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1-800-244-0190

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A P P E A R A N C E S

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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On behalf of the Illinois EPA

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On behalf of Illinois-American Water Company

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9

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and

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ILLINOIS-AMERICAN WATER COMPANY

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On behalf of Illinois-American Water

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Company.

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1 EXHIBITS

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3	NUMBER	MARKED FOR I.D.	ENTERED
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1 P R O C E E D I N G S

2 January 6, 2000; 9:40 a.m.)

3 HEARING OFFICER KNITTLE: Good morning. My name is
John
4 Knittle. I am a Hearing Officer with the Illinois
Pollution
5 Control Board. I am also now the assigned Hearing Officer
for
6 this case, which is Adjusted Standard 1999-006 in the
Matter of
7 Petition of Illinois-American Water Company's Alton Public
Water
8 Supply Replacement Facility Discharge to the Mississippi
River
9 for an Adjusted Standard from 35 Illinois Administrative
Code

10 304.124, 106 and 302.203.

11 You probably all are aware that Karen Kavanagh Mack
was the
12 prior Hearing Officer on this case. I don't want you to
infer
13 anything from my substitution. She is leaving the Board
and
14 going to a private firm in Chicago, so I will be handling
this
15 from now on.

16 This is a hearing that was commenced on November
30th and
17 was continued on the record until today. I am going to
run this
18 hearing in accordance with the Board's procedural rules,
19 specifically Sections 106.806, which sets forth the
adjusted
20 standard order of hearing. We are going to -- I know most
of you
21 were present here last time when Karen Kavanagh Mack
explained
22 our procedures in terms of public comments.

23 We are going to run it the same way. You will have
an
24 opportunity to provide public comment today if you so
choose.

5

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1 That public comment will be after the continued testimony

of both

2 the petitioner and the Agency, the Illinois Environmental
3 Protection Agency. We will call you up here, swear you
in, and
4 you can provide any testimony you want. You will be
subject to
5 cross-examination from either of the interested parties.

6 I want to start with preliminary matters. It is my
7 understanding that there was an amended petition filed on
January
8 5th. I have not seen a copy of that, but is that correct?

9 MS. RICH: We filed a motion to amend which
contained the
10 paragraphs which we would like to add to our petition, and
that
11 was filed with the Board yesterday.

12 HEARING OFFICER KNITTLE: Okay. Ms. Moreno, you are
aware
13 of that?

14 MS. MORENO: Yes. I have not seen it -- I mean, I
saw it
15 today, but Ms. Rich and I had extensive discussions about
it, so
16 I am quite familiar with the contents.

17 HEARING OFFICER KNITTLE: All right. The rules do
provide
18 for the filing of an amended petition before the close of
19 hearing, as in the case here. The motion to amend the
petition
20 will be granted.

21 And now we are going to talk about the Agency
response.

22 Under the rules we have 30 days for the Illinois

Environmental

23 Protection Agency to respond to this. We have talked off
the

24 record, and Ms. Moreno, you have represented that you
could file

6

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1 an Agency recommendation within 14 days?

2 MS. MORENO: Yes.

3 HEARING OFFICER KNITTLE: I would set that up as
January

4 21st, which would actually give you 16 days. That is a
Friday,

5 and that would probably give you --

6 MS. MORENO: That would be excellent.

7 HEARING OFFICER KNITTLE: Okay. So we will set the
time

8 for the Agency recommendation, the amended Agency
recommendation

9 to be filed January 21st, 2000.

10 MS. MORENO: Yes.

11 HEARING OFFICER KNITTLE: There is no objection to
that,

12 Ms. Rich?

13 MS. RICH: No objection.

14 HEARING OFFICER KNITTLE: I also should say I am
recovering

15 from the same sickness that everybody else has. If

someone can't

16 hear me back there, please raise your hand and I will
repeat it

17 and try to say it again. So just let me know if you are
having

18 trouble hearing me, okay.

19 I am going to start with -- I know we have already
gone

20 through the opening statements from both sides, but this
is a

21 continuation and there may be new people here. I will
offer a

22 brief opening if you want to go before we get into the
testimony.

23 So Ms. Rich.

24 MS. RICH: Yes. Thank you. The purpose of today's
hearing

7

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1 is for the Water Company and the Agency, the Great Rivers
Land

2 Trust and other interested parties to present detailed
testimony

3 regarding the sediment control proposal that we initially

4 proposed to the Board at the last hearing. Certainly, the
Water

5 Company supports this proposal because it will produce at
least

6 twice the environmental benefit. Just addressing the
Water

7 Company's discharge, this is going to be accomplished at a
much
8 lower cost. A member of the Illinois State Water Survey,
we
9 understand, will also explain how the same type of
sediment
10 control projects have already worked elsewhere in Illinois
and
11 why the proposed sediment control volumes can be achieved
in our
12 case.

