: May I have my last question back?

10 HEARING OFFICER KNITTLE: I will sustain that objection,
11 the foundation.

12 (Whereupon the requested portion of the record was read
13 back by the Reporter.)

14 THE WITNESS: We are talking about Wood River?

15 MR. MORAN: Yes.

16 THE WITNESS: I believe so.

17 Q. (By Mr. Moran) Now, did you participate in any way in
18 the appeal of the decision by the City of Wood River to approve

19 that siting request?

20 A. I did to a very minor extent.

21 Q. And to what extent did you participate in that appeal?

22 A. I don't remember a lot of it. I remember that there was
23 Mr. Benson from the Sierra Club prepared the -- he is the one who
24 did most of everything and I think I attended a hearing, but I

130

KEEFE REPORTING COMPANY
1-800-244-0190

1 don't remember much of how things went and what I did, what my
2 part was.

3 Q. Did you, in that case, make any attempt to obtain a copy
4 of the public hearing transcript?

5 A. I believe so.

6 Q. And to whom did you make that request?

7 A. To the city.

8 Q. The City of Wood River?

9 A. Yes.

10 Q. Did you make that request in writing?

11 A. Mr. Moran, I do not have a memory of what went on during
12 that time. I am sorry.

13 Q. Did you obtain a copy of the public hearing transcript?

14 A. I don't believe so.

15 Q. That was one of the arguments that was raised in that
16 appeal, the lack of a public hearing transcript?

17 A. I believe so.

18 Q. Did you prepare the public comment that was submitted in

19 that case or did you help prepare it?

20 A. I think I worked on the Madison County Conservation
21 Alliance. I did not prepare Mr. Benson's -- I don't believe I
22 worked with him on that.

23 Q. But you worked with the Alliance in terms of preparing
24 their public comment in that case?

131

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. It was a joint -- I mean, there were several of us who
2 worked on it.

3 Q. Let's focus on the second siting hearing in which you
4 participated and that was the siting hearing related to the
5 application by Metro-East to build an incinerator; is that
6 correct?

7 A. I believe the second one was National City.

8 Q. If the second was National City, let's make the third
9 one the application by Metro-East to build an incinerator.

10 A. Yes.

11 Q. Did you participate in that public hearing?

12 A. Yes, I did.

13 Q. Did you appear on behalf of an organization or did you
14 appear in your own personal capacity?

15 A. I appeared both.

16 Q. Similar to what you have done here, correct?

17 A. Well, we have an attorney now.

18 Q. I am saying in the public hearing?

19 A. In the public hearing.

20 Q. As you did in the public hearing here, where you
21 appeared personally and in a representative capacity, you did the
22 same thing in the Metro-East siting application?

23 A. That's correct.

24 Q. In the Metro-East siting application, did you request a

132

KEEFE REPORTING COMPANY
1-800-244-0190

1 copy of the public hearing transcript?

2 A. Yes.

3 Q. And did you request that of the decision maker?

4 A. Yes, I did.

5 Q. Who was the decision maker in that case?

6 A. The City of Madison.

7 Q. Did you receive a copy of the public hearing transcript
8 from the City of Madison?

9 A. No.

10 Q. Did you appeal the decision of the City of Madison?

11 A. Yes, I did.

12 Q. And was one of the issues that you raised the lack of a
13 public hearing transcript?

14 A. Yes.

15 Q. Now, based upon your experience with these siting
16 proceedings, who prepares the public hearing transcript?

17 A. Who prepares it?

18 Q. Yes.

19 A. It is prepared by the court reporter.

20 Q. And did the court reporter in each of those two previous
21 sittings prepare the public hearing transcript for those
22 proceedings?

23 MS. HOMEYER: I am going to object to lack of knowledge as
24 to who prepared anything.

133

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER KNITTLE: Mr. Moran?

2 MR. MORAN: I think it is clearly relevant to her
3 understanding and knowledge of these proceedings from whom a
4 public hearing transcript can be obtained.

5 MS. HOMEYER: He didn't ask her what she understands. He
6 asked her who prepares the transcript. I am going to object to
7 it. There is no way this witness could know who prepared those
8 transcripts.

9 HEARING OFFICER KNITTLE: I will overrule the objection to
10 the extent that you know, ma'am. If you do know the answer, you
11 may answer.

12 THE WITNESS: My focus was not on the court reporter. I
13 had not a clue.

14 Q. (By Mr. Moran) Do you know, as you sit here today, who
15 prepares the transcript of a public hearing in a siting
16 proceeding?

17 A. I know that the court reporter prepares it and that it
18 is supposed to be at the seat of the siting authority, and it is
19 supposed to be available to the public, yes, sir.

20 Q. And what facts or information do you have that indicates
21 that there is a requirement that the public hearing transcript be
22 maintained at the office of the local decision maker?

23 A. The record is supposed to be at the seat of the siting
24 authority. The village clerk's office is the office to get --

134

KEEFE REPORTING COMPANY
1-800-244-0190

1 for the public to get information. You are not -- citizens are
2 not supposed to be running around trying to find out who has got
3 a copy. It should be there at the village board or at the city
4 clerk's office or whoever the siting authority is. It should be
5 available to -- it is a public document. It was a public hearing
6 and it should be available to citizens.

7 MR. MORAN: Mr. Hearing Officer, I move to strike all of
8 her testimony beginning with citizens should not be running
9 around trying to find documents that should be on file.

10 MS. HOMEYER: I am going to object that he is arguing with
11 the witness. He asked her a question and if he doesn't like the
12 answer he is just going to have to live with it.

13 HEARING OFFICER KNITTLE: I am going to deny your motion to
14 strike. Mr. Moran, I think at least part of the answer was
15 unresponsive but I would ask in the future jump in there when you
16 think that we are getting too far afield on an answer because I

17 don't really recall what part of the answer is unresponsive.

18 MR. MORAN: Could we have my -- I don't think my question
19 was answered at all. Could we have my question asked back and
20 let's listen to the response. I think that might be --

21 HEARING OFFICER KNITTLE: Yes, that would be okay. Let's
22 do that.

23 (Whereupon the requested portion of the record was read
24 back by the Reporter.)

135

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: Mr. Hearing Officer, my question was what facts
2 or information do you have to support your contention that it is
3 required that the Village or local governing body maintain a copy
4 of the public hearing transcript. Her response, evidently, was
5 opinion and conjecture about what ought to be the case. That was
6 the basis for my motion to strike.

7 MS. HOMEYER: Your Honor, I would say that if she should --

8 HEARING OFFICER KNITTLE: Please, it is Mr. Hearing
9 officer. I don't have the honor of being a Your Honor. So Mr.
10 Knittle or Mr. Hearing Officer preferably.

11 MS. HOMEYER: All right.

12 HEARING OFFICER KNITTLE: And you were saying?

13 MS. HOMEYER: I think if he feels that the answer was not
14 responsive he should try and get a second answer. I don't think
15 the appropriate remedy is to strike the answer that the witness

16 did give. I think the witness' answer is her answer, and I
17 don't think he can strike it just because it was not exactly what
18 he was looking for.

19 HEARING OFFICER KNITTLE: Well, I am going to stand on the
20 earlier ruling and let it stand. Do jump in if you think it is
21 unresponsive, Mr. Moran. But I do agree with you that it didn't
22 seem to be very responsive to your question. I will allow you to
23 reask it.

24 Q. (By Mr. Moran) Let's try again, Ms. Andria. What facts

136

KEEFE REPORTING COMPANY
1-800-244-0190

1 or information do you have that supports your contention that the
2 Village of Fairmont City was obligated to maintain a copy of the
3 public hearing transcript in its offices?

4 A. It is my understanding that the transcript is part of
5 the record of the proceedings, and the record of the proceedings
6 are supposed to be available to citizens at the office of the
7 siting authority, available for reproduction at cost.

8 Q. And what facts or information do you have that supports
9 your contention that the record of proceedings includes the
10 public hearing transcript and must be maintained at the Village
11 of Fairmont City?

12 A. Do I -- are you asking me do I not think that the
13 transcript is part of the record of public proceedings?

14 Q. No. What I have asked you is what facts or what
15 information do you have that supports your conclusion that the

16 record of proceedings must be maintained at the Village of
17 Fairmont City and that the record of proceedings includes the
18 public hearing transcript? Did someone tell you that? Did you
19 read it in the law someplace? Is it your general understanding?
20 What facts or information do you have? What is the basis for
21 your statement?

22 A. From reading what I have seen written about information,
23 the record of the -- what the availability is supposed to -- I
24 think there is something in the siting record, the siting, EPA

137

KEEFE REPORTING COMPANY
1-800-244-0190

1 39.2 or maybe it goes into some other part, that the record is
2 supposed to be there. It is my understanding from the law that
3 it should be there. The clerk's office is the appropriate place
4 to get the information.

5 Q. Did anybody tell you that?

6 A. I don't know.

7 Q. Now, Ms. Andria, you testified I believe this morning
8 regarding the relationship between Mr. Baricevic and Mr. Chatham?

9 A. Yes.

10 Q. And you stated in your testimony that you first learned
11 of this relationship in talking to one of the newspaper reporters
12 after the hearing?

13 A. No, sir.

14 Q. How did you first learn of this relationship?

15 A. I first learned of the relationship when I read it in
16 the paper the next morning.

17 Q. So you didn't talk to the newspaper reporter? You read
18 it in the newspaper article that appeared the day after the
19 hearing?

20 A. No, that is not true. I talked to a newspaper reporter
21 after the hearing, but not about that.

22 Q. So you first learned of this relationship between Mr.
23 Baricevic and Mr. Chatham on Saturday, March 18th of the year
24 2000; is that correct?

138

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: May I interject? Relationship? Which
2 relationship are you talking about?

3 MR. MORAN: The relationship she testified about regarding
4 the fact that Mr. Baricevic and Mr. Chatham are brothers-in-law.

5 THE WITNESS: Oh, no. I just learned that last week or
6 whenever.

7 Q. (By Mr. Moran) You just learned it last week?

8 A. Yes, whenever -- within the last couple of weeks. I did
9 not know anything about that. I learned about -- what you are
10 referring to is the fact that they shared a law office. That is
11 what was in the article in the newspaper. I learned that then.
12 I did not know anything about the fact that they were
13 brothers-in-law until we retained an attorney.

14 Q. Is it accurate to say that you first learned that Mr.

15 Baricevic and Mr. Chatham shared office space on March 18th of
16 2000?

17 A. I believe so.

18 Q. And you learned that in a newspaper article that
19 appeared on March 18th?

20 A. I believe so.

21 Q. Did you have any discussions with anyone about what you
22 had learned regarding the shared office arrangement between Mr.
23 Baricevic and Mr. Chatham?

24 A. Probably.

139

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Who did you speak to?

2 A. At that time? When are you referring to?

3 Q. At any time after you learned it?

4 A. Probably Mr. Norman. Probably other people who read the
5 article.

6 Q. And what did you say to Mr. Norman about this knowledge?

7 A. I couldn't possibly remember that, Mr. Moran.

8 Q. Do you remember any of the substantive discussions you
9 had with anybody about this fact that you learned on March the
10 18th?

11 A. Surprise and the fact that I thought it was
12 inappropriate.

13 Q. And why did you think it was inappropriate?

14 A. I do not think that -- I think that because the hearing
15 was to us -- it appeared to be conducted in such an unfair way
16 that -- and all of the rulings went against us, and I thought it
17 was probably -- I thought there was a connection.

18 Q. Would it be accurate to say that you suspected that this
19 office arrangement between Mr. Baricevic and Mr. Chatham was in
20 some way the cause or maybe an explanation for some of the
21 rulings that had been made at the public hearing the day before?

22 A. What I thought was that it was an unwise decision to
23 choose an office person to have a hearing officer.

24 Q. Did you think this relationship provided some evidence

140

KEEFE REPORTING COMPANY
1-800-244-0190

1 of perhaps bias or predisposition with respect to the behavior of
2 Mr. Chatham at the hearing?

3 A. Would you rephrase that, please?

4 Q. Yes. Did you believe this shared office arrangement was
5 some evidence of bias or prejudice on the part of Mr. Chatham as
6 he conducted the public hearing?

7 A. I thought the evidence of his bias was the hearing
8 itself.

9 Q. Would it be accurate to say that this additional
10 knowledge you learned of this shared office relationship between
11 Mr. Baricevic and Mr. Chatham was further support for your
12 initial conclusion that Mr. Chatham was being unfair and partial
13 during the course of the hearing?

14 A. I think it adds -- when you add it all up, yes, I think
15 it additionally supports it.

16 Q. Now, did you raise this issue in any way in the public
17 comment that you filed with the Village of Fairmont City?

18 A. No, I did not.

19 Q. Did you in any way raise this issue with the Village of
20 Fairmont City at any point after you learned it?

21 A. The hearing was over, sir.

22 Q. So is your answer that you did not in any way raise this
23 issue with the Village of Fairmont City; is that correct?

24 A. They could have read the article, that's correct. I am

141

KEEFE REPORTING COMPANY
1-800-244-0190

1 sure they read the article, too.

2 MR. MORAN: Mr. Hearing Officer, I move to strike that last
3 comment.

4 HEARING OFFICER KNITTLE: Granted. Just the "they read the
5 article, too?"

6 MR. MORAN: Yes.

7 HEARING OFFICER KNITTLE: For clarity of the record. Yes,
8 that is stricken.

9 Q. (By Mr. Moran) Now, Ms. Andria, you also testified at
10 some length this morning about what you considered to be the
11 fundamental unfairness of being unable to prepare a case because
12 the witnesses for the applicant were not examined at length about

13 the reports they prepared as part of the siting request. Do you
14 recall that testimony?

15 A. I recall that testimony.

16 Q. And your testimony was to the effect that you personally
17 were forced to carry the burden of conducting the hearing because
18 of that arrangement; is that correct?

19 A. That's correct.

20 Q. I believe you also testified that you first became aware
21 of the fact that this application was going to be filed at the
22 end of October of 1999; is that correct?

23 A. I am sorry? That I first became --

24 Q. Aware that this siting application for a vertical

142

KEEFE REPORTING COMPANY
1-800-244-0190

1 expansion was going to be filed and you learned about that at the
2 end of October of 1999?

3 A. I learned about it at the end of October that it would
4 be filed in the future.

5 Q. Did you learn when it would be filed in the future?

6 A. I don't remember precisely what it said.

7 Q. Well, isn't it true that the applications was, in fact,
8 filed with the Village of Fairmont City on November 19th of 1999?

9 A. That is correct.

10 Q. And I believe you --

11 A. At least that is what -- I assumed that is correct.

12 That's what the public notice said.

13 Q. Well, do you have any information or facts to suggest
14 that --

15 A. I do not.

16 Q. -- it was not filed on --

17 A. I do not, but --

18 Q. -- November 19th?

19 A. -- you asked me -- I am sorry, but you asked me if I
20 knew that it, indeed, was. Since I didn't see it, I can't answer
21 that, yes, that I know it was.

22 Q. And you have made no effort since then to determine or
23 verify that it was filed on November 19th of 1999; is that
24 correct?

143

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. You mean that I -- I don't know. That I have made no
2 attempt to go and see that it was filed?

3 Q. No, that is not what I asked.

4 A. I don't understand.

5 Q. Let me rephrase the question and try to be a little
6 clearer.

7 A. Okay.

8 Q. Do you know, as you sit here today, whether the siting
9 application for the vertical expansion was filed on November 19th
10 of 1999?

11 A. Do I know specifically?

12 Q. Yes.

13 A. No, I do not.

14 Q. You have, obviously, made no attempts to confirm that,
15 in fact, the application was filed on November 19th of 1999; is
16 that correct?

17 A. I don't know how I would begin to do that.

18 Q. You indicated also on your direct examination that you
19 had made an inquiry of the Village as to the availability of the
20 application for either review or copying; is that correct?

21 A. Would you state that again, please?

22 MR MORAN: Would you read it back, please.

23 (Whereupon the requested portion of the record was read
24 back by the Reporter.)

144

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: No, that is not correct. Initially I asked
2 to obtain a copy.

3 Q. (By Mr. Moran) You made that request to obtain a copy in
4 early December of 1999?

5 A. Yes.

6 Q. So you at no point early on made a request to review the
7 application; is that correct?

8 A. No.

9 Q. You made a request to review the application?

10 A. Later.

11 Q. Later on?

12 A. (Nodded head up and down.)

13 Q. Let's focus this question to a period from November 19th
14 of 1999, until the end of the year, until December 31st of 1999.
15 Did you make any request of the Village to view the application
16 during this period?

17 A. I do not know precisely when I made an attempt to view
18 the application. I do not have those dates.

19 Q. So as you sit here today, you have no recollection of
20 requesting from the Village an opportunity to review the
21 application between November 19th and December 31st of 1999; is
22 that correct?

23 A. That's not my answer. That wasn't what you asked me.
24 You asked me if I remembered the date. I do not remember the

145

KEEFE REPORTING COMPANY
1-800-244-0190

1 date. I remember requesting. I do not remember when.

2 Q. Do you remember a time period within which you requested
3 an opportunity to review the siting application? In other words,
4 was it between October of 1999 and July of 2000? Was it between
5 October of 1999 and January of 2000? Could you give us some
6 range as to when you first requested an opportunity to review the
7 application?

8 A. Well, it wasn't in November because it was not filed
9 until the middle of November. I am sure it was after
10 Thanksgiving. So it would have to be December and January, in

11 that time period.

12 Q. So either in December or January you requested an
13 opportunity to review the siting application, correct?

14 A. That's correct.

15 Q. That is different than your request to have a copy of
16 the siting application made for you; is that correct?

17 A. That's correct.

18 Q. So these are two separate requests, correct?

19 A. I first requested to get a copy. That's what I wanted
20 to do, get a copy.

21 Q. And you made that request when?

22 MS. HOMEYER: Objection. Mr. Knittle, there is an exhibit
23 that we introduced that has the letter that she wrote on the date
24 she had the conversation. I would like the witness to have an

146

KEEFE REPORTING COMPANY
1-800-244-0190

1 opportunity to look at that exhibit.

2 HEARING OFFICER KNITTLE: Mr. Moran?

3 MR. MORAN: Mr. Knittle, if I need to refresh this witness'
4 recollection I will certainly -- I am capable of doing that. I
5 want to ask independently if she has any recollection as to when
6 she first requested a copy of this application.

7 HEARING OFFICER KNITTLE: I am going to overrule the
8 objection. If you know the answer, please --

9 THE WITNESS: It was probably sometime -- when I called the
10 Village Hall, it was sometime after I saw the notice that the

11 application had been filed. Ms. Manso told me that she would
12 find out how much it was. That it would be very expensive and
13 she would get back to me and she called me back. And so this was
14 going on sometime between November 19th and December 15th when
15 she wrote me the letter that I requested that she put it in
16 writing.