13 We also want to point out that this proposal is
totally
14 consistent with federal law, as the Agency will explain in
15 testimony that we understand will be submitted in written
form
16 later. They use the federal guidance for total maximum
daily
17 loading limits, or TMDLs to evaluate the proposed offset
ratio we
18 are talking about here. Even though this program does not
really
19 apply to our discharge, they used it as guidance. This
ensures
20 that we are being very conservative in our goals here.
The TMDL
21 program requires only a 1 to 1.5 ratio. But here we are
doing
22 even more, 50 percent more, in other words, a 1 to 2
ratio.

23 The Great Rivers Land Trust, who will be
implementing this
24 proposal, thinks that eventually it can do even more, as
we

1 understand they will be discussing in their testimony. In
2 addition, there is substantial community support for this
3 proposal as Alan Ringhausen, the leader of the local
Watershed
4 Conservancy Group, will be discussing in his testimony.
5 Substantial community support was also demonstrated at the
last
6 hearing by witnesses representing the Alton Lake Heritage
Parkway
7 Commission and the River Bed Growth Association. Alton's
Mayor
8 Pro Tem and one of the residents of the subdivision
located near
9 the replacement water treatment facility also testified in
10 support of the sediment control proposal and stressed the
11 potential negative impacts of lagoons and sludge trucks.

12 This case provides the Board with its first
opportunity to
13 rule directly on an offset proposal in a discharge case
although,
14 certainly, the Board has adopted offsets in its air
pollution
15 control programs and even in other water discharge cases,
as I
16 believe the Agency will discuss. As Mark Johnson, the
Water
17 Company's only witness today, will be noting in his
testimony,

18 this is a win-win situation for everyone. And the Water
Company
19 looks forward to the Board's approval of this innovation
for the
20 residents of Illinois. That's all. Thank you.

21 HEARING OFFICER KNITTLE: Thank you, Ms. Rich. Ms.
Moreno,
22 do you have anything?

23 MS. MORENO: Yes, I would like to follow on Ms.
Rich's
24 comments. As originally structured, the Agency had
recommended

9

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1 denial of the Water Company's position, and as was
discussed at
2 the last hearing, the Water Company subsequently came
forward
3 with this innovative proposal, which the Agency has had
the
4 opportunity to discuss at length with the Water Company,
and we
5 are going to be able to call on expertise of our own
people. I
6 have with me Mr. Mollahan, who is the main person
responsible for
7 the Agency's own grant program where we fund projects that
are
8 very similar to the particular project that is being
proposed

9 today.

10 In addition, I am going to be asking Mr. Roseboom
from the

11 Water Survey to give some testimony with respect to the
State's

12 perspective on the program and the process. Needless to
say, the

13 Agency has abandoned its former position of opposing the
relief

14 requested by the Water Company, and I would like to stress
that

15 the Agency believes that there is no question that the
Water

16 Company could achieve the required effluent standards
through the

17 use of treatment technology existing in new treatment
technology,

18 but the Agency also believes that this program that is
being

19 presented more than makes up for the reductions that would
be

20 achieved by that standard technology. And the Agency is
actually

21 looking forward to working with the Water Company and the
Land

22 Trust in what we hope can become a model for other
projects where

23 we will finally be able to intergrade non point source and
point

24 source reductions together. Because we have come to a
point in

1 water pollution where reduction of non point source
sediment
2 loading, especially in Illinois, is absolutely vital. And
we
3 feel that this partnership between the Water Company and
the Land
4 Trust is an ideal way to initiate what is going to be the
next
5 generation essentially of controls.

6 Now, as Ms. Rich and I have both pointed out at the
last
7 hearing and as Ms. Rich just pointed out here, the offset
-- the
8 particular program and the particular process that we are
9 presenting to the Board today is new. However, this is
not the
10 first time that the Board has seen the concept of offsets
in
11 connection with water treatment plant discharges to the
12 Mississippi River. And specifically in the Rock Island
adjusted
13 standard in 1995, AS 91-13 as well as the East Moline
adjusted
14 standard, AS 91-9, which the final opinion on May 19,
1994, which
15 were essentially statutory proceedings whereby the water
16 companies were given the opportunity to come in for
adjusted
17 standards to be able to not treat their discharges back to
the
18 Mississippi River.

19 In both of these cases as part of their proposal,
both
20 cities proposed to take land out of production to make --
as an
21 offset essentially so that with all of the things that
they were
22 going to be doing in terms of implementing certain
practices in
23 their water plant and implementing these farming practices
that
24 the net effect of the sediment loading in the Mississippi
River

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1 and Rock Island East Moline would be essentially less than
if
2 they had treated. That's the case here, too. Ms. Rich
mentioned
3 the two to one offsets, which we are fairly excited about
and we
4 understand that there is the potential in the long-term,
and this
5 is a long term project, for more reductions than that.