17 Q. (By Mr. Moran) Was this the first and only time you
18 requested a copy of the application to be made for you?

19 A. To be made for me, yes, it is.

20 Q. And this was in a telephone call to Karen Manso,
21 correct?

22 A. This was in a telephone call to Karen Manso that I made
23 that request.

24 Q. And in making this request, Ms. Manso responded to you?

147

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Excuse me?

2 Q. And did Ms. Manso respond to you when you had this phone
3 conversation with her about requesting a copy of the application?

4 A. We had a conversation, yes. She said that she -- that I
5 -- I think I just said what my answer was, that she -- do you
6 want to hear the answer again?

7 Q. Yes, please.

8 THE WITNESS: Would you read the answer back? Because it
9 is the same question.

10 HEARING OFFICER KNITTLE: Ma'am, ma'am.

11 THE WITNESS: Yes, sir.

12 HEARING OFFICER KNITTLE: And everybody who wants to have
13 the court reporter read anything back, you have to address it to
14 me and I will decide whether I want the court reporter to read
15 anything back.

16 THE WITNESS: Okay. I am sorry.

17 MR. MORAN: Ma'am, I am sorry. Did you finish your last
18 answer?

19 THE WITNESS: I don't remember your question, sir.

20 MR. MORAN: Mr. Hearing Officer, could we have the last
21 question read back.

22 HEARING OFFICER KNITTLE: Yes, we could. Darlene, could
23 you read it back?

24 (Whereupon the requested portion of the record was read

148

KEEFE REPORTING COMPANY
1-800-244-0190

1 back by the Reporter.)

2 THE WITNESS: Did she respond to me? Yes, we had a
3 conversation. I asked her --

4 Q. (By Mr. Moran) What did she say to you in this
5 conversation?

6 A. She said that she -- that the copy would be very
7 expensive, over \$500.00, that I would have to pay -- that she had
8 to check with the chief to see how much it would be. That I
9 would have to pay for travel time for the police officer to take

10 it, or I think that's what she told me in response when she
11 called me back to -- a police officer to take it to the copy
12 store, and also the cost of mileage.

13 Q. Ms. Andria, do you recall having appeared to give a
14 deposition on August 8th of this year, 2000?

15 A. Yes, I do.

16 Q. Do you recall having appeared at that deposition in the
17 offices of your lawyer?

18 A. Yes, I do.

19 Q. And do you recall at that time being put under oath?

20 A. Yes, I do.

21 Q. And do you recall at that time taking that oath to tell
22 the truth in response to any questions that were being asked?

23 A. Yes, I do.

24 Q. And, in fact, that was your intent at the time, to be

149

KEEFE REPORTING COMPANY
1-800-244-0190

1 truthful in responding to any questions that were posed to you;
2 is that correct?

3 A. That's correct and it still is, sir.

4 Q. Ms. Andria, do you recall at that deposition me asking
5 you this question and you giving this answer?

6 MS. HOMEYER: Page, please.

7 MR. MORAN: This is page 34, line 17.

8 MS. HOMEYER: Thank you.

9 Q. The following question and answer:

10 "Question: Now, when you first came across the notice and
11 saw the notice, did you make any inquiries of anyone with respect
12 to anything that was contained in the notice, in other words, for
13 the purpose of either obtaining more information or of
14 communicating this information to other people?

15 Answer: I, at some point, and I don't think it was right
16 away, but I think in a week or so, a week or two later, I called
17 the Fairmont City Village Hall and asked to get a copy of the
18 application."

19 Now, were you asked that question and did you give that
20 answer?

21 A. If that's what it says, yes.

22 Q. Were you asked the following question and did you give
23 the following answer:

24 "Question: You said you called the Village of Fairmont

150

KEEFE REPORTING COMPANY
1-800-244-0190

1 City at that time?"

2 This is on page 36. I am sorry. It is on page 36, on line
3 1.

4 "Question: You said you called the Village of Fairmont
5 City at that time?

6 Answer: That's my memory.

7 Question: Who did you talk to in the Village, do you know?

8 Answer: I think I talked to the deputy clerk.

9 Question: And who is the deputy clerk?

10 Answer: Karen Manso."

11 Were you asked those questions and did you give those
12 answers at your deposition?

13 MS. HOMEYER: Mr. Hearing Officer, I would like to object
14 in that this is not proper impeachment. The witness has
15 testified the same in her deposition as she is testifying today.
16 And I don't believe that this is proper impeachment.

17 MR. MORAN: I have not gotten to my impeachment yet.

18 HEARING OFFICER KNITTLE: Mr. Moran, do you have some
19 inconsistent statements here coming up?

20 MR. MORAN: The next question is --

21 HEARING OFFICER KNITTLE: All right. I will let it go for
22 this round.

23 MR. MORAN: I am just trying to establish some foundation
24 so that people understand the background for these questions.

151

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: Do I --

2 HEARING OFFICER KNITTLE: There is a question pending,
3 ma'am.

4 THE WITNESS: I am sorry.

5 MR. MORAN: Were you asked those questions and did you give
6 those answers?

7 THE WITNESS: If it says that, then I did.

8 Q. (By Mr. Moran) Now, Ms. Andria, were you asked the
9 following question and did you give the following answer:

10 "Question: Had you talked or met with Karen Manso prior to
11 this phone call? In other words, did you know who she was prior
12 to the time that you called her and requested a copy of the
13 application?

14 Answer: I don't believe so.

15 Question: What did you say to her and what did she say to
16 you in this conversation?

17 Answer: I don't remember. I really don't remember."

18 Did you give those answers to those questions?

19 A. If it says so, then that's what I gave.

20 Q. Now, Ms. Andria, you testified in addition that you
21 couldn't see the siting application at the public hearing; is
22 that correct?

23 A. That's correct, yes.

24 Q. And yet you testified this morning that you obtained a

152

KEEFE REPORTING COMPANY
1-800-244-0190

1 copy of at least portions of the application from Waste
2 Management of Illinois; is that correct?

3 A. That's correct.

4 Q. You obtained that copy of the application two weeks
5 before the scheduled date of the hearing; is that correct?

6 A. That's correct.

7 Q. And I believe you said that you obtained the application

8 from Waste Management after the application -- after that offer
9 was made to you by Joe Durako at Waste Management; is that
10 correct?

11 A. That's correct.

12 Q. Now, Mr. Durako offered to make a copy of the entire
13 application for you?

14 A. He gave us access to the application and said we could
15 use the copy machine.

16 Q. So Mr. Durako made the entire application available for
17 you to review on March 3rd; is that correct?

18 A. I cannot say that it was the entire application. I know
19 for sure that it was not because our copy of the host agreement,
20 which we tried to get it earlier, did not have exhibits to it.
21 And I assumed that the exhibits are part of the official public
22 record. So, no, the entire application was not available to us.
23 I do not know what other things were missing.

24 Q. What did Mr. Durako make available to you? Would you

153

KEEFE REPORTING COMPANY
1-800-244-0190

1 describe it for us?

2 A. There were two bound volumes, two notebooks, not bound,
3 like loose leaf.

4 Q. In a three-ring binder?

5 A. In a three-ring binder.

6 Q. Two volumes, correct?

7 A. Two volumes.

8 Q. Did you request copies to be made of the entire contents
9 of those two three-ring binders?

10 A. Did we request copies to be made from Waste Management?

11 Q. Yes.

12 A. He -- I just -- no, we didn't. He said we could make
13 copies.

14 Q. So you made your own copies; is that correct?

15 A. Yes, that's correct.

16 Q. You elected not to make copies of each of the pages that
17 was contained in those two volumes; is that correct?

18 A. Would you -- I don't understand your question.

19 Q. In other words, when you were at Waste Management --

20 A. Yes.

21 Q. -- and when you decided to make copies of the
22 application, it was your decision to only copy certain portions
23 of those two volumes that were made available to you; is that
24 right?

154

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. We copied everything we could that fit on the copy
2 machine.

3 Q. Were there documents within those two volumes that did
4 not fit within that copy machine?

5 A. That's correct.

6 Q. And those were the exhibits which were folded up and

7 contained within those two volumes; is that correct?

8 A. I don't know all of what was there. I do know that the
9 exhibits that were referred to in the host agreement would have
10 been the same size paper as the other things, so they just were
11 not included.

12 Q. And did you look for those documents in the application?

13 A. Did I look for those documents?

14 Q. Yes.

15 A. No, at that time I did not know they were missing. We
16 had a very short time that we were trying to get it copied. We
17 didn't want the offer to be withdrawn.

18 Q. When did you first learn of Waste Management of
19 Illinois' willingness to allow you to copy and review the siting
20 application?

21 A. I don't remember the date.

22 Q. Had you made any inquiries of Waste Management of
23 Illinois in an effort to determine whether you could review or
24 obtain a copy of the siting application from it prior to the time

155

KEEFE REPORTING COMPANY
1-800-244-0190

1 you went in?

2 A. No, sir.

3 Q. Did you have an opportunity to review any of the reports
4 on the statutory criteria that were contained within the copy of
5 the siting application that you obtained from Waste Management of

6 Illinois?

7 A. Did I have an opportunity to review the reports?

8 Q. Yes.

9 A. Yes, I had an opportunity to review what was there in
10 the binder that we were offered.

11 Q. And you reviewed those reports prior to the date of the
12 hearing; is that correct?

13 A. That's not correct. I did not have time to review all
14 of them.

15 Q. Did you review any of them before the hearing?

16 A. Yes, I did.

17 Q. Do you have any recollection as to which ones you
18 reviewed?

19 A. I looked at the floodplain report. That was rather easy
20 to do. It was one page. I looked at the incompatibility
21 criteria. Is that two or three? The -- I didn't spend a lot of
22 time on need. I looked briefly at the traffic report. My mind
23 is not going to everything. I don't remember seeing the landfill
24 capacity. I remember looking to see what Marissa -- how Marissa

156

KEEFE REPORTING COMPANY
1-800-244-0190

1 was referred to in need. So I tried to look at things in the --
2 so, review, I don't know what review and peruse -- I don't know
3 what review technically means to you.

4 Q. Do you have any understanding as to what the word review
5 means?

6 A. I don't know. I looked at the things. I attempted to
7 find out more information about what I had time to find out more
8 information about. I did not have time to review in any depth
9 and to get expert testimony or to get someone else to look at and
10 give me advice as to whether this was appropriate, whether this
11 was -- I am not a technical person, so I did not know what kind
12 of -- I didn't have time to do it, no. So I don't know what you
13 meant by review.

14 Q. You did have an opportunity to read certain portions of
15 the reports in the siting application relating to the statutory
16 criteria; is that correct?

17 A. That's correct.

18 Q. You had an opportunity to do that two weeks prior to the
19 public hearing; is that correct?

20 A. I had an opportunity to do it within those two weeks. I
21 did not have an opportunity at that time. There were other
22 things that we were working on.

23 Q. Now, as you have previously testified, you were
24 generally familiar with the siting process before the siting

157

KEEFE REPORTING COMPANY
1-800-244-0190

1 application here was ever filed; isn't that correct?

2 A. Somewhat.

3 Q. And you reviewed the state statute that describes this
4 siting process; is that correct?

5 A. Yes.

6 Q. And you were aware that within that statute there are
7 time frames within which a hearing is to be scheduled based upon
8 the date that the siting application is filed; isn't that
9 correct?

10 A. I am aware that it is there. That doesn't mean that I
11 know in a working way what they are. I mean, I would be able to
12 look it up, yes.

13 Q. Well, isn't it true that the state law that provides for
14 the siting hearings provides that a public hearing by the local
15 decision maker is to be scheduled between 90 and 120 days from
16 the date that the application is filed; is that correct?

17 A. I believe that's correct.

18 Q. And with the application being filed here on November
19 19th of 1999, it would be not too difficult to determine the time
20 period within which a public hearing must occur, based upon that
21 filed application; isn't that right?

22 MS. HOMEYER: I am going to object to the form of the
23 question.

24 HEARING OFFICER KNITTLE: How so? What particular form are

158

KEEFE REPORTING COMPANY
1-800-244-0190

1 you objecting to?

2 MS. HOMEYER: It wouldn't be difficult to do so, I don't
3 think that's a proper question, to ask her what she thinks would
4 be difficult to do. I think it is argumentative.

5 MR. MORAN: I will --

6 HEARING OFFICER KNITTLE: Sustained.

7 MR. MORAN: -- rephrase it.

8 HEARING OFFICER KNITTLE: Can you rephrase it?

9 MR. MORAN: Sure.

10 Q. (By Mr. Moran) Ms. Andria, are you able to determine,
11 based upon the language contained in the Environmental Protection
12 Act, that provides for a public hearing 90 to 120 days after the
13 application is filed, when the application in this case would
14 have provided for a public hearing to be scheduled?

15 A. I guess I lost the first part of your question, but I
16 will try to answer. I am aware that there is a rule about when
17 something is filed that you file it -- that your intent to file
18 and that you file. But I have not been dealing with siting
19 criteria. I wouldn't know how many days when something is to be
20 filed. I would assume that that is what the attorneys and the
21 company would do, and that they would file it within the proper
22 time, and that the public notice would be filed. I was not
23 counting days. I was not aware. I just knew that it was getting
24 close and at some point there would be a public hearing. No, I

159

KEEFE REPORTING COMPANY
1-800-244-0190

1 was not -- I was not cognizant of the time and I certainly hadn't
2 looked at any calendar to see.

3 Q. So notwithstanding the interest that you had in this

4 siting application, you did not make any determination, based
5 upon the provisions of state law that call for a public hearing,
6 you made no determination as to the 90 to 120 day window within
7 which the public hearing would be scheduled in this case; is that
8 correct?

9 A. At which point in time?

10 Q. At any point in time for this application?

11 A. No, that is not correct.

12 Q. When did you make that determination?

13 A. During the -- at some point in -- maybe after the third
14 public notice. I didn't know how far along it was going to go.
15 And I did determine that the last day that it could be was the
16 day that it was held.

17 Q. And do you recall when you made that determination?

18 A. No, I don't.

19 Q. It was sometime in March of 2000 that you made that
20 determination?

21 A. I believe so.

22 Q. Now, I think you said a few moments ago that you have
23 read or you did read certain reports contained in the application
24 relating to certain of the statutory criteria, correct?

160

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. That's correct.

2 Q. Did your review of any portions of the siting
3 applications allow you to prepare in any way to present evidence

4 at the public hearing?

5 A. Yes.

6 Q. With respect to what matters were you enabled to prepare
7 or organize evidence to be presented on statutory criteria at the
8 public hearing?

9 A. I obtained a map that showed that the landfill was in
10 the floodplain.

11 Q. Were there any other reviews that you undertook of the
12 siting application that permitted you to prepare to present
13 evidence at the siting hearing?

14 A. I think I looked at groundwater considerations. I
15 looked at the map. I tried to figure out where -- what was
16 happening. I tried to get -- I also looked at some of the things
17 that were going to happen with the landfill in terms of the
18 canal. I looked at various things. I got some of the
19 compatibility things. I talked to people who complained about
20 the smell.

21 I think I tried to elicit testimony from the race track,
22 only that I learned that the race track had a contract with Waste
23 Management on parking, so that there would be -- they use -- the
24 race track used the landfill for parking so that they were not

161

KEEFE REPORTING COMPANY
1-800-244-0190

1 going to be testifying. I think I tried to get someone from
2 IHPA, the Illinois Historic Preservation Association with the

3 Mounds.

4 I made more of an attempt to learn exactly how high this
5 was going to be because it had been purported at various reports
6 it was going to be as tall as the Arch. I made attempts to make
7 sure that we knew precisely what was going to be there and
8 what -- and to try to determine what our stance was on it, how
9 much we were going to oppose it, what parts of it we thought
10 were -- should be opposed. Yes.

11 Q. Is it accurate to say that you were able to prepare your
12 case to oppose the siting application on criterion four?

13 A. That I was able to prepare my case for it?

14 Q. Yes, to respond to the applicant's --

15 A. Mr. Moran, the --

16 Q. -- application that related to criterion four?

17 A. No, that is not correct. The applicant's application
18 stated -- it had one sentence, I think, or two, that said it is
19 not in the floodplain. And everything that I saw said that it
20 is. So I don't think that it is accurate to say I could prepare
21 a response to something that says this is not true, contrary to
22 everything around me that says that it is true.

23 Q. So are you saying that your review of the application
24 did not allow you to prepare a case or to present evidence with

162

KEEFE REPORTING COMPANY
1-800-244-0190

1 respect to the floodplain criteria?

2 A. My review of the application did not -- no, it allowed

3 me to prepare something.

4 Q. That was my question. So you were in a position to
5 prepare a case or present evidence with respect to the floodplain
6 criteria; isn't that correct?

7 A. Well, present evidence -- I mean, I presented evidence
8 that was the floodplain map, and it was not chosen to be
9 admitted. I thought that was pretty powerful evidence. It was a
10 very -- I mean, it was not a complete report. I did the best I
11 could in the time I had. It was a very short time that I had to
12 prepare, but I thought that I had the evidence to show that it
13 was in the landfill, yes. I mean, in the floodplain.

14 Q. Was there anything in the application that you did not
15 have an opportunity to review prior to the public hearing that
16 would have allowed you or enabled you to present evidence on the
17 floodplain criteria?

18 A. Would you repeat that? I am sorry.

19 MR. MORAN: Could you read it back, please.

20 (Whereupon the requested portion of the record was read
21 back by the Reporter.)

22 THE WITNESS: Anything that I was not allowed to review, is
23 that what you said?

24 Q. (By Mr. Moran) Yes. Was there anything in the

1 application that you have subsequently learned about that you

2 didn't know prior to the date of the public hearing that would
3 have given you an ability to better prepare a case on the
4 floodplain criteria?

5 A. Yes, sir.

6 Q. What was there in the application that would have
7 enabled you to do that?

8 A. Had I had the application that said that the landfill is
9 not in the floodplain in enough time to FOIA the documents in
10 from the IEPA and to present them to Mr. Connor when he
11 testified, then I would have had a lot of evidence to show
12 that -- and to contradict him with his own handwritten documents
13 that were in the files at the IEPA that said that Milam is in the
14 floodplain. There were many, many documents prepared by his
15 engineering firm that said that Milam is in the floodplain. So,
16 yes, I would have loved to have the opportunity to get those and
17 to cross-examine Mr. -- or examine, whatever I did, Mr. Connor at
18 the public hearing, you bet.

19 Q. Were these documents contained in the siting
20 application?

21 A. No, they were not.

22 Q. That was my question. We go back to my question again.
23 What portions of the application that you did not review prior to
24 the public hearing would have enabled you to have prepared a case

164

KEEFE REPORTING COMPANY
1-800-244-0190

1 on criterion four?

2 A. If there were any other documents other than Mr.
3 Connor's one-page statement that it is not in the floodplain, Mr.
4 Connor's resume, Mr. Connor's affidavit stating that what he said
5 was true and the front page of your application that just stated
6 criterion four, a landfill shall not be located in the 100-year
7 floodplain, I was not aware that there were any other documents.

8 Q. So there were no other documents contained in this
9 siting application that would have enabled you to better prepare
10 an evidence or a case on criterion four; is that correct?

11 A. That's not correct. I said if there were any other
12 documents, other than those four pages, I am not aware of them.
13 So I do not know what was in the siting application. I was not
14 allowed to look at it at the public hearing and I did not see it
15 at the Village Hall.

16 Q. And to this day are you saying that you are still
17 unaware of the contents, the entire contents of the siting
18 application?

19 A. I have not seen the contents -- the entire contents of
20 the siting application.

21 Q. To this date you still have not seen the entire contents
22 of the siting application; is that correct?

23 A. That's correct.

24 Q. Are you aware of whether there were any other documents

1 that are contained in the siting application but that you did not
2 review prior to the public hearing that would have given you the
3 opportunity to present other evidence or a better case on
4 criterion one, the need criteria?

5 A. Yes.

6 Q. What documents which are in the siting application that
7 you --

8 A. Oh, which are in the --

9 Q. -- did not have an opportunity to review prior to the
10 public hearing would have given you an opportunity to present or
11 prepare a better case on criterion one?

12 A. The entire need, the documents on need, and the
13 availability of landfill capacity, and the need for the expansion
14 would have been very important for me to review because I know
15 that there are documents, and this is relating to the landfill
16 siting that you referred to before in National City, in which
17 Waste Management then contended that no other landfill was
18 needed, that they had plenty of room to put all of the -- to take
19 care of the capacity needs of the area. And then Marissa. I
20 would have loved to have gotten information on Marissa, a whole
21 new landfill that is --

22 MR. MORAN: Mr. Hearing Officer.

23 HEARING OFFICER KNITTLE: Yes.

24 MR. MORAN: I would request that you, to the extent you

1 can, instruct the witness to answer the question. And the
2 question here was what documents that are in this siting
3 application that you did not review prior to the public hearing
4 would have given you an opportunity to better prepare or present
5 evidence on criterion one.

6 I would ask that you request or instruct the witness to
7 answer this question and not to go off on tangents. Because,
8 frankly, we have heard some information here about another siting
9 hearing that I am now going to have to follow-up on in terms of
10 cross because she has misspoken on it. I don't want to have to
11 do that again. If we can stay to the question, we can avoid a
12 lot of this.

13 THE WITNESS: Needs? Okay. I am sorry.

14 HEARING OFFICER KNITTLE: We have to see if Ms. Homeyer has
15 something to say about this.

16 THE WITNESS: I am sorry.

17 MS. HOMEYER: No.

18 HEARING OFFICER KNITTLE: I don't think the witness is
19 intentionally not answering the question.

20 To the extent you are capable, do try to focus on what his
21 question is and respond to that question.

22 THE WITNESS: Okay. Need? All of the documents on need?
23 I would like the incompatibility, criterion two, real estate,
24 impact, traffic, safety, public health and safety.

1 Q. (By Mr. Moran) So is it accurate to say that you saw
2 none of the documents contained in the siting application
3 regarding need?

4 A. That's not accurate to say that I saw none of the
5 documents. It is accurate to say I did not review them. I did
6 not have time to review them.

7 Q. And so when you say that you did not review the portion
8 of the siting application relating to need, what you are saying
9 is that you did not review it because you didn't have time to
10 review it before the public hearing; is that correct?

11 A. I am saying that time was a factor because we got the
12 application very late, very close to the public hearing. And I
13 was very sure of the floodplain issue. I pursued that. The need
14 issue was bigger. Mr. Norman was looking into need. There was
15 just a lot to do. I mean, I am sure it took Waste Management a
16 very long time to put this together and we didn't have very much
17 time to look into it and assess it.

18 Q. Well, you didn't have more than two weeks' time because
19 you didn't obtain a copy of the application before March 3rd;
20 isn't that correct?

21 A. I didn't have very much time because of that, yes,
22 that's one thing, yes.

23 Q. And at no point prior to March 3rd had you requested
24 that Waste Management of Illinois provide you a copy of the

1 application, did you?

2 A. It has never been my experience that you go to someone
3 who you might potentially object to something and that they --
4 and ask them to give that to you. It should have been available
5 to me as a citizen asking the Village.

6 Q. You did go and ask the Village, didn't you, for a copy
7 of the siting application?

8 A. I did.

9 Q. You did that in early December?

10 A. I --

11 Q. Correct?

12 A. I asked the Village for a copy of the siting
13 application.

14 Q. That was the only time you asked the Village for a copy
15 of the siting application, isn't it?

16 A. Yes, it is.

17 Q. Between March 1st -- I am sorry -- January 1st of 2000
18 and the public hearing, you visited or went to the Village one
19 time; isn't that correct?

20 A. Between what?

21 Q. January 1 of 2000 and March 17th of 2000?

22 A. That's not correct.

23 Q. How many times did you go?

24 A. I do not know.

1 Q. Did you go more than once?

2 A. Yes.

3 Q. And the purpose for your visiting the Village between
4 January 1st of 2000 and the public hearing date was what?

5 A. Sometimes I went to see if there was a public hearing
6 notice on the bulletin board.

7 Q. I am talking about this one time that you can remember
8 going to the Village between January 1 and the public hearing,
9 what did you go there for?

10 A. Which one time are you talking? I didn't say there was
11 only one time, sir.

12 Q. The one time you can recall or can you?

13 A. I recall more than one time.

14 Q. How many times do you recall?

15 A. I remember the one time that I was there that the chief
16 was there at the door. I remember another time -- are we talking
17 just about the application, or are we talking about at any time?

18 Q. I am talking about the period between January 1st of
19 2000, and the public hearing date, March 17th. How many times
20 did you visit the Village for any purpose?

21 A. I went on March 13th, which was the original date of the
22 Monday, on that day. I went another time to check on something
23 else. I can't remember. And then I went once and perhaps twice
24 to see Karen Manso to try to look at the application.

1 Q. When did you go to try to see the application?
2 A. I do not remember that, sir.
3 Q. You can't remember if it was before or after the public
4 hearing?
5 A. I am sorry?
6 Q. Can you remember if it was before or after the public
7 hearing?
8 A. Oh, it was before it. To see the application, it was
9 definitely before it.
10 Q. Those other two occasions when you went to the Village
11 to see Karen Manso, who did you talk to?
12 A. I went to the little glass cage, the window, as you come
13 into the Village Hall. Whoever was behind the --
14 Q. Did you request a copy of the application from that
15 individual?
16 A. No, I did not.
17 Q. On either occasion you did not request a copy from
18 either individual, did you?
19 A. I was already told it was \$660.00.
20 Q. And you have already testified that you could not afford
21 \$600.00; is that correct?
22 A. That's correct.
23 Q. Did you make any inquiries of the East St. Louis
24 Community Action Network as to whether they could afford to pay

1 the cost of an application?

2 A. I -- we laughed about it. We didn't have that money in
3 our budget, no.

4 Q. And did you make any inquiries of the American Bottom
5 Conservancy as to whether it would have any monies available for
6 the payment of the cost to copy the application?

7 A. We talked about it, and we didn't have any money at all.

8 Q. And Mr. Norman was not able to contribute any monies to
9 obtain a copy of the application?

10 A. You will have to ask Mr. Norman.

11 Q. You were unable to pay any monies to obtain a copy of
12 the application, correct?

13 A. Absolutely.

14 Q. And that was the reason that you did not obtain a copy
15 of the application from the Village, is that collectively you
16 could not afford to pay for the cost of a copy as it was quoted
17 to you by the Village; is that correct?

18 A. Well, it was a ridiculously high amount when it could
19 have been gotten for two cents a page. We didn't have the money
20 and it was a ridiculous request, unfair.

21 Q. Did you make any attempt to talk with anyone at the
22 Village about the quoted cost of obtaining the siting
23 application?

24 A. I talked to Karen Manso on the phone about it.

1 Q. And when did you do that?

2 A. When she quoted --

3 MS. HOMEYER: I am going to object. The letter of December
4 15th, 1999, has been admitted into evidence. I think this is
5 about the fifth time that Mr. Moran has asked her for the date of
6 the conversation with Karen Manso. I am going to request that
7 the witness be allowed to see Exhibit 10, which is the letter
8 from Ms. Andria to Ms. Manso confirming a telephone conversation
9 on that date so that the witness has access to the information as
10 to the exact date. It is in the record. I request that the
11 witness be allowed to see Exhibit Number 10.

12 MR. MORAN: Maybe we can just clarify all of this. This is
13 not the conversation that I am asking about. I will withdraw
14 that last question or at least let me rephrase it.

15 Q. (By Mr. Moran) Other than this first conversation that
16 you had with Karen Manso sometime in December of 1999, after you
17 learned what was contained in the letter that quoted the 600-odd
18 dollar cost of obtaining a copy of the siting application, did
19 you approach anyone at the Village to discuss the quoted costs of
20 the siting application?

21 A. After the letter? After I received the letter did I?

22 Q. Yes.

23 A. No.

24 Q. If you believed that this cost for the siting

KEEFE REPORTING COMPANY
1-800-244-0190

1 application was exorbitant or excessive or you couldn't afford to
2 pay it, why didn't you go to the Village and discuss the issue
3 with a Village official?

4 MS. HOMEYER: I am going to object that the question is
5 argumentative. The witness has testified that the City had been
6 unresponsive to her questions. I think the form of the question
7 is argumentative and it assumes that she had some duty to persist
8 and persist and persist beyond the letter that was given to her
9 by a Village official on December 15th, 1999, stating that the
10 costs would be in excess of \$600.00. There is nothing in that
11 letter that indicated that this amount was negotiable. I am
12 going to object to the form of the question. It is
13 argumentative.

14 HEARING OFFICER KNITTLE: Mr. Moran, any response?

15 MR. MORAN: Yes. The question is merely attempting to
16 elicit why a person who is interested in a siting application,
17 who is obviously experienced in these kinds of matters, and who
18 believes this cost was somehow out of line would not have
19 approached someone at the Village if obtaining a copy of the
20 application was important and determine whether, in fact, that
21 was the correct amount and if something could not be resolved so
22 that she could get a copy of the application.

23 It is relevant to her claim of somehow being victimized or
24 prejudiced by not having a copy of the application well in

KEEFE REPORTING COMPANY
1-800-244-0190

1 advance of this hearing. She said the only reason she did not
2 get it is because it cost too much. I want to find out if she
3 took any steps to try to obtain it after being told about what
4 was presumably an exorbitant amount.

5 THE WITNESS: I have an answer.

6 HEARING OFFICER KNITTLE: You can't answer until I decide.

7 THE WITNESS: Okay.

8 MS. HOMEYER: I will withdraw my objection.

9 HEARING OFFICER KNITTLE: The objection is overruled. I
10 think the question is designed to elicit a fact that is
11 potentially relevant or would be relevant.

12 So, ma'am, do you need the question read back?

13 THE WITNESS: No. I mean, I know what he is asking in
14 general. In the second conversation that I had with Ms. Manso I
15 offered to take myself -- to ask her if I could take the
16 application to Office Max to copy it and she said no. That was
17 my attempt to try to save money.

18 Q. (By Mr. Moran) When was this second conversation with
19 Ms. Manso?

20 A. The second conversation was after she talked to the
21 chief and came back with the amount of \$660.00. The first
22 conversation was -- I don't know if it was one day, two days, I
23 don't know how many between. But it was the letter -- it was the
24 phone conversation that we had immediately preceding her writing

KEEFE REPORTING COMPANY
1-800-244-0190

1 the December 15th letter, which I asked her to put this in
2 writing. Yes, I did try to get it for a much cheaper amount of
3 money.

4 Q. Is your testimony that the second conversation with Ms.
5 Manso was prior to the date that she wrote you Petitioner's
6 Exhibit 10?

7 A. That's correct.

8 Q. All right. Were there any other conversations that you
9 had with Ms. Manso prior to the date that she wrote you
10 Petitioner's Exhibit 10?

11 A. The first one when I called her. The second one when
12 I -- I mean, when I called her to get a copy. The second one
13 when I talked to her about -- after she had talked with the
14 chief, and that's the time that I asked her to put it in writing.
15 And then that was -- that followed -- that letter followed from
16 that.

17 Q. In the second conversation you told her or said to her
18 that you could take it to another copying service to have it
19 copied at a much reduced rate?

20 A. I asked her if I could take it myself to -- because we
21 had -- when she first told me how much it was going to be, I
22 said, well, it was only like two cents a page at Office Max. And
23 so when she told me the amount, I said, can I not come and get a
24 copy of the application and take it myself to Office Max to make

KEEFE REPORTING COMPANY
1-800-244-0190

1 a copy.

2 Q. And her response was that you couldn't do that?

3 A. That's correct.

4 Q. Did she include that response anywhere in her letter,
5 Petitioner Exhibit Number 10?

6 A. I don't believe so.

7 Q. When you realized that the cost was too much -- and just
8 so that we are clear, after this letter, after this December 15th
9 letter, Petitioner's Exhibit Number 10, did you have any
10 discussions with anyone at the Village about the high cost of
11 this application?

12 A. I don't believe so. Only until the public hearing.

13 Q. So up until the public hearing you had no discussions
14 with anyone at the Village after December 15th about the cost of
15 copying the application?

16 A. That's my memory.

17 Q. Based on the fact that the cost of copying the
18 application was too high, did you make any attempt to go back to
19 the Village to view the application?

20 A. Yes, I did.

21 Q. You did that twice?

22 A. I did it once. I think twice.

23 Q. But you don't remember when those dates were?

24 A. No, I don't.

177

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. You don't remember who you talked to when you went?

2 A. I talked to whoever was behind the window.

3 Q. Okay. On both occasions you asked for Karen Manso?

4 A. That's correct.

5 Q. On both occasions she was not there?

6 A. That's correct.

7 Q. On both occasions you went away, correct?

8 A. That's correct.

9 Q. Without looking at the application?

10 A. That's correct.

11 Q. And other than those two efforts, were there any other
12 efforts you made to view the application prior to the hearing?

13 A. No. No, that is not true. The one at Village Hall are
14 you saying.

15 Q. Yes.

16 A. I mean, we did go to Waste Management's office.

17 Q. I am just talking about the Village Hall.

18 A. Okay. No, there are no other.

19 HEARING OFFICER KNITTLE: Mr. Moran, when you get to a good
20 stopping point let me know. I want to take a little break.

21 MR. MORAN: Okay.

22 Q. (By Mr. Moran) Ms. Andria, your best recollection now is
23 that you went to the Village twice to view the application; is

24 that correct?

178

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I said I know for sure once and I think twice.

2 Q. Now, when you say you think, are you just speculating or
3 guessing or are you telling us that your recollection is that you
4 went twice?

5 A. My recollection is that I know I went once. I think I
6 went twice. That is as good as I can do, Mr. Moran.

7 MR. MORAN: On page 53 of the deposition transcript, line
8 10.

9 MS. HOMEYER: Thank you.

10 Q. (By Mr. Moran) Ms. Andria, do you remember at your
11 deposition on August 8 of this year being asked the following
12 question and giving the following answer:

13 "Question: Is it accurate to say that this is the only
14 time that you were going to the Village for the sole purpose of
15 reviewing the application prior to the public hearing?

16 Answer: The only time that I remember going. I called. I
17 had called other times."

18 Is that the answer you gave to that question?

19 A. I don't know. I don't even know what it means.

20 Q. You don't know what the question and the answer means?

21 A. No. The answer didn't seem that I could relate to. I
22 didn't understand what the question and the answer meant. I

23 could read more context.

24 HEARING OFFICER KNITTLE: Not too much context, Mr. Moran.

179

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: If I could just have a moment, I will try to
2 condense this context.

3 HEARING OFFICER KNITTLE: Would a couple of minutes be
4 helpful?

5 MR. MORAN: If I could maybe just go through some of these
6 questions to give her a context. I can't do it with two or three
7 questions. Starting on page 49.

8 THE WITNESS: I need a break. I am sorry. I do. I am
9 sorry.

10 HEARING OFFICER KNITTLE: Okay. We can --

11 MR. MORAN: Can I just finish this and then we can take a
12 break?

13 HEARING OFFICER KNITTLE: About how long, Mr. Moran?

14 MR. MORAN: Well, it will be a few questions, but I think
15 we can set the stage for this last question.

16 HEARING OFFICER KNITTLE: Let's go through until about
17 3:30. Can you make it for another five minutes?

18 THE WITNESS: I will try.

19 HEARING OFFICER KNITTLE: If you can't, I don't want any
20 medical problems going on here or anything like that. I am with
21 you.

22 THE WITNESS: Two Cokes was not a good idea.

23 HEARING OFFICER KNITTLE: Let's do what we can. If you
24 have to, give me the high sign and we will get you out of here.

180

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: Okay.

2 MR. MORAN: At page 49, line 18.

3 Q. (By Mr. Moran) Ms. Andria, do you remember being asked
4 this question and giving this answer:

5 "Question: When did you go look at the siting application?

6 Answer: I said to you before, and my memory isn't any
7 better now than it was a couple of minutes ago, I do not
8 remember. I am sorry.

9 Question: Was it before the public hearing?

10 Answer: Yes.

11 Question: How much before the public hearing,
12 approximately, was that?

13 Answer: It was probably early in the cycle but I don't
14 know.

15 Question: Whom at the Village did you talk to regarding
16 this visit when you attempted to view the siting application?

17 Answer: The woman behind the glass cage."

18 Were you asked those questions and did you give those
19 answers?

20 A. It sounds like the ones we just had.

21 Q. So did you give those answers to those questions?

22 A. Yes, if you are reading from it.

23 Q. Were you asked these questions and did you give these
24 answers? This is on page 50, line 14.

181

KEEFE REPORTING COMPANY
1-800-244-0190

1 "Question: Do you recall anyone at the Village telling you
2 on this occasion that they would not be able to make the siting
3 application available for your review?

4 Answer: It is my memory that the person behind the desk,
5 and at that point I really didn't remember if it was the same
6 person that I came to see more often when I went later, but I was
7 told that -- and I think they said Karen is not here now. That's
8 all I remember. So I don't know. I can't be any surer because
9 at that point I was just trying to look at it to see it. And I
10 knew I was not going to be able to afford to get a copy."

11 Did you give those answers to those questions?

12 A. Yes.

13 Q. Did you give these answers to the following questions:

14 "Question: Is it your testimony that on this visit --

15 MS. HOMEYER: What page?

16 MR. MORAN: It is on page 51, line 2.

17 Q. (By Mr. Moran) The following question and answer:

18 "Question: Is it your testimony that on this visit you did
19 not see or review any part of the siting application?

20 Answer: I don't remember seeing any part of it."

21 Did you give that answer to that question?

22 A. Yes.

23 Q. Then on page 51, line 23:

24 "Question: Did you ask this person for the opportunity to

182

KEEFE REPORTING COMPANY
1-800-244-0190

1 review the application even though Karen was not present at that
2 time?"