6 So as I mentioned, I am going to have Mr. Mollahan
testify
7 and Mr. Roseboom testify. Mr. Thomas McSwiggin, who is
the head
8 of the Agency permit section has some crucial testimony to
offer
9 in terms of the actual decision making on the offsets, the

10 decision making on the relationship between the Agency and
the
11 Water Company and the Land Trust, and the details of how
this is
12 going to be fit into a permit. Unfortunately, Mr.
McSwiggin has
13 had emergency surgery and is obviously not available, and
we will
14 be submitting Mr. McSwiggin's testimony in written form as
soon
15 as he is well enough to give it. Thank you.

16 HEARING OFFICER KNITTLE: Thank you, Ms. Moreno. We
talked
17 about this off the record as well, Ms. Rich.

18 Ms. Moreno, you are going to file Mr. McSwiggin's
testimony
19 when he is able?

20 MS. MORENO: Right.

21 HEARING OFFICER KNITTLE: I would suggest you attach
an
22 affidavit to that.

23 MS. MORENO: Sure.

24 HEARING OFFICER KNITTLE: Is there any objection to
that

12

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1 course of action, Ms. Rich?

2 MS. RICH: No objection.

3 HEARING OFFICER KNITTLE: In light of the exigent
4 circumstances, we wish him all the best. When that comes
in that
5 will be accepted. It would be helpful if we had that by
the time
6 of your Agency recommendation.

7 MS. MORENO: Yes, I understand that.

8 HEARING OFFICER KNITTLE: If that is not a
possibility
9 please file something in writing explaining that he is
still not
10 able to do that.

11 MS. MORENO: Yes.

12 HEARING OFFICER KNITTLE: Which takes us to the
continued
13 cases in chief. Ms. Rich, if you have any witnesses you
would
14 like to call.

15 MS. RICH: Yes. We have just one witness today.
That will
16 be recalling a witness who testified at the last hearing,
Mark
17 Johnson.

18 HEARING OFFICER KNITTLE: Mr. Johnson, could you
come up
19 and have a seat there at Alderman Hoechst's chair. You
can sit
20 there and we will swear you in and you can provide
testimony.

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

22 MS. RICH: At the last hearing Mr. Johnson presented
23 written testimony, as several other witnesses did on
behalf of

24 the Water Company. We would like to continue that
practice today

13

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1 of simply submitting the written testimony. I have
previously

2 provided a copy of his testimony to Ms. Moreno.

3 HEARING OFFICER KNITTLE: All right.

4 M A R K J O H N S O N ,

5 having been first duly sworn by the Notary Public, and
saith as

6 follows:

7 DIRECT EXAMINATION

8 BY MS. RICH:

9 Q. Mr. Johnson, do you have a copy of your
testimony with

10 you here today?

11 A. Yes.

12 Q. And is that a correct copy of testimony that you
13 prepared?

14 A. Yes.

15 Q. You have signed that copy?

16 A. Yes, I have.

17 MS. RICH: Okay. At this time I would like to
present the

18 testimony of Mark Johnson as Exhibit Number 1 in the

continued

19 hearing for the Water Company.

20 HEARING OFFICER KNITTLE: Is there any objection
from the

21 Agency?

22 MS. MORENO: No objection.

23 HEARING OFFICER KNITTLE: All right. Then this will
be

24 admitted.

14

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1 (Whereupon said document was duly marked for purposes
of

2 identification and admitted as Petitioner's Exhibit 1
as of

3 this date.)

4 HEARING OFFICER KNITTLE: I will admit it as
Petitioner's

5 Exhibit Number 1. We are just going to start over with
all of

6 the exhibits. Everything will have a new number as of
today.

7 Okay. Do you have any questions of Mr. Johnson, Ms.
Rich?

8 MS. RICH: No.

9 HEARING OFFICER KNITTLE: Ms. Moreno, do you have
any

10 questions you would like to ask?

11 MS. MORENO: No.

12 HEARING OFFICER KNITTLE: Sir, you can step down.
Thank

13 you very much.

14 (The witness left the stand.)

15 HEARING OFFICER KNITTLE: All right. Do you have
any

16 further witnesses, Ms. Rich?

17 MS. RICH: No, we have no further witnesses today.

18 HEARING OFFICER KNITTLE: Before we close off your
case, is

19 there anything else you want to add at this time, any
other

20 comments?

21 MS. RICH: We would just like to point out that in
our

22 motion to amend that we filed yesterday, we did include a
request

23 for variance. It is very important to point out that this
plant

24 is scheduled to come on line December 31st, 2000, in order
to

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1 provide replacement water service to the residents of
Alton.