3 A. I missed that. I am sorry.

4 Q. I will repeat it:

5 "Question: Did you ask this person for the opportunity to
6 review the application even though Karen was not present at that
7 time?"

8 MS. HOMEYER: I am going to object because this question
9 has not been posed to the witness today. He is reading this as
10 if it is somehow inconsistent with her testimony. I don't see
11 that anything he is saying is inconsistent with her testimony.
12 And I think that impeachment is you have to -- my objection is to
13 the form of the way that he is trying to impeach her.

14 If he is going to impeach her, he has to ask her a question
15 and get an answer and then find a deposition question where he
16 asked her the same question and got a different answer. What he
17 is doing right now is messing up the record. I am going to
18 object to any further attempts to impeach which are not proper
19 impeachment.

20 HEARING OFFICER KNITTLE: Mr. Moran?

21 MR. MORAN: The response is that the reason I am going
22 through this is because the witness didn't understand what I
23 thought was a pretty straightforward impeaching question that I
24 asked about five minutes ago regarding how many times that she

183

KEEFE REPORTING COMPANY
1-800-244-0190

1 had gone to the Village to view the application. She didn't
2 understand the context. We are trying to provide that context
3 here.

4 HEARING OFFICER KNITTLE: I am going to overrule just in
5 light of the circumstances. I think that the initial question
6 that was asked was, as you put it, a properly formed impeaching
7 question, and we are going back and doing context because the
8 witness didn't -- well, she requested context.

9 MS. HOMEYER: Well, I think the context has really gotten
10 stretched to the point of --

11 HEARING OFFICER KNITTLE: How many more context questions
12 do we have?

13 MR. MORAN: A few more.

14 THE WITNESS: I am sorry. I do need a break. It is 3:30.

15 HEARING OFFICER KNITTLE: All right. Let's take a five
16 minute break.

17 Mr. Moran, try to streamline this in the interim and we
18 will move on when we get back.

19 MR. MORAN: All right.

20 (Whereupon a short recess was taken.)

21 HEARING OFFICER KNITTLE: We are now back on the record. I
22 have been thinking off the record about Ms. Homeyer's motion, and
23 I think at least I agreed with the sentiment that I don't want to
24 read a lot of stuff in from the deposition transcript if it is

184

KEEFE REPORTING COMPANY
1-800-244-0190

1 not necessary.

2 So in that regard, let's try again with the initial
3 question, Mr. Moran.

4 If you still don't understand the question and you need
5 more context then we can revisit the issue. Let's see if Mr.
6 Moran has given us enough background.

7 Q. (By Mr. Moran) Ms. Andria, were you asked this question
8 and did you give this answer at your deposition, which was
9 conducted on August 8th of 2000? This is page 53, line 10.

10 "Question: Is it accurate to say that this is the only
11 time that you were going to the Village for the sole purpose of
12 reviewing the application prior to the public hearing.

13 Answer: The only time that I remember going. I called. I
14 had called other times."

15 Did you give that answer to that question?

16 A. I still don't understand the answer. I understand the
17 question. I don't understand the answer.

18 HEARING OFFICER KNITTLE: But what about do you remember
19 giving the answer, though? I don't think he is asking right now

20 if you understand what you said back in August of whatever that
21 date was. Do you recall that that's the question and answer that
22 was asked of you at that time.

23 THE WITNESS: Could I read it? Maybe it would make more
24 sense to me. I am sorry.

KEEFE REPORTING COMPANY
1-800-244-0190

185

1 HEARING OFFICER KNITTLE: No, we don't want to answer
2 things or say that you understand it if you don't understand
3 them. We want to get the best testimony that we can.

4 (Mr. Moran passed the deposition transcript to the
5 witness.)

6 HEARING OFFICER KNITTLE: Let's just let the record reflect
7 that the witness is reading from the deposition transcript,
8 handed to her by Mr. Moran.

9 THE WITNESS: Yes. Okay.

10 HEARING OFFICER KNITTLE: Can you ask the question one last
11 time, Mr. Moran? Or was that the response to his question?

12 Q. (By Mr. Moran) Did you give that answer to this
13 question?

14 A. Yes.

15 Q. Ms. Andria, when you went to Waste Management to copy
16 the application, where did you view the application? Where in
17 their offices did you do it?

18 A. There was a little empty office.

19 Q. You were given an empty office to go to?

20 A. Yes.

21 Q. Was anybody with you there when you reviewed the
22 application?

23 A. We didn't review it. We took it and copied it.

24 Q. When you say "we" who are you referring to?

186

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Ms. O'Keefe, Kathleen O'Keefe.

2 Q. She accompanied you to Waste Management of Illinois?

3 A. Yes.

4 Q. And the two of you were in this room at the landfill
5 making copies of this application?

6 A. Well, we were in the room and I would go out to the copy
7 machine and make copies.

8 Q. Who decided what you were going to copy?

9 A. We were trying to copy everything that we could that
10 would fit on the copy machine.

11 Q. And you did copy everything that you attempted to copy
12 while you were there?

13 A. I think so.

14 Q. Was anyone there watching you as you went through the
15 application and made copies?

16 A. You mean standing over us?

17 Q. Yes, standing over you watching you?

18 A. No.

19 Q. You were given the ability to make whatever copies of
20 that application that you wanted; is that correct?

21 A. Given the constraints of the copy machine, yes.

22 Q. What were the constraints of the copy machine?

23 A. Well, there were things that we could not copy. There
24 were other documents in the other thing somewhere.

187

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Those were the oversized documents that you were
2 referring to?

3 A. Oversized things, yes.

4 Q. So when you say oversized, you mean they were exhibits
5 that were 11 by 17? Were those the size?

6 A. I really don't remember. It was -- the second volume
7 was mostly technical things. And we tried to copy some of that.
8 We copied some text from it. And then I am not sure, because it
9 was a very brief time that we were there, so I couldn't say what
10 was there and what was not.

11 Q. How did you determine that the copying machine could not
12 handle those oversized pages that were in the siting application?

13 A. Well, it just seemed like it had a tray that you put it
14 in and it copied.

15 Q. Did you ask anyone at Waste Management whether that
16 copier could accommodate and copy oversized documents?

17 A. No.

18 Q. So, in fact, as you are sitting here today you don't

19 know whether that copying machine could have, in fact,
20 photocopied pages from the application that you considered to be
21 oversized; isn't that correct?

22 A. Well, they told us -- they showed us where the paper
23 was. They didn't show us where there was any oversized paper.
24 They didn't give any instructions other than they just -- just

188

KEEFE REPORTING COMPANY
1-800-244-0190

1 the copy machine.

2 Q. Did you ask anyone if there was oversized paper
3 available?

4 A. No.

5 Q. Why didn't you do that?

6 MS. HOMEYER: Objection. Argumentative.

7 MR. MORAN: I am just interested in knowing why she
8 wouldn't have taken a step that I guess would have appeared to be
9 somewhat clearer.

10 HEARING OFFICER KNITTLE: I will allow the question. Would
11 you please answer.

12 THE WITNESS: Could I have the question again, please? I
13 am sorry. I really don't remember it.

14 HEARING OFFICER KNITTLE: Yes.

15 (Whereupon the requested portion of the record was read
16 back by the Reporter.)

17 THE WITNESS: Because, frankly, we -- I was -- at least I

18 can speak for myself -- so anxious to hurry and get out before
19 somebody changed their mind so we could get at least the text. I
20 mean, we wanted to take advantage of having the opportunity. I
21 had been trying for months to get a copy of the application.
22 This was as close as I got. I didn't want anybody to change
23 their minds. And we hurried up and we got out of there.

24 Q. (By Mr. Moran) Did you have any facts or information to

189

KEEFE REPORTING COMPANY
1-800-244-0190

1 suggest that somebody at Waste Management of Illinois might
2 change their mind about letting you copy the application?

3 A. Did I have any facts?

4 Q. Why did you think that?

5 A. Well, I didn't know what the situation was. I felt very
6 uncomfortable about having to go to the applicant to get a copy
7 of the application. It was a very, very uncomfortable feeling.

8 Q. But no one at Waste Management of Illinois told you that
9 you had to leave the premises at a certain time, did they?

10 A. No, they did not.

11 Q. No one at Waste Management of Illinois told you that you
12 could only copy certain portions of the application; isn't that
13 true?

14 A. That's correct.

15 Q. No one at Waste Management told you that this was only
16 part of the application and that there was some other part of the
17 application that was not being made available; isn't that true?

18 A. And no one told me that this was the complete
19 application either.

20 Q. Isn't that true that no one at Waste Management told you
21 that this was a partial version of the application?

22 A. That is correct.

23 Q. Did you ask anyone at Waste Management of Illinois if
24 this was the entire application that you were being given an

190

KEEFE REPORTING COMPANY
1-800-244-0190

1 opportunity to view and copy?

2 A. I believe I did.

3 Q. What was the response?

4 A. I believe he said yes.

5 Q. Do you have any facts or information or do you have any
6 reason to believe today that the application you saw at Waste
7 Management of Illinois' office at Milam was less than a complete
8 application?

9 A. Yes.

10 Q. What basis do you have to conclude that today?

11 A. When I read the host agreement last night, when I was
12 reading over the host agreement, there were exhibits referenced
13 that I had not noticed before and they were not included with our
14 documents.

15 Q. So you made that determination last night?

16 A. That's correct.

17 Q. And that, by my calculation, is August 21st of 2000?
18 A. That's correct.
19 Q. Had you reviewed the host community agreement, as you
20 have described it, any time prior to the public hearing?
21 A. Did I review it prior to the public hearing?
22 Q. Yes.
23 A. Yes, I did.
24 Q. And did you notice any references to exhibits in that

191

KEEFE REPORTING COMPANY
1-800-244-0190

1 agreement when you reviewed it prior to the hearing?
2 A. I didn't.
3 Q. You didn't notice it?
4 A. No.
5 Q. Now, is it accurate to say that you brought with you to
6 the public hearing the copy of the application that you had made
7 at Waste Management?
8 A. That's correct.
9 Q. There was no part of that copy that you left behind?
10 A. The part of the copy that we made at Waste Management?
11 Q. Right.
12 A. That I left behind, no.
13 Q. Okay. You had that copy of the application available to
14 you at all times during the course of that public hearing; is
15 that correct?
16 A. Well, that is -- available to me? It was on a desk.

17 Q. Well, you had it with you, correct?
18 A. It was there.
19 Q. Okay. It was within your control, correct?
20 A. It seemed like not a lot was in my control, sir.
21 Q. Was a copy of the application within your control that
22 day?
23 A. It was not in front of me, no.
24 Q. So you are saying the copy of the siting application

192

KEEFE REPORTING COMPANY
1-800-244-0190

1 that you brought with you was not within your control at the
2 public hearing?
3 A. In my control? I mean -- no, it was not in my control.
4 It was there. I brought it with me. It was there.
5 Q. Do you have any information to indicate under whose
6 control the copy of the siting application you brought with you
7 was?
8 A. I think it was just laying on the desk.
9 Q. This was the desk at which you were sitting during the
10 public hearing?
11 A. I didn't sit there a lot.
12 Q. Did you sit there at all?
13 A. I did.
14 Q. Did anybody else sit there?
15 A. I think that there was a table, and I think that Mr.

16 Norman eventually moved to that table.

17 Q. Did Mr. Norman have any control over this copy of the
18 siting application?

19 A. Mr. Norman has -- I don't know. I mean, he was...

20 Q. So you don't know whether he had any control over that
21 siting application?

22 A. Over my siting application?

23 Q. Yes.

24 A. I don't know what you mean by control.

193

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Did Mr. Norman have any --

2 A. It was right there. It was sitting on the desk.

3 Q. So anybody could have gone and looked at it, correct, at
4 the public hearing?

5 A. I would think so.

6 Q. Okay. Now, when you left the --

7 A. If they knew it was there.

8 Q. When you left the public hearing, did you take it with
9 you?

10 A. Yes, I did.

11 Q. And you have it with you to this day, correct?

12 A. Nope.

13 Q. You gave the copy of the siting application to someone?

14 A. No, but it is not here today.

15 Q. I didn't ask you if you have it with you today. I said

16 do you still have it within your possession somewhere, someplace?

17 A. It is somewhere, yes.

18 Q. Okay. Now, you testified earlier that there were
19 certain witnesses that you would have presented at the public
20 hearing except for the fact that you were so confused over the
21 three public notices that were published of that hearing; is that
22 correct?

23 A. That there were witnesses that I would have called but I
24 was confused as to the date? Is that what you are asking me?

194

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Yes.

2 A. Yes, I think I said that.

3 Q. I believe you identified a number of different witnesses
4 who you would have called but for your confusion about the date
5 of the public hearing because of the three notices that were
6 published, correct?

7 A. I think that the question was phrased slightly
8 differently. We were talking about people who had expressed an
9 interest in coming and I think that there were some questions of
10 people who had wanted to come and I didn't know the time yet. So
11 there were a number of people in different categories.

12 Q. How many different categories are you referring to for
13 these witnesses?

14 A. People who said sat at different meetings, call me when

15 you know or if -- you know, people at meetings, people at the ESL
16 CAN, some people because a notice came in between the cycle of
17 meetings. A person who said it was -- he wanted to come to
18 testify and when I found out when the public hearing was. People
19 who knew that there were different dates and people who had just
20 said when you find out let me know.

21 Q. Let's focus, for this series of questions, on those
22 individuals or witnesses who you would have called as witnesses
23 at the public hearing but for the fact that you were confused as
24 to the hearing date because of the three published notices, fair

195

KEEFE REPORTING COMPANY
1-800-244-0190

1 enough?

2 A. Uh-huh.

3 Q. You need to say yes or no for the court reporter.

4 A. Yes.

5 Q. What witnesses, what persons, would you have called to
6 testify at the public hearing but for the confusion engendered by
7 these three public notices?

8 A. Well, first of all, there is -- I want to correct the
9 form of the question in that I had not at that point arranged to
10 call witnesses. These were people who were going to be coming
11 and testifying. I didn't know I was going to be put in a
12 position of calling witnesses. So that was -- there were people
13 that I had hoped would be there that said that they wanted to be
14 there. Mr. Ken Williams, who is with the Cahokia Mound Society,

15 was one of those who wanted to be there. But as far as him being
16 my witness, that is phrased incorrectly.

17 Q. Is it accurate to say, then, that prior to the public
18 hearing it was not your intention or plan to call any witnesses
19 to present evidence in support of the cases of yourself, the
20 American Bottom Conservancy or ESL CAN?

21 A. That's not correct.

22 Q. What witnesses did you intend to call at the public
23 hearing on March 17th but were unable to do so because of your
24 confusion about the hearing date based upon the three public

196

KEEFE REPORTING COMPANY
1-800-244-0190

1 notices?

2 A. The one I talked to -- I mean, I referred to earlier was
3 Paul Osman with the Illinois Department of Natural Resources, and
4 he is the one who officially makes the floodplain determination
5 with the FEMA maps. He was a specific person that I wanted to
6 get there. He was not going to be testifying in opposition to
7 the siting. He would just be asked questions and stating what
8 the floodplain situation was. And then if other people were
9 there I would be able, as a questioner, to question them. That
10 was the purpose of having people there, is to have their
11 testimony and then we would be allowed to ask them questions, but
12 they could make their statements. That is my understanding of
13 how the process works.

14 Q. Other than Mr. Osman, is it accurate to say that you did
15 not intend or plan to call any witnesses to present evidence at
16 the public hearing on March 17th?

17 A. As I said, it is accurate to say I did not consider Mr.
18 Williams a witness. I consider him his own person who would
19 testify, but I did hope that he would be there. He said -- he
20 indicated to me that he wanted to be there, and that we didn't
21 know the date. That was one of the problems.

22 Q. Ms. Andria, we will get to Mr. Williams in a few
23 moments.

24 A. Okay.

197

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. I am only focusing now on those witnesses who you
2 contend you would have presented at the public hearing but for
3 your confusion as a result of the three published notices. You
4 have identified Mr. Osman.

5 A. Yes.

6 Q. Is there anyone else you intended to present evidence at
7 the hearing?

8 A. Perhaps Mr. Suttle, who would have testified on the
9 incompatibility in nearness to his neighborhood.

10 Q. Now, you said perhaps Mr. Suttle?

11 A. Yes.

12 Q. What do you mean when you say perhaps? Are you
13 speculating that this may have been someone that you would have

14 been --

15 A. No, I had hoped to get him to that meeting.

16 Q. What is Mr. Suttle's first name?

17 A. Richard.

18 Q. Who is Mr. Suttle affiliated with?

19 A. He is on the board of the ESL CAN, the East St. Louis
20 Community Action Network, and he is the president of the Emerson
21 Park Development Corporation.

22 Q. It was your intention to call Mr. Suttle to address
23 criterion three, the issue relating to the compatibility of the
24 proposed expansion?

198

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. That's correct.

2 Q. Other than Mr. Osman and Mr. Suttle, were there any
3 other witnesses that you intended to call?

4 A. I had talked to a structural engineer about the
5 possibility of him coming. He knew that there was a problem with
6 the soils at the site. And that was another person that I had
7 hoped to get to the hearing.

8 Q. Do you have a name for this structural engineer?

9 A. Mike Fries.

10 Q. F-R-E-E-S?

11 A. F-R-I-E-S.

12 Q. And which issue would Mr. Fries have addressed?

13 A. I think he would be talking about -- I forget. Is
14 criteria two, criterion two, which is safety or --

15 Q. The design and operation of the facility?

16 A. Design and operation. And he would have talked about
17 liquid faction and the stability of soils and could have
18 addressed some of the earthquake issues since it is near the New
19 Madrid Fault.

20 Q. So Mr. Fries would have addressed that part of criterion
21 two that related to the location element, that is, whether the
22 site itself was geologically and otherwise sound for the
23 development of an expansion?

24 A. I believe so.

199

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay. Any other witnesses besides these three
2 individuals?

3 A. There was some people with -- conservation people with
4 the Conservation Alliance that I think I would have tried to get.

5 Q. That you intended and planned to call as witnesses but
6 for your confusion about the date of the hearing; is that
7 correct?

8 A. That I intended to get there to have them testify. I
9 did not consider them my witnesses.

10 Q. Well, again, what I tried to do initially is have you
11 identify those persons who you planned or intended to present as
12 witnesses to present testimony at the public hearing?

13 A. Okay.

14 Q. Differentiating that from those people who you hoped
15 would show up and give whatever testimony they wanted to present
16 in connection with the application?

17 A. Okay.

18 Q. That's the distinction. Do you understand that
19 distinction?

20 A. Yes.

21 Q. I am focusing on the first element of this. The
22 witnesses that you intended or planned to present as witnesses at
23 the public hearing?

24 A. Okay.

200

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. You identified Mr. Osman, Mr. Suttle and Mr. Fries; is
2 that correct?

3 A. Right. And Mr. Williams is not going to be considered
4 in that category?

5 Q. I thought you had indicated that you had hoped Mr.
6 Williams was going to appear, but you didn't intend to present
7 him as a witness?

8 A. No, I wanted him to be there. I just had a quibble with
9 the word witness, because I just didn't see myself as being
10 calling witnesses. That's the only problem that...

11 Q. Why did you have a problem with viewing yourself as

12 calling witnesses at this hearing? Do you just view that as
13 something that was not part of what your role was to be at this
14 hearing?

15 A. I didn't view it as being -- as calling witnesses.
16 That's all. It is just my own -- it seems like a whole other
17 thing. I mean, if you are calling your witness it is like you
18 take something away from them that they are not testifying on
19 their own. That's all. It is just a distinction that is in my
20 mind. Perhaps it is not a real distinction for you. You are
21 used to having witnesses every day. So it is a citizen's -- the
22 way a citizen feels about citizen testimony, I guess.

23 Q. Ms. Andria, is it correct to say that in your amended
24 petition for review that you allege that had you received proper

201

KEEFE REPORTING COMPANY
1-800-244-0190

1 notice of the public hearing that you would have tried to have
2 witnesses present to testify against the siting application; is
3 that correct?

4 A. Yes. So -- okay. I am sorry. Go ahead.

5 Q. Now, are the witnesses you just identified, Ms. Osman,
6 Mr. Suttle, Mr. Fries, and Mr. Williams, people who you intended
7 to present or have presented as witnesses at the public hearing,
8 consistent with your amended petition for review?

9 A. No, that is not consistent because Mr. Osman, as I
10 indicated, would not testify against the application. He does
11 not -- he would not, as a state employee, testify against

12 something. He was only to determine floodplain, the situation
13 with whether the landfill was located in a floodplain. So he was
14 not technically a witness who would be testifying against the
15 application.

16 Q. But it was your intent to have him testify as a witness
17 at the siting hearing, correct?

18 A. Yes, yes.

19 Q. Along with Mr. Fries, Mr. Suttle and Mr. Williams,
20 correct?

21 A. Yes. Mr. Suttle would have been a citizen statement.
22 And I also hoped to get someone from the Cahokia Mounds, not just
23 Cahokia Mounds Society, but the Cahokia Mounds.

24 Q. Wasn't Mr. Williams going to testify about --

202

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. He was from the Society. He was not from -- the was the
2 Cahokia Mounds Society. He was not a Mounds personnel person.

3 Q. Is there any other person that you intended to present
4 as a witness at the siting hearing?

5 A. No, I don't think so.

6 Q. So let me make sure I have all of the people that you
7 planned or intended to have testify at the siting hearing. Mr.
8 Fries, Mr. Osman, Mr. Suttle, Mr. Williams, and someone from the
9 Mounds. Does that exhaust the list of people that you planned or
10 intended to present at the hearing?

11 A. Personally, or to get them to the hearing to testify?

12 Q. What I tried to do was differentiate between the people
13 that you planned or intended to present as witnesses at the
14 hearing as opposed to those witnesses who you hoped would appear
15 independently to give testimony on the siting application at the
16 hearing. Now, we are talking about the first element of that.

17 MS. HOMEYER: I am going to object to the form of the
18 question. Number one, it is argumentative. Number, two, it has
19 been asked and answered. And number three, the witness has said
20 that she does not view it in the same language as Mr. Moran is
21 trying to get her to testify. She does not distinguish between
22 my witnesses. She didn't have a concept of my witness. That is
23 Mr. Moran's language. She does not agree with it. He can ask
24 her this question all afternoon. I don't believe my client's

203

KEEFE REPORTING COMPANY
1-800-244-0190

1 testimony is going to change.

2 There were people she wanted to have at the hearing. Mr.
3 Moran is trying to get her to make false distinctions that he
4 would like to make. But my client is not testifying that she
5 ever intended to draw people -- to divide people into those two
6 classifications. I am going to object to the form of the
7 question that it is argumentative and it is mischaracterizing her
8 testimony.

9 HEARING OFFICER KNITTLE: Mr. Moran?

10 MR. MORAN: Let me just have a moment. What I have been

11 trying to do for the last 20 minutes is establish the distinction
12 between her intent or plan to present witnesses to testify and on
13 the other hand, witnesses whom she hoped would appear and give
14 testimony. I thought we had reached an agreement that that was a
15 distinction that was appropriate. If it isn't, I would like to
16 find out and let's focus on it.

17 The amended petition for review specifically sets out that
18 had petitioners received the required statutory notice, this is
19 in paragraph 16, without any confusion as to what the real
20 hearing date would be, petitioners would have tried to have
21 witnesses present to testify against the application.

22 That is what I have been asking her about. What witnesses
23 would you have intended or planned to have present to testify on
24 the application. Now we are hearing this witness backtrack and

204

KEEFE REPORTING COMPANY
1-800-244-0190

1 say there isn't any such distinction and she didn't intend to
2 call any witnesses and it is in her amended petition so --

3 MS. HOMEYER: Well, I am going to object. The witness did
4 not draft the amended petition. She may not agree with the
5 language that I drafted. The witness has given her testimony as
6 to how she saw it. She was trying to get people to testify at
7 the hearing. She does not say that she saw them as people that
8 would testify against the application or that they were going to
9 be considered her witnesses. Just because it is in the amended

10 petition does not mean that my client has to agree with every
11 statement in there. I drafted the amended petition. She did
12 not.

13 HEARING OFFICER KNITTLE: May I see the amended petition,
14 please?

15 MR. MORAN: Well, beyond that, just so that I point it out,
16 I asked her just a few moments ago that very question, and that
17 is, in your amended petition for review do you allege that had
18 you received proper notice of the public hearing you would have
19 tried to have witnesses present to testify against the
20 application, is that correct, and she said yes.

21 HEARING OFFICER KNITTLE: Yes, I recall that question and
22 that answer, Ms. Homeyer. In light of the fact that it is in the
23 amended petition -- I just want to double-check because I didn't
24 want to dig mine out.

205

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: At the bottom of paragraph 16.

2 HEARING OFFICER KNITTLE: Okay. In light of the fact that
3 the amended petition does state that but for the confusion they
4 would have had witnesses present to testify against the
5 application, I don't think that is an inappropriate question for
6 Mr. Moran to ask, because that is what has been alleged in the
7 petition signed --

8 MS. HOMEYER: But I think she has answered it many times
9 already.

10 HEARING OFFICER KNITTLE: Well, I don't know that I agree.

11 MS. HOMEYER: To me it just seems like a distinction
12 without a difference. If he is trying to elicit information on
13 the fundamental fairness issue of were we prejudiced by not
14 getting people to the hearing because of confusion over the
15 notice, I think she has given four names and one organization
16 that she would have liked to have had people there at the hearing
17 to testify. I think we are arguing over semantics, and I don't
18 know that we will ever get the witness to agree with a statement
19 that I drafted.

20 HEARING OFFICER KNITTLE: Mr. Moran?

21 MR. MORAN: Well, I don't know how they can proceed with an
22 appeal if we are going to have a petition or a pleading that says
23 one thing and a witness who testifies inconsistently or contrary
24 to that allegation. I mean, how do you proceed with any kind of

206

KEEFE REPORTING COMPANY
1-800-244-0190

1 an appeal?

2 HEARING OFFICER KNITTLE: Well, we only want her to testify
3 to what she can only testify to. Where were we at when we ran
4 into the objection?

5 MS. HOMEYER: I think I have an answer. She -- Mr. Moran
6 was summarizing; Mr. Osman, Mr. Suttle, Mr. Fries, someone from
7 the Conservation Alliance, Mr. Ken Williams, he was asking her if
8 there were any other people besides those five that she was

9 trying to get to the hearing. I believe at that point I started
10 making some objections. But basically he was summarizing them as
11 witnesses that she would have had to testify against the
12 application. All I am saying is I don't think this witness is
13 comfortable with that particular phrase. And I think it is being
14 exaggerated. I think the importance --

15 HEARING OFFICER KNITTLE: I am going to overrule that
16 because she has answered that, that she had witnesses that she
17 wanted to get there to testify.

18 MS. HOMEYER: Yes, testify, but --

19 HEARING OFFICER KNITTLE: Is that correct, Mr. Moran?

20 MS. HOMEYER: -- not to testify --

21 MR. MORAN: That is certainly what I heard.

22 MS. HOMEYER: Not to testify --

23 HEARING OFFICER KNITTLE: I am kind of in a bind here. She
24 has testified that that is what she wanted to do.

207

KEEFE REPORTING COMPANY
1-800-244-0190

1 MS. HOMEYER: But he keeps trying to get her to admit that
2 the sentence that I wrote in the petition is exactly the way she
3 would have phrased it. She is saying that is not the way I would
4 have phrased it. That is what I feel is going on here.

5 HEARING OFFICER KNITTLE: Well, clearly, she can say that.
6 My understanding of this was that the distinction was between
7 witnesses that she wanted to get to the hearing to testify and
8 witnesses that, boy, she hoped they would get there and maybe

9 provide some testimony on their own behalf. Is that correct?

10 MR. MORAN: That is absolutely correct, and it is a
11 critical issue because it relates to fundamental fairness.

12 HEARING OFFICER KNITTLE: I think that --

13 MR. MORAN: She is alleging fundamental unfairness based
14 upon some prejudice that she didn't know about when the hearing
15 was going to take place and she couldn't bring witnesses to the
16 hearing. That is different from the fundamental fairness that
17 relates to whether other people, who may or may not have known
18 about the hearing, could have come to testify on their own
19 behalf.

20 HEARING OFFICER KNITTLE: Ma'am, do you think that there is
21 a distinction between those two classes of people that I just
22 mentioned, people that you wanted to get there to testify and
23 people that you hoped would testify?

24 THE WITNESS: Well, I think -- I mean, for one thing, Mr.

208

KEEFE REPORTING COMPANY
1-800-244-0190

1 Hearing Officer, we cannot pay witnesses. When you get people to
2 come to testify at a public hearing, I just don't -- I don't
3 think there is an inconsistency between the wording in the
4 amended petition for review getting witnesses to testify against
5 the application and considering them my witnesses. I am not an
6 attorney. I did --

7 HEARING OFFICER KNITTLE: Let's stay away from what you

8 consider your witnesses.

9 THE WITNESS: Okay.

10 HEARING OFFICER KNITTLE: Let's focus on witnesses that you
11 have tried to get there to testify.

12 THE WITNESS: Okay.

13 HEARING OFFICER KNITTLE: Can we work with that
14 understanding?

15 THE WITNESS: I will --

16 HEARING OFFICER KNITTLE: I mean, if you can't, I clearly
17 don't want you to be testifying to things you don't believe are
18 true. If you don't believe that there is a distinction, feel
19 free to say I don't think there is a distinction. And Mr. Moran
20 is not going to be able to force you to do that, because I am not
21 going to let it happen. But I do want to move forward, and it is
22 in the amended petition, and I think it is proper --

23 THE WITNESS: I do not disagree.

24 HEARING OFFICER KNITTLE: Okay.

209

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: I do not disagree with the wording in the
2 amended petition.

3 HEARING OFFICER KNITTLE: What was your question, then, Mr.
4 Moran? We are going to move this along, if at all possible.

5 Q. (By Mr. Moran) My question was is it accurate to say
6 that the only witnesses that you intended or planned to have
7 present at the public hearing to testify regarding the siting

8 application were Mr. Osman, Mr. Suttle, Mr. Fries, Mr. Williams,
9 and someone from the Mounds?

10 A. And Ken Williams.

11 HEARING OFFICER KNITTLE: I think he -- did he say --

12 MR. MORAN: Didn't I say Mr. Williams?

13 HEARING OFFICER KNITTLE: Yes, he said Mr. Williams.

14 THE WITNESS: Oh, okay. I am sorry. I am sorry.

15 HEARING OFFICER KNITTLE: No, it has been a long day. If
16 you need to take a Dr. Pepper break, we will allow it.

17 THE WITNESS: I will take one sip.

18 HEARING OFFICER KNITTLE: Okay.

19 THE WITNESS: Okay. I believe I testified that people from
20 the Conservation Alliance, people from ESL CAN --

21 HEARING OFFICER KNITTLE: Do you want me to jump in, Mr.
22 Moran?

23 The question is, is there anyone in addition to those five
24 people that he named, correct?

210

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Mr. Moran) That you planned or intended to have
2 testify at the public hearing but for your confusion about the
3 hearing date based on the three published notices?

4 A. Yes, someone from the Mounds. Did we -- okay.

5 HEARING OFFICER KNITTLE: I think that --

6 Q. (By Mr. Moran) Could I go through the list again? Just

7 please listen very carefully.

8 A. Okay. I will try.

9 Q. I am just trying to find out what witnesses --

10 A. I am sorry, Mr. Moran. I am really trying hard.

11 Q. I understand. Mr. Osman, Mr. Suttle, Mr. Fries, Mr.
12 Williams and someone from the Mounds. That is five people.

13 A. Someone from IHPA.

14 Q. IHPA?

15 A. Yes.

16 Q. What is IHPA?

17 A. Illinois Historical Preservation Association -- Agency.
18 I am sorry.

19 Q. Okay.

20 A. I had hoped to get a gentleman, whose name is Mark
21 Wusthof, with the Southwestern Illinois Tourism Bureau. I had
22 not -- I had indications that he was interested. I did not make
23 the contact. Someone else talked to him. I do not know how you
24 want to categorize that. I did not have time to do all of the --

211

KEEFE REPORTING COMPANY
1-800-244-0190

1 try to get all of this done and also look at the application,
2 which we just got. So I am sorry if I am running out of steam
3 here. But go ahead.

4 Q. Other than Mr. Fries, Mr. Osman, Mr. Suttle, Mr.
5 Williams, someone from the Mounds, someone from IHPA, someone
6 named Mark Wusthof, were there any other persons that you planned

7 or intended to present at the hearing to testify on the siting
8 application, but were unable to present or bring to the hearing
9 because of your confusion about the date of the hearing based on
10 the three published notices?

11 A. As of this -- right now this minute I cannot think of
12 anyone else.

13 Q. So that's the entire list?

14 A. I didn't say that. I said right now I can't think of
15 anyone else.

16 Q. You have exhausted your recollection as to the list of
17 witnesses that you intended to call but were prevented from doing
18 so by virtue of your confusion, correct?

19 A. I have exhausted my recollection as of this moment.

20 Q. That's all we can ask you to do.

21 A. Thank you.

22 Q. Is that the complete list that you just gave us that I
23 just read out?

24 A. As of my recollection as of this moment, yes, it is.

212

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Ms. Andria, at your deposition on August 8th, were you
2 asked the following two questions and did you provide the
3 following two answers?

4 MS. HOMEYER: What page, please?

5 MR. MORAN: Page 140, line 24, beginning of line 24 and

6 going to page 141 through line 10.

7 MS. HOMEYER: Thank you.

8 Q. Were you asked the following and did you provide these
9 answers:

10 "Question: Now, in your amended petition for review, you
11 alleged that had you received proper notice, that is, of the
12 public hearing, that you would have tried to have witnesses
13 present to testify against the application; is that correct?

14 Answer: (Witness moved head up and down.)

15 Question: Which witnesses were you intending to include in
16 this statement?"

17 Ms. Homeyer interposed an objection, "asked and answered."

18 "Answer: I said I would have tried to get someone to
19 address the Mounds issue and someone to address the floodplain
20 issue."

21 Did you give those answers to those two questions?

22 A. If that's what it says.

23 Q. Now, Ms. Andria with respect to Mr. Osman --

24 A. Yes.

213

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. -- when did you first contact Mr. Osman about his
2 appearing at the public hearing to address the floodplain issue?

3 A. I did not ask Mr. Osman to appear at the public hearing.
4 I did not know of the public hearing. When I first talked to him
5 I asked him questions about the floodplain. When it got closer

6 to -- when I found out the hearing time -- I mean, I was going to
7 ask him when I had a hearing date I was going to write a letter
8 and ask him if he could appear. But I did not do that because
9 there was not sufficient time to ask someone.

10 Q. You had no conversation or discussion or communication
11 with Mr. Osman about the floodplain issue in this siting
12 application prior to the public hearing, did you?

13 A. That is not correct.

14 Q. When did you have a communication or conversation with
15 Mr. Osman about the floodplain issue for this siting application
16 prior to the public hearing?

17 A. I don't remember.

18 Q. Is there anything that would help refresh your
19 recollection?

20 A. I don't know.

21 Q. When did you speak or have any communication with Mr.
22 Suttle about his appearing at the hearing to testify on the
23 compatibility criteria?

24 A. Probably at one of the early meetings after -- I think

214

KEEFE REPORTING COMPANY
1-800-244-0190

1 maybe in February.

2 Q. Are you just speculating as to this meeting?

3 A. Yes, I am.

4 Q. You don't have any specific recollection of a discussion

5 with Mr. Suttle about appearing to testify?

6 A. A date, no, I do not.

7 Q. Do you recall anything about the substance of any
8 conversation you had with him about appearing at the siting
9 hearing to testify on the compatibility criterion?

10 A. Do I recall substance?

11 Q. Yes. Do you remember anything that you and he talked
12 about in terms of his appearing in the public hearing and
13 testifying on the compatibility criteria?

14 A. I remember that he said he was very much against the
15 landfill because he can smell it and that he -- his house is
16 close to -- closest of, I think, the ESL CAN members to the
17 landfill. He felt strongly about it should close and felt
18 strongly that it reflected on the East St. Louis community.

19 Q. When did he say this to you?

20 A. We have had a number of conversations about this
21 subject.

22 Q. Did these conversations occur after the date of the
23 public hearing?

24 A. Some have. Some were before.

215

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Did you ever advise Mr. Suttle as to the date of the
2 public hearing?

3 A. I don't know if I did or didn't.

4 Q. Do you recall whether you had any discussions with him

5 of any kind, in other words, where he may have called you, or you
6 initiated contact with him, or you discussed any of the dates for
7 the public hearing?

8 A. I do, but I couldn't tell you precisely when it was.
9 When I knew that there was a hearing scheduled I discussed it
10 with him. Mr. Suttle does not like to go to meetings. But he
11 indicated, I believe, that he would go to this. And so I am
12 not -- I don't remember. I don't have any remembrance of what
13 dates we discussed it.

14 Q. Are you just speculating that he told you that he wanted
15 to come to this hearing or do you have a specific recollection?

16 A. No, I remember that he indicated that he -- he gave me,
17 for Mr. Suttle, as positive a response to get him to a meeting as
18 you are going to get from Mr. Suttle.

19 Q. What response was that?

20 A. I couldn't tell you the words that he said.

21 Q. Could you give us the gist of what he said?

22 A. Like, he would try to get to the meeting. To the
23 hearing. I am sorry.

24 Q. Did you tell him when the meeting was or when the

216

KEEFE REPORTING COMPANY
1-800-244-0190

1 hearing was going to be?

2 A. I don't remember that I did or didn't. It was a very
3 confused, raucous time. I don't remember which people I was able

4 to tell and which people I wasn't.

5 Q. When were you able to determine, with any degree of
6 likelihood, that the hearing in this siting application was going
7 to take place on March 17th?

8 A. On March 17th.

9 Q. You are saying you had no understanding and did not
10 believe it was probable that the hearing would go forward on
11 March 17th until March 17th?

12 A. Until it happened.

13 MR. MORAN: Page 92, line 18.

14 Q. Ms. Andria, at your deposition on August 8th do you
15 recall having been asked the following questions and giving the
16 following answers:

17 "Question: Would it be accurate to say that your plan or
18 intent with respect to participating in the public hearing was to
19 go to the Village of Fairmont City on March 13th and March 17th
20 to determine on which day the hearing would actually commence?

21 Answer: I think on March 13th I just went to make sure
22 that it was not happening. I think I thought it was probably
23 Friday, but I just checked it out.

24 Question: So your understanding was that the probability

217

KEEFE REPORTING COMPANY
1-800-244-0190

1 was that the public hearing would proceed on March 17th?

2 Answer: Correct.

3 Question: And you had that understanding upon seeing the

4 notice of public hearing for March 17th?

5 Answer: No, sir.

6 Question: When did you come to that understanding that
7 probably the hearing would go forward on March 17th?

8 Answer: Probably was after the 13th came and it didn't
9 happen then."

10 Did you give those answers to those questions?

11 A. I did.

12 Q. Did you have any discussions of any kind with Mr. Fries
13 prior to the public hearing about his appearing and testifying at
14 the public siting hearing?

15 A. I believe so.

16 Q. When did you have those discussions?

17 A. At some time at some meeting that we were at, a joint
18 meeting. I don't know.

19 Q. This was prior to March 17th?

20 A. I believe so.

21 Q. And you have no recollection as to when prior to March
22 17th?

23 A. No.

24 Q. What meeting was this?

218

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I don't know. We go to several meetings.

2 Q. Do you remember anything about any conversation that you

3 had with him about his appearing and testifying at the siting
4 hearing?

5 A. I remember conversations with him about some of the
6 issues. I don't know precisely -- I don't remember precisely any
7 of the specifics about him appearing.

8 Q. Did you ever ask him to appear at the hearing to
9 testify?

10 A. I did.

11 Q. When did you do that?

12 A. I do not remember.

13 Q. Do you remember what he said back to you when you asked
14 him?

15 A. Not precisely.

16 Q. Did you have any reason to believe that Mr. Fries would
17 be able to attend the public hearing on March 17th?

18 A. I was not sure whether he could attend. On March 13th
19 or 17th? Did you say the 17th?

20 Q. I said at the public hearing.

21 A. I was not sure. I am not sure whether he said
22 definitely that he could come.

23 Q. When you had determined that in probability the hearing
24 would be March 17th, and based upon what we just went through at

219

KEEFE REPORTING COMPANY
1-800-244-0190

1 your deposition, you concluded that on March 13th after you went
2 to the Village and determined there was no hearing on that date,

3 did you call Mr. Osman to tell him --

4 A. No.

5 Q. -- that the hearing would be on the 17th?

6 A. No.

7 Q. Did you call Mr. Suttle and tell him the hearing would
8 be the 17th?

9 A. I believe I did.

10 Q. Between March 13th and March 17th you called Mr. Suttle?

11 A. I believe I did. I don't remember precisely.

12 Q. You don't have any specific recollection of that?

13 A. No.

14 Q. Did you call Mr. Fries between March 13th and March 17th
15 to tell him the hearing was going to be the 17th?

16 A. I do not know.

17 Q. You have no recollection of that?

18 A. No.

19 Q. Did you call anyone from the Mounds to tell them that
20 the hearing was going to be March 17th?

21 A. No, I called Dr. John Kelly and asked him to take care
22 of that aspect of the IHPA and the Mounds people.

23 Q. When you say to take care of that part of the Mounds and
24 the IHPA, what are you referring to?

220

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. To try to get those people to the hearing.

2 Q. So is it accurate to say you were leaving it with Mr.
3 Kelly to round up some people to appear at the public hearing?

4 A. That's correct.

5 Q. You did not follow-up yourself with either anyone from
6 the Mounds or IHPA after you had determined that probably the
7 hearing would go forth on March 17th?

8 A. Dr. Kelly is an archeologist and he knows the people and
9 he was the one who knew Ken Williams. I did not know Mr.
10 Williams, but I spoke with him once.

11 Q. So is the answer yes?

12 A. What was the question?

13 MR. MORAN: Mr. Hearing Officer, could you have the court
14 reporter read it back.

15 HEARING OFFICER KNITTLE: Could you read it back.

16 (Whereupon the requested portion of the record was read
17 back by the Reporter.)

18 THE WITNESS: I do not believe I tried -- I think I once
19 tried to get Mr. Williams on the phone, but didn't get him. I
20 did talk to Dr. Kelly, who was going to do it.

21 Q. (By Mr. Moran) Mr. Williams you had intended to present
22 to testify regarding the incompatibility of the Mounds with the
23 proposed expansion?

24 A. Mr. Suttle, is that --

1 Q. No, Mr. Williams.

2 A. Okay. I am sorry. Say your question again. I
3 apologize.

4 Q. Was it your intent to present Mr. Williams to testify
5 regarding the alleged incompatibility of the Mounds with the
6 proposed expansion?

7 A. Yes.

8 Q. But you didn't call Mr. Williams between March 13th and
9 March 17th to tell him the hearing was going to be March 17th,
10 did you?

11 A. I think I did try to call him and I know I had a phone
12 number for him at work that I didn't find again then that -- but
13 I had asked -- I mean, I was trying to do a lot of things and I
14 asked Dr. Kelly to do that.

15 Q. So you didn't call Mr. Williams, correct, during that
16 period?

17 A. I didn't say that. I said I think I called him once. I
18 did not speak with him. I asked Dr. Kelly to take care of the
19 archeological aspect.

20 Q. Mr. Williams was not an archeologist, was he?

21 A. He was at the Cahokia Mounds Society. That's
22 archeology.

23 Q. Was it your intent to have Mr. Williams testify as to
24 the archeological issues at the siting hearing?

1 A. I believe that the expansion of the landfill is
2 detrimental and incompatible with the world heritage Cahokia
3 Mounds site. Yes, absolutely, and so did Mr. Williams express
4 that.

5 Q. Did Mr. Williams appear at the public hearing?

6 A. No.

7 Q. Did you have any discussion with him after the public
8 hearing as to why he didn't attend?

9 A. I have not spoken with Mr. Williams.

10 Q. You have not spoken with him at all since the public
11 hearing?

12 A. That is correct.

13 Q. So you have no idea, no reason to know why he didn't
14 appear at the public hearing?

15 A. I don't know if he knew about it.

16 Q. Do you have any information or facts to indicate why Mr.
17 Fries did not appear at the public hearing?

18 A. I have some.

19 Q. What information do you have?

20 A. I can't remember precisely what he said, but I also know
21 that he feels like he has a conflict of interest.

22 Q. Do you have any information or facts to indicate why Mr.
23 Suttle did not appear at the public hearing?

24 A. No, I do not.

1 Q. Do you have any information to suggest or indicate why
2 no one from the Mounds appeared to testify at the public hearing?
3 A. No, I do not.
4 Q. Do you have any facts or information to indicate why no
5 one from IHPA appeared to testify at the public hearing?
6 A. No, I do not.
7 Q. Do you have any information to indicate why Mark Wusthof
8 did not appear at the public hearing?
9 A. No, I do not.
10 Q. Did you have any discussions with Mr. Wusthof at any
11 time --
12 A. No, I did not.
13 Q. -- during the week before the hearing?
14 A. No, I did not.
15 Q. Did you have any discussions with him at all, either
16 before or after the public hearing?
17 A. Discussions with Mr. Wusthof, no.
18 Q. Now, you indicated that Mr. Osman may have come to
19 testify at the public hearing regarding whether the proposed
20 expansion was in the 100-year floodplain; is that correct?
21 A. That Mr. Osman may have come to -- that was my hope, to
22 get Mr. Osman there to testify that the landfill was located in
23 the floodplain.
24 Q. Now, you said the landfill was located in the

1 floodplain?

2 A. That's correct.

3 Q. Did you have any understanding as to what the nature of
4 this siting application was seeking?

5 A. Yes, sir.

6 Q. And was your understanding that this siting application
7 was seeking site location approval for the proposed vertical
8 expansion of the Milam Landfill?

9 A. Yes, sir.

10 Q. Is it your understanding that the proposed expansion is
11 to be considered separate and apart from the existing Milam
12 Landfill?

13 MS. HOMEYER: I am going to object. There is no testimony
14 that that is her understanding.

15 MR. MORAN: Well, she just testified that she was
16 attempting to have Mr. Osman testify that the 100-year floodplain
17 was within the existing landfill.

18 MS. HOMEYER: Yes, but that is not your question.

19 HEARING OFFICER KNITTLE: Ms. Homeyer, please direct any
20 argument to me. Is that your response to his argument?

21 MS. HOMEYER: Yes.

22 HEARING OFFICER KNITTLE: Anything further, Mr. Moran?

23 MR. MORAN: No.

24 HEARING OFFICER KNITTLE: I am going to overrule

1 the objection. I don't want to get too far into any legal
2 opinion held by this witness, though.

3 You can answer that one question, if you recall.

4 THE WITNESS: No, I don't recall.

5 HEARING OFFICER KNITTLE: Could you read it back, Darlene.

6 (Whereupon the requested portion of the record was read
7 back by the Reporter.)

8 MS. HOMEYER: Again, I will object as to what the legal
9 criteria that governs siting expansions are. I think this
10 question is outside the realm of this witness' competency.

11 HEARING OFFICER KNITTLE: Okay. I covered that in my
12 explanation. I am going to overrule it. I agree that I don't
13 want to get too far into any legal opinions held by this witness.

14 You can answer that question.

15 THE WITNESS: Okay. Is it my understanding that the
16 expansion is to be considered separate from the existing
17 landfill? Is that what you are asking?

18 MR. MORAN: Yes.

19 THE WITNESS: Yes. But it is -- there are certain criteria
20 that pertain to the existing landfill in the criteria. That is
21 why I do not think that they are separate.

22 Q. (By Mr. Moran) Is it your understanding that the
23 statutory criteria set out in the Illinois Environmental
24 Protection Act for siting approvals apply to an existing

1 permitted landfill?

2 A. I guess I don't understand. That the siting criteria
3 apply to an existing landfill?

4 Q. An existing permitted landfill, yes.

5 A. From 21.19 (a) and (b) that refer to the criterion four
6 direct you to that, whether a landfill is in the floodplain and
7 it has to be flood proofed. And then it goes to whether it is an
8 existing landfill trying to expand, and I believe that that
9 applies to this landfill.

10 Q. Is it your testimony that Mr. Osman, had he appeared at
11 the public hearing, would have testified that the existing
12 permitted Milam Landfill was within the 100-year floodplain?

13 A. I cannot say what Mr. Osman's testimony would be.

14 Q. So as you sit here today, you have no understanding or
15 knowledge as to what Mr. Osman would have testified to had he
16 appeared in the public hearing on March 17th; is that correct?

17 A. Ms. Osman has a letter that we submitted as part of the
18 public comment which states about the landfill that -- and Mr.
19 Osman knew that the landfill was an expansion, a vertical
20 expansion. And he said that the map that we showed was the
21 current map and that the existing landfill is, indeed, in the
22 100-year floodplain. That letter was submitted as part of our
23 public comment.

24 Q. So are you telling us that as you sit here today you

1 have no understanding or knowledge as to what Ms. Osman would
2 have testified to had he appeared in person at the public hearing
3 on March 17th?

4 A. That's correct.

5 Q. The only information you have is the contents of the
6 letter that Mr. Osman prepared and that you submitted as part of
7 public comment relating to the floodplain issue; is that correct?

8 A. The only evidence I have? Is that what you asked? What
9 was the wording?

10 MR. MORAN: Mr. Hearing Officer, could you have the court
11 reporter read it back?

12 HEARING OFFICER KNITTLE: Yes. Please read it back.

13 (Whereupon the requested portion of the record was read
14 back by the Reporter.)

15 THE WITNESS: The only information I have is what was in
16 the letter and also Mr. Osman testified at a public hearing that
17 the Pollution Control Board held several years ago on landfills
18 in floodplains. He had testimony at that hearing. So that was
19 available to me to look at, too.

20 Q. (By Mr. Moran) Did you present or attempt to present any
21 of that testimony by Mr. Osman before the Pollution Control Board
22 as part of this siting application proceeding?

23 A. No, I didn't.

24 Q. So as far as you know, sitting here today, the only

1 information that Mr. Osman would have presented, had he appeared
2 at the public hearing, were the contents of the letter that he
3 prepared and that you submitted as part of the public comment; is
4 that correct?

5 A. That is not correct. I cannot imagine that if Mr. Osman
6 would talk, say what he said, that if he were allowed to be
7 questioned that I would not have asked him about his testimony.
8 And I am sure that whatever he thought about locating landfills
9 in flood planes would have come out in that testimony. So that
10 is absolutely not correct.

11 Q. And that letter stated that the existing permitted Milam
12 Landfill was within the 100-year floodplain; is that correct?

13 A. I believe that is what it said.

14 Q. The letter did not state that the proposed expansion was
15 within the 100-year floodplain, did it?

16 A. I don't believe it stated that.

17 Q. Do you have any information, either from Mr. Osman or
18 from any other source, that indicates or establishes that the
19 proposed expansion, which is the subject of this siting
20 application, is within the 100-year floodplain?

21 MS. HOMEYER: Mr. Hearing Officer, I am going to object.
22 At this time it sounds more like a hearing on the siting criteria
23 than a hearing on fundamental unfairness. I believe it is
24 outside the scope of direct examination and it is also outside

1 the scope of the claims of fundamental unfairness that we are
2 making.

3 He is basically asking this witness to testify as an expert
4 as to whether the proposed expansion is within or without the
5 100-year floodplain. I don't believe that is an appropriate
6 question to be asking this witness at this hearing. We can
7 address the floodplain issue in the briefs.

8 HEARING OFFICER KNITTLE: Mr. Moran?

9 MR. MORAN: What has been alleged here is fundamental
10 unfairness as a result of this petitioner's inability to present
11 witnesses at the hearing. If this witness, who presumably could
12 not attend this hearing and give testimony on the floodplain
13 issue, was only going to come to the hearing and state that the
14 existing permitted Milam Landfill was within the 100-year
15 floodplain, that testimony is entirely beside the point, does not
16 address the criterion. And so in no way could that witness'
17 proposed testimony and its alleged exclusion been fundamentally
18 unfair to these petitioners.

19 So it is particularly critical to know what these witnesses
20 would have said, had they been contacted, were they prepared to
21 present testimony. Because if their evidence was not relevant or
22 missed the point of the criteria, there couldn't have been any
23 fundamental unfairness in their not appearing.

24 MS. HOMEYER: Mr. Knittle, Mr. Moran is making an argument

1 that he can make in his brief about what my client is testifying
2 to. But the question at hand is whether she is saying whether
3 she has information that the proposed expansion is in or out of
4 the 100-year floodplain. I don't believe that has anything to do
5 with fundamental unfairness or what Mr. Osman would have
6 testified to.

7 HEARING OFFICER KNITTLE: The objection is sustained,
8 unless you had a different question, Mr. Moran.

9 MR. MORAN: Well, the only point is that --

10 HEARING OFFICER KNITTLE: She has already stated that she
11 does not know what that witness would have testified to entirely
12 if he had been at the hearing.

13 MR. MORAN: But she has also indicated that she knows what
14 was in his letter and what he would have indicated based upon
15 what is in the letter. She is claiming that the fact that this
16 letter was submitted as public comment and that she couldn't
17 present the witness as a live witness whose testimony would have
18 been credited as live testimony would be credited amounts to
19 fundamental unfairness.

20 My point is if this evidence that she knows he would have
21 presented, based upon his letter, misses the point of the
22 criterion and is irrelevant, how can any fundamental unfairness
23 inhere in that witness not testifying. That's my point.

24 MS. HOMEYER: The pending question has nothing to do with

KEEFE REPORTING COMPANY
1-800-244-0190

1 Mr. Osman.

2 HEARING OFFICER KNITTLE: Do you want me to have the
3 question read back?

4 MR. MORAN: Yes, by all means.

5 HEARING OFFICER KNITTLE: Could you please read the
6 question back.

7 (Whereupon the requested portion of the record was read
8 back by the Reporter.)

9 HEARING OFFICER KNITTLE: Yes, I am sustaining the
10 objection to that particular question. I don't see how it is
11 particularly applicable to fundamental unfairness.

12 Q. (By Mr. Moran) Ms. Andria, do you have any facts or
13 information to indicate that Mr. Osman had any evidence relating
14 to whether the proposed expansion was within the 100-year
15 floodplain?

16 A. That he had evidence?

17 Q. Any facts or information to indicate that the proposed
18 expansion was within the 100-year floodplain?

19 A. The proposed expansion?

20 Q. Yes.

21 A. I was not dealing with the proposed expansion up on top
22 of the existing. I was dealing with the existing. I think they
23 are connected, and I think that one sits on another and it cannot
24 exist separate from it, even though it is treated as such as an

KEEFE REPORTING COMPANY
1-800-244-0190

1 expansion.

2 Q. So is the answer to the question no?

3 A. I don't remember.

4 HEARING OFFICER KNITTLE: All right. Could you read it
5 back, please.

6 In light of Mr. Moran's previous request earlier in the
7 day, I am going to direct you to attempt to answer the question
8 as it is put to you.

9 THE WITNESS: Okay.

10 (Whereupon the requested portion of the record was read
11 back by the Reporter, beginning at page 232, line 13
12 through line 21.)

13 THE WITNESS: No.

14 HEARING OFFICER KNITTLE: All right. Let's go off the
15 record.

16 (Discussion off the record.)

17 HEARING OFFICER KNITTLE: All right. We are back on the
18 record.

19 Mr. Moran, your cross-examination continues.

20 MR. MORAN: Thank you.

21 Q. (By Mr. Moran) Ms. Andria, have you ever reviewed the
22 traffic report that was contained in the siting application?

23 A. Not in-depth, no.

24 Q. So is it accurate to say that you were not in any way

KEEFE REPORTING COMPANY
1-800-244-0190

1 prevented from asking questions regarding the traffic criterion
2 at the public hearing?

3 A. Was I -- the traffic expert was not there.

4 Q. Did you have any questions for the traffic expert at the
5 public hearing?

6 A. I did have some traffic questions.

7 Q. Did you indicate that to the hearing officer?

8 A. I think I did.

9 Q. Do you recall the statement that was made that to the
10 extent that anyone had questions with respect to any of the
11 criterion that they should advise the hearing officer and the
12 applicant and the witnesses would be available to answer whatever
13 questions the objectors or any participants had with respect to
14 the reports in the application, do you remember that?

15 A. Yes.

16 Q. If, indeed, you indicated a desire or willingness to ask
17 questions of the traffic expert, what was the response that you
18 received?

19 A. He was an hour away and could be called. I think that
20 was the response.

21 Q. And did the traffic expert appear at any point during
22 the public hearing to answer questions?

23 A. Not to my knowledge.

24 Q. The reason for that was that no one had requested that

234

KEEFE REPORTING COMPANY
1-800-244-0190

1 that traffic expert be available to answer questions; isn't that
2 right?

3 A. Well, we asked some questions, traffic questions, but we
4 didn't ask them of the traffic expert.

5 Q. Were these questions that related to the internal
6 traffic flows on and over the Milam site?

7 A. In the traffic around during race times and traffic
8 during certain times everyday, I believe.

9 Q. Were those questions responded to?

10 A. I think there were responses. I don't have a strong
11 recollection right now.

12 Q. Now, Ms. Andria, you said that there could have been a
13 decent public hearing -- I think these are exactly your words
14 from earlier today -- if you had had the siting application since
15 December; is that correct?

16 A. Do I think there could have been a decent public hearing
17 if we had had the siting application since December?

18 Q. Yes. I believe that's what you said this morning; is
19 that correct? Or did I misquote you?

20 A. Maybe I was being a little optimistic. I hoped there
21 could have been one. But I don't know that just have having a
22 siting application would have made the hearing fair.

23 Q. And one of the reasons that you didn't get the siting

24 application in December was because you were not able to pay the

235

KEEFE REPORTING COMPANY
1-800-244-0190

1 quoted cost of obtaining the copy; is that correct?

2 MS. HOMEYER: Objection. Asked and answered.

3 HEARING OFFICER KNITTLE: Mr. Moran?

4 MR. MORAN: I am referencing a statement she made earlier
5 today regarding what would have been the conduct of a decent
6 public hearing if they had had the application since December.
7 We had that earlier colloquy regarding the attempt to obtain a
8 copy of the application. I am just simply asking her now if that
9 was the reason that she didn't get the siting application in
10 December.

11 HEARING OFFICER KNITTLE: I will allow it in terms of a
12 background question.

13 THE WITNESS: The question was did I -- I am sorry. Go
14 ahead.

15 HEARING OFFICER KNITTLE: No, I was waiting for Mr. Moran
16 to ask me to ask the court reporter to read it back.

17 MR. MORAN: I was waiting for Ms. Andria to finish her
18 comment, because maybe she wouldn't need the question back again.
19 Would you like the question back again?

20 THE WITNESS: I am sorry. Yes.

21 MR. BARICEVIC: Might I go make a phone call? And I don't
22 object to the hearing proceeding without me.

23 HEARING OFFICER KNITTLE: You certainly may.

24 MR. BARICEVIC: Thank you.

236

KEEFE REPORTING COMPANY
1-800-244-0190

1 (Mr. Baricevic exited the hearing room.)

2 HEARING OFFICER KNITTLE: Okay. Could you please read the
3 question back.

4 (Whereupon the requested portion of the record was read
5 back by the Reporter.)

6 THE WITNESS: That's correct.

7 Q. (By Mr. Moran) Now, I believe you also indicated during
8 your direct examination this morning that you -- to this day you
9 have been unable to compare the copy of the siting application
10 you obtained from Waste Management on March 3rd with the siting
11 application that was filed with the Village of Fairmont City; is
12 that correct?

13 A. That's correct.

14 Q. And it is also accurate to say that you made no effort
15 to compare those two documents, that is, the copy that you
16 received from Waste Management and the siting application on file
17 with the Village of Fairmont City through today's date?

18 A. That's correct. No, that is not correct. Oh, the
19 siting application. I did make a phone call to try to -- to
20 verify some pages, but I don't think it was with the siting
21 application.

22 (Mr. Baricevic entered the hearing room.)

23 Q. (By Mr. Moran) So does your previous answer stand?
24 A. I think so.

237

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. To this day you have not been able to compare the copy
2 of the siting application you obtained from Waste Management of
3 Illinois and the siting application that is on file with the
4 Village of Fairmont City?

5 A. I know there is a discrepancy in pages. I don't know
6 what the discrepancy consists of.

7 Q. You have not determined it to this day?

8 A. Not yet, no.

9 Q. Were you planning on doing it at some point in the near
10 future?

11 A. I hope to.

12 Q. For what purpose?

13 A. I would like to know.

14 Q. It wasn't important to know that back before you filed
15 this appeal to the Pollution Control Board?

16 MS. HOMEYER: Could you -- Mr. Knittle, is he referring now
17 to the application or to the transcript?

18 HEARING OFFICER KNITTLE: I am under the assumption that we
19 are still talking about the siting application.

20 Is that correct, Mr. Moran?

21 MR. MORAN: Yes.

22 HEARING OFFICER KNITTLE: Is that your understanding as
23 well, ma'am?

24 THE WITNESS: That was the siting application that you

238

KEEFE REPORTING COMPANY
1-800-244-0190

1 wondered why I didn't do it? I was not able to get anywhere
2 trying to get information. I asked to see the record with the
3 Village. I have no indication that -- other than the fact that
4 we now have an attorney, that we would be able to get anymore
5 information. Before we got an attorney, I would not have thought
6 I would get anymore information than I did before.

7 Q. (By Mr. Moran) But you have an attorney now, correct?

8 A. Yes, correct.

9 Q. You have had this attorney for how long, a month?

10 A. I don't know.

11 Q. I am saying that to this day -- just so that we are
12 clear, to this day you have not taken the copy of the siting
13 application that you made at Waste Management of Illinois and
14 compared that with the siting application that was filed with the
15 Village of Fairmont City that was made part of the record of this
16 appeal? You have never done that to this day; is that correct?

17 A. That is correct. It is my understanding that I would
18 have to go to Chicago or Springfield to do that, sir.

19 MR. MORAN: If I could just have a couple of minutes, I
20 think I may be wrapping this up.

21 HEARING OFFICER KNITTLE: Okay. Let's take three minutes.

22 (Whereupon a short recess was taken.)

23 HEARING OFFICER KNITTLE: We are back on the record, and
24 you are still cross-examining Ms. Andria.

239

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Mr. Moran) Ms. Andria, did you tape-record this
2 hearing, this public hearing?

3 A. I started to.

4 Q. You asked permission to tape-record the hearing,
5 correct?

6 A. I don't know if I did or if I just started to get my
7 equipment. I don't remember exactly how it went.

8 Q. And you recorded the public hearing on a device that you
9 owned?

10 A. I had just bought it.

11 Q. And how many tapes did you record of this hearing?

12 A. I think only one tape. I had some out, but I think that
13 I put in one and when I got back it -- I thought I had gotten at
14 least the first half hour, but there was nothing on the tape.

15 Q. When you say there was nothing on it, it just didn't
16 record anything?

17 A. Yes. I don't know what I did wrong. It was a brand-new
18 tape-recorder. I had just taken it out of the box at the
19 hearing.

20 Q. Okay. Now, you prepared a written comment which was

21 submitted within the 30 day period after the hearing; is that
22 correct?

23 A. That is correct.

24 Q. You testified about that earlier today, I believe?

240

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. And that comment was written on the letterhead of the
3 American Bottom Conservancy?

4 A. Yes, it was.

5 Q. And you submitted it on behalf of the American Bottom
6 Conservancy?

7 A. And the East St. Louis Community Action Network.

8 Q. Was that indicated anywhere on the face of your written
9 comment, that you were filing it on behalf of the East St. Louis
10 Community Action Network?

11 A. I think that the last page, in some of the copies, at
12 the bottom it said chair, environment committee. That went over
13 to the last page. I don't know whether you have got that page.
14 I was really trying to get it to the airport in time and I didn't
15 have time to make another copy, but I did make another copy with
16 that line brought up to that. But East St. Louis Community
17 Action Network is in the second paragraph that I believe I say on
18 behalf of both groups.

19 Q. Were you also submitting this in your personal capacity?

20 A. As a person that is interested in the environment I was

21 writing it. I was submitting it on behalf of the groups.

22 Q. You prepared that written comment? You wrote it?

23 A. I wrote it.

24 Q. And this is a nine page document?

241

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I believe the tenth page was the other part of the
2 bottom, the identification under my name. But it was nine pages,
3 but that was the tenth page.

4 Q. And this nine page written comment addressed the
5 floodplain issue; is that correct?

6 A. Yes.

7 Q. It addressed Section 22.19 (a) of the Illinois
8 Environmental Protection Act, correct?

9 A. Yes.

10 Q. It involved or included discussion of your contention
11 about the identity of Waste Management?

12 A. Yes.

13 Q. It included a discussion of Mr. Connor's testimony
14 relating to the floodplain; is that correct?

15 A. Yes.

16 Q. It includes discussion with respect to the alleged
17 groundwater impact of the existing landfill; is that correct?

18 A. I am sorry?

19 Q. The comment includes a discussion of the alleged

20 groundwater impact of the existing Milam Landfill?

21 A. Yes.

22 Q. The written comment also includes a discussion on
23 criterion two, the public health, safety and welfare criteria?

24 A. Yes.

242

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. The written comment also refers to certain testimony at
2 the hearing given by Mr. Lanert (spelled phonetically)? Is that
3 correct?

4 A. Yes.

5 Q. The written comment also includes certain discussion of
6 the compatibility of the Milam Landfill with the Cahokia Mounds?

7 A. Yes.

8 Q. Now, what sources did you use in preparing this written
9 comment? In other words, did you prepare this written comment
10 based entirely upon your memory of what occurred at the public
11 hearing?

12 A. No.

13 Q. What sources did you use to put together the written
14 comment?

15 A. Well, I went to the IEPA and FOIA'd documents on the
16 landfill and the history of the Milam site. I looked at other
17 documents. I downloaded things from the internet. I read
18 things. I called people. I talked to people.

19 Q. Did you have any notes that you took --

20 A. I had some.
21 Q. -- at the hearing?
22 A. I had some.
23 Q. Did you refer to those notes in preparing this public
24 comment?

243

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Some.
2 Q. Did you have any discussions with Mr. Norman regarding
3 his observations or notes concerning the public hearing in
4 preparing this written comment?
5 A. I am not sure. We had some discussions about some parts
6 of it and he read the document before it was submitted.
7 Q. So Mr. Norman provided some input --
8 A. He had some input.
9 Q. -- into the preparation of this written comment?
10 A. Yes, he did.
11 Q. Now, Ms. Andria, were you prevented in any way from
12 offering evidence at the public hearing relating to the
13 floodplain issue?
14 A. Yes. From offering? Okay. Was I prevented from
15 offering? I was prevented from having it accepted. I was not
16 prevented from offering it.
17 Q. Were you prevented from offering any evidence at the
18 public hearing relating to criterion one or the need criterion?

19 A. I don't believe I attempted to have anything about need
20 at the hearing.

21 Q. Were you prevented from offering any evidence at the
22 public hearing relating to criterion three, or the compatibility
23 criterion?

24 A. Yes, I wanted to put the picture, the aerial picture

244

KEEFE REPORTING COMPANY
1-800-244-0190

1 into -- and I had a USGS map. And, I mean, everything was
2 getting said no to. And I figured that my best nonrefutable
3 document was refused. And when the lesser documents started to
4 be refused, I gave up.

5 Q. Now, remember, you caught yourself a few minutes ago.
6 My question was were you prevented from offering any evidence
7 relating to criterion three?

8 A. Yes, I was preventing from offering the last things.

9 Q. And describe the circumstances that prevented you from
10 even offering this evidence at the public hearing?

11 A. He would not accept anything.

12 Q. Again, the distinction is between offering the evidence
13 and having the hearing officer admit the evidence. I am asking
14 if there was any evidence that you were prevented from even
15 offering into evidence at the public hearing relating to the
16 compatibility criteria?

17 A. Okay. Well, the picture I was looking for I couldn't
18 find. I was prevented from offering that because I was looking

19 through it and it was, like, let's get on with it kind of
20 atmosphere.

21 Q. Was that the only reason you didn't offer that
22 photograph, was --

23 A. I was trying to find it.

24 Q. -- because you couldn't find it? So you couldn't find

245

KEEFE REPORTING COMPANY
1-800-244-0190

1 it?

2 A. It was there. I just couldn't find it at the moment.

3 Q. Is there any other reason why you didn't offer that
4 photograph at the public hearing?

5 A. Other than I couldn't find it? Because I knew it
6 wouldn't be any good if I looked for it because it was not going
7 to get in.

8 Q. So did you not look for it because --

9 A. No, I looked for it. I was looking for it. I don't
10 know whether that is on the record or not. But I was looking for
11 it. I was trying to find -- I didn't think that would be
12 objected to. I was looking through other things that I was
13 hoping wouldn't be objected to, or that I thought might not be
14 objected to.

15 Q. Is it accurate to say that you were prevented from
16 offering that photograph because you couldn't find it at the
17 public hearing?

18 A. Not entirely, no.

19 Q. What other reasons were you prevented from offering the
20 photographs?

21 A. I just stated -- I just stated that the hearing officer
22 was not accepting anything into evidence.

23 Q. So based upon that knowledge, you elected not to offer
24 the photograph at the hearing?

246

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I elected not to pursue looking for it at that moment.

2 Q. Were you prevented from offering any evidence at the
3 public hearing regarding criterion two, that is the criterion
4 relating to the location of the proposed expansion as it related
5 to the public, health safety and welfare?

6 A. Are you -- are these all questions about offering?

7 Q. Yes.

8 A. Okay. Because I am tired and I forget the front part of
9 the question when you get to the last part. If this is all about
10 offer, my answer on each of them is going to be the same. I was
11 prevented from offering everything that was on the record so far
12 that -- we went through, I think, the entire exhibits that I made
13 an attempt to offer in the direct of the testimony. Everything
14 up to that, everything after then I attempted to and I stopped.
15 So if offer is your criteria, then everything is -- attempting to
16 offer or being stopped from offering, is that is correct, I
17 stopped trying to get things in.

18 Q. I am asking you only about criterion two.

19 A. Okay. I am sorry.

20 Q. The criteria relating to public health, safety and
21 welfare. Were you prevented from offering any evidence regarding
22 criterion two at the public hearing?

23 A. Prevented from offering? No.

24 Q. Now, Ms. Andria, I believe you testified earlier today

247

KEEFE REPORTING COMPANY
1-800-244-0190

1 that given the confusion about the dates for the public hearing
2 that you called the Village to clarify the date of the public
3 hearing; is that correct?

4 A. Yes.

5 Q. How many times did you call the Village to clarify the
6 date?

7 A. I think once.

8 Q. And when did you do that?

9 A. I don't remember. I think the day that it -- that there
10 was a discrepancy. And I called on -- I think I went by on the
11 13th.

12 Q. Again, just going back for a moment to your deposition
13 on August 8th, to page 82, line 14, beginning on line 14. Were
14 you asked the following questions and did you give the following
15 answers:

16 "Question: So you didn't call anybody to clarify those

17 notices, did you?

18 Answer: I don't remember precisely.

19 Question: You do remember going to the Village to try to
20 clarify this issue; is that correct?

21 Answer: Yes.

22 Question: Did you talk to anybody at the Village when you
23 went to try to clarify the issue?

24 Answer: I don't remember."

248

KEEFE REPORTING COMPANY
1-800-244-0190

1 Did you give those answers to those questions?

2 A. Probably if they are there I did.

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

4 HEARING OFFICER KNITTLE: Mr. Baricevic, you have the
5 opportunity to cross-examine this witness, but I think we wanted
6 to get Ms. Hunt on the stand. Do you have any objection to that?

7 MR. BARICEVIC: No.

8 HEARING OFFICER KNITTLE: Ms. Homeyer, do you have any
9 objection to that?

10 MS. HOMEYER: No.

11 HEARING OFFICER KNITTLE: Mr. Moran, this is pretty much --
12 this is your witness, correct? So you, of course, have no
13 objection.

14 MR. MORAN: None.

15 HEARING OFFICER KNITTLE: All right. Ms. Andria, you can
16 step down, but we are going to take you up again tomorrow, so to

17 speak. But you are finished for today.

18 THE WITNESS: We cannot finish up tonight?

19 HEARING OFFICER KNITTLE: We cannot finish it up tonight.

20 THE WITNESS: Okay.

21 (The witness left the stand.)

22 MS. HOMEYER: Mr. Knittle, did Mr. Moran say he is finished
23 with his cross-examination?

24 HEARING OFFICER KNITTLE: Mr. Moran is finished with his

249

KEEFE REPORTING COMPANY
1-800-244-0190

1 cross-examination.

2 MS. HOMEYER: So where we pick up tomorrow is with Mr.
3 Baricevic?

4 HEARING OFFICER KNITTLE: Correct.

5 MS. HOMEYER: All right. Thank you.

6 HEARING OFFICER KNITTLE: And then you will be able to
7 commence your redirect examination.

8 MS. HOMEYER: Thank you.

9 HEARING OFFICER KNITTLE: We will take a step outside the
10 procedure here for Mr. Moran's witness.

11 Ma'am, have a seat here and we will have you sworn in by
12 the court reporter.

13 (Whereupon the witness was sworn by the Notary Public.)

14 HEARING OFFICER KNITTLE: Mr. Moran, you may proceed at
15 will.

16 MR. MORAN: Thank you, Mr. Hearing Officer.

17 F L O S S I E H U N T,

18 having been first duly sworn by the Notary Public, saith as

19 follows:

20 DIRECT EXAMINATION

21 BY MR. MORAN:

22 Q. Could you state your name, please.

23 A. Flossie Hunt.

24 Q. And, Ms. Hunt, what is your address?

250

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. 348 Rear Collinsville Avenue, East St. Louis.

2 Q. What is your business or occupation?

3 A. A systems analyst.

4 Q. Where are employed?

5 A. Southwestern Bell Telephone.

6 Q. Are you affiliated with the East St. Louis Community
7 Action Network?

8 A. Yes.

9 Q. In what capacity?

10 A. President.

11 Q. For how long have you been president of the East St.
12 Louis Community Action Network?

13 A. A year now.

14 Q. What is the nature of the business of the East St. Louis
15 Community Action Network?

16 A. To empower neighborhood associations, businesses and
17 other member organizations to improve their quality of work life,
18 quality of life in East St. Louis.

19 Q. Are there member entities or organizations who
20 participate or are members in the East St. Louis Community Action
21 Network?

22 A. Yes.

23 Q. Can you identify those for us?

24 A. A few. There are about 23. Edgemont Neighborhood

251

KEEFE REPORTING COMPANY
1-800-244-0190

1 Association, of which I am the president. Oliver Park, Emerson
2 Park, the Central Business District, Goose Hill, South End, those
3 are some of them, but there are about 23. They are listed. You
4 have that list.

5 Q. How long has the East St. Louis Community Action Network
6 been in existence?

7 A. Since 1995.

8 Q. What is its mission statement?

9 A. To empower the neighborhood -- the member neighborhood
10 associations, businesses, and other organizations to improve
11 their quality of life in East St. Louis.

12 Q. Where are the offices of the network?

13 A. 348 Rear Collinsville Avenue, East St. Louis.

14 Q. In what proximity is the offices of ESL CAN to the Milam

15 Landfill?

16 A. My geography is horrible.

17 Q. Approximately how far is it from the offices of ESL CAN
18 to the Milam Landfill?

19 A. I can't even approximate. My geography is bad.

20 Q. Now, ESL CAN is one of the petitioners in the petition
21 for review that has been filed in this proceeding. Are you aware
22 of that?

23 A. Yes.

24 Q. In fact, you were one of the signatories to the original

252

KEEFE REPORTING COMPANY
1-800-244-0190

1 petition for review that was filed with the Pollution Control
2 Board; is that correct?

3 A. That's correct.

4 Q. And you had an opportunity to review both the original
5 petition and the amended petition for review that has been filed
6 in this proceeding?

7 A. Yes.

8 Q. Is it accurate to say that ESL CAN is represented in
9 these proceedings by Ms. Homeyer?

10 A. That is correct.

11 Q. Now, when did you first become aware that Waste
12 Management of Illinois, Inc., was proposing to expand the Milam
13 Landfill?

14 A. I can't give you a specific date. But it would have

15 been -- I can't give you a specific date. I assume 1999
16 sometime. Not a specific date.

17 Q. How did you become aware?

18 A. Ms. Andria informed me.

19 Q. Ms. Andria is a member of the Network?

20 A. She is.

21 Q. In what capacity does she serve?

22 A. She serves in two capacities. She is the secretary and
23 she is also the chairperson of the environmental committee.

24 Q. Was there a decision made by the Network to participate

253

KEEFE REPORTING COMPANY
1-800-244-0190

1 in the siting hearings before the Village of Fairmont City on
2 this siting request?

3 A. Yes.

4 Q. When was that decision made?

5 A. Again, no date, but it would have been at one of our
6 general meetings where we would have voted on it.

7 Q. You have no recollection, as you are sitting here now,
8 as to when the meeting was?

9 A. Specific, the closest I can get to you is it would have
10 been on a third Saturday in the month because that's when our
11 general meetings are held.

12 Q. Would this vote have occurred before or after March 17th
13 of 2000?

14 A. It would have -- it should have been before.

15 Q. But you don't have any recollection as to whether it, in
16 fact, was before March 17th?

17 A. I can't be specific, but it would have -- it should have
18 been before.

19 Q. And was the decision to participate in the siting
20 application proceedings memorialized in a resolution or in any
21 other written document authorizing someone to appear on behalf of
22 the Network in these siting proceedings?

23 A. I am sorry? Can you repeat that and clarify it?

24 Q. Was the decision of the Network to participate in the

254

KEEFE REPORTING COMPANY
1-800-244-0190

1 siting proceedings reduced to writing?

2 A. No, no.

3 Q. So that the decision to participate was simply made
4 orally among a number of the board members or officers of the
5 organization?

6 A. Or members.

7 Q. Or members?

8 A. Yes, yes.

9 Q. And who voted to participate or have the Network
10 participate in the siting hearing?

11 A. The members that were present on the date that we -- on
12 the third Saturday in the month.

13 Q. Who were those members?

14 A. Who was present?

15 Q. Who voted to participate in the siting hearing on behalf
16 of the Network?

17 A. I can't tell you who was in attendance. I can't tell
18 you who was in attendance at that meeting where we voted because
19 I don't know who was in attendance on that third Saturday
20 beginning at 10:00, which is our starting time on the day that we
21 voted. I can't tell you who specifically was present.

22 Q. Did the decision to participate in the siting hearings
23 include a commitment of any monies or funds to pay for the costs
24 of participation?

255

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. No.

2 Q. Was it ever anticipated that the Network's involvement
3 in the siting proceedings would require the network to expend any
4 funds?

5 A. No.

6 Q. Who appeared at the siting hearing on behalf of the
7 network?

8 A. Kathy Andria.

9 Q. Anyone else?

10 A. Not that I am aware of, no.

11 Q. You did not attend the hearings?

12 A. I did not attend.

13 Q. Was there a decision made to appeal the decision of the
14 Village of Fairmont City on the siting application on behalf of
15 the network?

16 A. Appeal?

17 Q. In other words --

18 A. A petition for rehearing?

19 Q. The petition for review is an appeal.

20 A. Yes.

21 Q. This proceeding, the reason we are here today, is an
22 appeal.

23 A. Yes.

24 Q. Was a decision made to appeal the decision of the

256

KEEFE REPORTING COMPANY
1-800-244-0190

1 Village of Fairmont City?

2 A. Yes.

3 Q. When was that decision made?

4 A. It would have been at a meeting on the third Saturday of
5 the month. I can't give you a specific date.

6 Q. Who voted to participate in the appeal?

7 A. The members that were present at the time, and I cannot
8 tell you who specifically was present.

9 Q. Were you present?

10 A. I have missed very few meetings. I am pretty sure I
11 was.

12 Q. Were you present during the meeting on the third

13 Saturday of the month when a decision was made to participate in
14 the siting hearing?

15 A. I remember that meeting.

16 Q. That one you voted to move forward?

17 A. Yes, we would -- we don't move forward unless we are in
18 agreement and we vote on it, yes.

19 Q. When did you first learn of a date for the public
20 hearing on the siting application?

21 A. The specific date, I don't remember.

22 Q. Do you remember the circumstances under which you
23 learned of the date of the public hearing?

24 A. It would have been a telephone call or in person and it

257

KEEFE REPORTING COMPANY
1-800-244-0190

1 would have been from Ms. Andria.

2 Q. Do you remember what she told you about the date of the
3 public hearing?

4 A. Specifically, no. I know what I can remember is that
5 there was some confusion, but specifics other than that, no.

6 Q. Well, you were not confused as to the date of the public
7 hearing, were you?

8 A. Was I confused as to the date? Only what I heard from
9 Ms. Andria, that there was some confusion.

10 Q. But I am saying you personally were not confused as to
11 the date of the public hearing, were you?

12 A. I cannot remember and I know that there were -- in
13 talking with Ms. Andria, there was some confusion as far as the
14 print, the stated date in the paper, in the News-Democrat. So I
15 don't recall.

16 Q. Ms. Hunt, if I showed you a copy of your deposition
17 transcript, might that refresh your recollection as to whether
18 you were confused?

19 A. It might.

20 Q. Page 28, line 24. Ms. Hunt, you remember appearing to
21 answer questions that I asked you at a deposition on August 10th
22 of this year?

23 A. Yes.

24 Q. Let me just direct your attention to page 28 of that

258

KEEFE REPORTING COMPANY
1-800-244-0190

1 transcript and line 24. Beginning here and going on to the next
2 page, could you read that question and those answers and then
3 tell me if that refreshes your recollection as to whether you
4 were confused about the hearing date?

5 A. Question, is --

6 Q. You don't need to read it out loud. You can read it to
7 yourself and tell us if you --

8 MS. HOMEYER: Could Mr. Moran clarify, then, what the
9 witness has been directed to read?

10 MR. MORAN: Yes. Page 28, beginning on line 24. And feel
11 free to read any part of the page and the next page if it helps

12 to refresh your recollection.

13 (The witness reviewing document.)

14 THE WITNESS: The question centered on --

15 Q. (By Mr. Moran) Ms. Hunt, does it refresh your
16 recollection --

17 A. It does.

18 Q. -- as to whether you were confused?

19 A. It does.

20 Q. Were you confused about the hearing date?

21 A. No.

22 Q. Now, Ms. Hunt, were you aware of any person who was
23 unable to attend the public hearing because of the number of
24 notices that were published about it?

259

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Only the possibility of it, as told to me by Ms. Andria.

2 Q. Ms. Hunt, again, I am going to ask you --

3 A. Quite all right.

4 Q. -- if a portion of your deposition transcript might
5 refresh your recollection. This is on page 30, beginning line
6 13, and I would just ask you to read that question and the
7 response, and then ask you if that refreshes your recollection.

8 (The witness reviewing document.)

9 A. Well, what it reads there -- but I am not aware
10 personally. Only what I was told by Ms. Andria.

11 Q. You are not personally aware of any persons --

12 A. Personally.

13 Q. -- who were unable or prevented from attending the
14 public hearing on March 17th because of the number of notices
15 that were published for that hearing; is that correct?

16 A. Not personally.

17 Q. Is that correct?

18 A. Correct, not personally.

19 Q. Are you generally aware of any persons who were unable
20 or prevented from attending that public hearing because of the
21 fact that there were three published notices for the hearing?

22 A. By generally you are not including --

23 Q. I am including any information you may have received
24 from some other person, from hearsay, through any means?

260

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Generally I am aware by what Ms. Andria told me, and
2 that is that there was some confusion and there may have been
3 people that she had been talking to about coming that may have
4 been confused because of the -- I guess it was termed a misprint
5 of the date.

6 Q. And which persons were unable or prevented from
7 attending the hearing because of these three notices?

8 A. Okay. Specifically, I had heard her talk about -- and I
9 don't know names -- about the landfill being in the 100-year
10 floodplain and the gentleman that was aware of that, an

11 archeologist. But I don't know names.

12 Q. You can't identify for us any specific names?

13 A. No.

14 Q. Ms. Hunt, is it accurate to say that you are unable to
15 identify any witnesses that the East St. Louis Community Action
16 Network would have tried to present at the public hearing because
17 of any confusion regarding these notices?

18 A. Because Ms. Andria was our representative, the
19 representative as the environmental chair, any persons that she
20 would have asked to attend I would say ESL CAN would not -- they
21 would not have been able to attend on behalf of ESL CAN, her
22 being our representative.

23 Q. Well, is it accurate to say that you are unable to
24 identify any witnesses who ESL CAN would have tried to present at

261

KEEFE REPORTING COMPANY
1-800-244-0190

1 the hearing as a result of the alleged confusion as to the
2 notices; is that correct?

3 A. Any witnesses personally, that is correct. Generally,
4 only those that Ms. Andria would have tried to present on behalf
5 of ESL CAN.

6 Q. And you have no recollection as to who any of those
7 persons are, do you?

8 A. Specifically, no.

9 Q. Do you have any facts or any information to suggest that

10 the unavailability of the public hearing transcript prevented ESL
11 CAN or Ms. Andria from preparing a written comment responding or
12 rebutting any testimony that was presented at the public hearing?

13 A. As I think I remember reading in the amended petition,
14 because of her -- of Ms. Andria's inability to get the
15 application, that may have caused her some problems in writing
16 the -- our petition.

17 Q. So is your answer that you do have facts?

18 A. What I have been told, what I have read in the amended
19 petition. Are those considered facts?

20 Q. When did you first see the amended petition? Was it
21 before you gave your deposition on August 10th?

22 A. That week.

23 Q. Was it before you were deposed on August 10th?

24 A. Yes, yes.

262

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Do you remember appearing --

2 A. On August 10th.

3 Q. -- at Ms. Homeyer's office to give your deposition?

4 A. Yes, and I had read the amended petition prior to the
5 deposition.

6 Q. Do you recall at that time taking an oath?

7 A. Yes.

8 Q. Do you recall at that time taking an oath to tell the
9 truth in response to questions that were being posed to you?

10 A. Yes.

11 Q. At your deposition do you recall being asked this
12 question and giving this answer? This is page 46, line two.

13 "Question: Do you have any facts or information to suggest
14 or establish that the unavailability of the public hearing
15 transcript prevented Ms. Andria or ESL CAN from preparing a
16 written comment responding to or rebutting any expert testimony
17 that was presented at the public hearing?

18 Answer: No."

19 Did you give that answer to that question?

20 A. If it is there, I assume that I did.

21 Q. Now, Ms. Hunt, do you have any facts or information to
22 suggest that ESL CAN or Ms. Andria was prevented from offering
23 any evidence at the public hearing regarding the floodplain
24 issue?

263

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Only what I have heard and I think I read something in
2 the petition.

3 MR. MORAN: Page 49, line 7.

4 MS. HOMEYER: Thank you.

5 Q. (By Mr. Moran) Ms. Hunt, again, at your deposition on
6 August 10th, were you asked the following question and did you
7 give this answer:

8 "Question: Do you have any information or facts to suggest

9 or indicate that Ms. Andria or ESL CAN was prevented or unable to
10 present any evidence regarding the floodplain issue at the public
11 hearing?

12 Answer: No."

13 Were you asked that question and did you give that answer?

14 A. If it is written there, I assume so.

15 Q. Ms. Hunt, do you have any facts or information to
16 suggest that Ms. Andria or ESL CAN was prevented from presenting
17 any evidence at the public hearing regarding the need for the
18 proposed expansion?

19 A. Presenting? Offering?

20 Q. Yes.

21 A. Now, when you say information, what I have heard here
22 today I consider to be information, and that's why you asked if I
23 took an oath. But I consider this to be information. So today I
24 have heard that she might not have gotten all of the application,

264

KEEFE REPORTING COMPANY
1-800-244-0190

1 so I consider that a lack of information that she would have not
2 had to present.

3 Q. So your testimony now is that based upon what you heard
4 today in Ms. Andria's testimony in this hearing that there was
5 information that she was prevented from offering at the public
6 hearing that related to the issue of need?

7 A. I was -- it is what I hear and what I understand. So I
8 am testifying based on what I hear and what I understand, that's

9 correct.

10 Q. And what information did you hear today that indicated
11 to you that Ms. Andria was unable to offer evidence relating to
12 need at the public hearing?

13 A. That she did not have a complete application and in the
14 application there might have been information on need that she
15 didn't have to present.

16 Q. Was there any other information that you heard Ms.
17 Andria testify about today that indicated that she was prevented
18 from offering any evidence relating to need at the public
19 hearing?

20 A. No.

21 Q. Do you have any facts or information to suggest or
22 establish that ESL CAN was unable to offer any evidence to show
23 that the Milam expansion was not located so as to minimize any
24 compatibility with the character of the surrounding area?

265

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. We had a problem with this one, I remember, in the
2 deposition. Can you repeat that?

3 Q. Yes. Do you have any facts or information to indicate
4 that ESL CAN was prevented from offering evidence on whether the
5 proposed expansion was compatible with the character of the
6 surrounding area?

7 A. No.

8 MR. MORAN: I have nothing further.

9 HEARING OFFICER KNITTLE: Let's go off the record for a
10 second.

11 (Discussion off the record.)

12 HEARING OFFICER KNITTLE: All right. We are back on the
13 record. Mr. Baricevic, do you have any questions for this
14 witness?

15 MR. BARICEVIC: No.

16 HEARING OFFICER KNITTLE: Ms. Homeyer?

17 CROSS EXAMINATION

18 BY MS. HOMEYER:

19 Q. Ms. Hunt, I believe you testified that your geography is
20 not the best?

21 A. It is poor.

22 Q. If you were to drive from ESL CAN's office, at 348 Rear
23 Collinsville Road in East St. Louis to the Milam Landfill,
24 approximately how long would it take to drive?

266

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I have only been there once and that is in my
2 deposition. It was at night, and we didn't -- we came from
3 Collinsville. I really am being quite honest when I say I don't
4 know.

5 Q. Have you ever smelled the Milam Landfill?

6 A. I have not, no. Well, I take that back. I may have on
7 my one visit. On my one visit I may have, but I cannot remember.

8 Q. Would it be fair to say that the distance from ESL CAN's
9 office to the Milam Landfill is under ten miles?
10 A. Yes.
11 Q. Under five miles?
12 A. Yes.
13 Q. You testified that Ms. Andria did represent ESL CAN at
14 the March 17th public hearing, correct?
15 A. Correct.
16 Q. And that ESL CAN was aware prior to March 17th that she
17 intended to attend on behalf of ESL CAN in support of that,
18 correct?
19 A. Correct.
20 Q. Now, was there a board of directors vote for ESL CAN to
21 participate in the petition for review after the hearing?
22 A. Membership vote, is I think what it was at a general
23 meeting.
24 Q. Do you recall a board of directors vote to take that

267

KEEFE REPORTING COMPANY
1-800-244-0190

1 action?
2 A. I can't remember. There may have been one, but I cannot
3 remember that.
4 Q. Is it fair to say, though, that ESL CAN made a decision
5 prior to the filing of the petition for review to participate in
6 it?

7 A. That's correct.

8 Q. And did you have authority from ESL CAN's board of
9 directors to sign the petition on behalf of ESL CAN?

10 A. Yes.

11 Q. That was not something you decided to do on your own,
12 was it?

13 A. No.

14 Q. Did you rely on Ms. Andria to keep you informed of what
15 was happening both prior to the March 17 hearing and after the
16 March 17 hearing?

17 A. Yes.

18 Q. Is it fair to say that your information or facts about
19 the allegations in the amended petition are primarily based on
20 what you heard from Ms. Andria?

21 A. That's correct.

22 MS. HOMEYER: I don't have any further questions.

23 HEARING OFFICER KNITTLE: Do you have any redirect, Mr.
24 Moran?

268

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MORAN: No redirect.

2 HEARING OFFICER KNITTLE: Thank you, ma'am, for your time.
3 You may step down.

4 (The witness left the stand.)

5 HEARING OFFICER KNITTLE: I am going to call it a day here.
6 We will meet back -- let's go off the record.

7 (Discussion off the record.)

8 HEARING OFFICER KNITTLE: All right. We are back on the
9 record.

10 We are going to finish up for today. It is about 6:05 p.m.
11 I note there are no longer any members of the public present. We
12 are going to start tomorrow at 9:00 a.m., which is an hour
13 earlier than noticed, but I don't think that will be a problem.
14 We will be going at 10:00, as well. So thank you very much.

15 (Hearing exhibits were retained by Hearing Officer
16 Knittle.)

17

18

19

20

21

22

23

24

KEEFE REPORTING COMPANY
1-800-244-0190

1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the

6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 269 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 22nd of August A.D.,
9 2000, at the St. Clair County Building, County Board Conference
10 Room, Belleville, Illinois, in the case of American Bottom
11 Conservancy, East St. Louis Community Action Network, Kathy
12 Andria and Jack Norman v. Village of Fairmont City and Waste
13 Management of Illinois, Inc., in proceedings held before John C.
14 Knittle, Chief Hearing Officer, and recorded in machine shorthand
15 by me.

16 IN WITNESS WHEREOF I have hereunto set my hand and affixed
17 my Notarial Seal this 28th day of August A.D., 2000.

18

19

20

21

22

23

Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

24 CSR License No. 084-003677
My Commission Expires: 03-02-2003

270

KEEFE REPORTING COMPANY
1-800-244-0190