2 Given the time that has gone on and that will still be
required

3 to conclude this proceeding, we thought it was critical

that we

4 make the Board aware of our time crunch here. We have had
some
5 discussions with the Agency, which Ms. Moreno was present,
that
6 indicate that it will probably be necessary, at least as
we
7 understand it, to public notice the permit by September.

8 So in the event that the Board would not be able to
rule on
9 the merits by I believe we said the beginning of August or
so, we
10 would then request that the Board grant us a variance
until such

11 time as it does rule on the merits. And in addition in
the event
12 that the Board for some reason should not approve this
proposal,
13 and not grant the adjusted standard relieve, we would also

14 request a variance for the period of time that it would
take us
15 to work with the Agency to develop a compliance schedule
to

16 design and construct lagoons and install filter trusses?
To do
17 the conventional treatment. Obviously, that is not our
18 preference to do that, but that is something that we just
want to
19 make sure that procedural gap is covered.

20 HEARING OFFICER KNITTLE: Okay. Thank you. And I
would
21 suggest that you address that in your post hearing briefs
as well
22 so the Board has something in writing. Like you said,
this is

23 addressed in part in the motion to amend the petition,
correct?

24 MS. RICH: Correct.

16

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1 HEARING OFFICER KNITTLE: Ms. Moreno, do you have
any
2 witnesses?

3 MS. MORENO: Could we go off the record just a
minute?

4 HEARING OFFICER KNITTLE: Yes. Off the record.
5 (Discussion off the record.)

6 HEARING OFFICER KNITTLE: Back on the record. Ms.
Moreno
7 had an off-the-record suggestion regarding the order of
8 testimony. Can you make that again?

9 MS. MORENO: Yes. Mr. Hearing officer, the Land
Trust, who

10 are actually going to be doing the work, the sediment
reduction

11 work, are here and have prepared testimony to explain to
the

12 Board in a fair amount of detail what their proposed
program

13 consists of. And I would suggest that in order to keep
the flow

14 of testimony coherent and to assist the Board in
understanding

15 what is going on, essentially, that it would probably be
good for
16 the Land Trust to provide their testimony next, although
they
17 obviously are not clients of Ms. Rich and the Water
Company, they
18 are on the side of proponents of the adjusted standard and
that
19 way once having presented their testimony it will be more
20 coherent and make more sense for the Agency to present its
21 testimony which will in certain respects be a commentary
upon the
22 testimony that the Water Company will have presented. So
just
23 for if no other reason the ease of understanding by the
Board I
24 would suggest that the Land Trust testimony be received
next.

17

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1 HEARING OFFICER KNITTLE: Ms. Rich, you stated off
the
2 record that you didn't have an objection to that. Is that
still
3 the case?
4 MS. RICH: That's correct. That is an excellent
5 suggestion.
6 HEARING OFFICER KNITTLE: This is in the nature of a
public

7 comment, then, I take it?

8 MS. MORENO: Well --

9 HEARING OFFICER KNITTLE: Are they represented by an
10 attorney?

11 MS. RICH: No.

12 HEARING OFFICER KNITTLE: They are not parties to
the case,

13 so it is in the nature of a public comment, but we will
take this

14 public comment at this point. Who wants to testify from
the Land

15 Trust?

16 MR. FREEMAN: I am Wayne Freeman. I am the
executive

17 director of the Land Trust.

18 HEARING OFFICER KNITTLE: Sir, can you come up and
have a

19 seat on the end there and we will swear you in.

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

21 HEARING OFFICER KNITTLE: Thank you, sir. Could you
sit

22 down.

23 MR. FREEMAN: Can I stand?

24 HEARING OFFICER KNITTLE: I would rather you sit
down if

1 you don't mind, unless you have some need to stand, tell
me that.

2 MR. FREEMAN: I have some boards here.

3 HEARING OFFICER KNITTLE: If you want to point out
the

4 boards that's fine.

5 MR. FREEMAN: My name is Wayne Freeman. I am the
executive

6 director of the Great Rivers Land Trust. We are the
organization

7 that proposes to accomplish the offset project. What I
hope to

8 tell you and explain to you is a little bit about the

9 organization, some of our accomplishments over the last
seven or

10 eight years, and the actual work plan that we would
propose to be

11 working through to accomplish the offset project. I would
state

12 that we have worked diligently with both the IEPA
representatives

13 from IDNR and the Water Company in trying to come to some
form of

14 an agreement that we are all happy with on how we would
address

15 that, the offset project.

16 A little bit about Great Rivers Land Trust, we are a
local

17 Land Trust. We have been incorporated in 1992. We are
one of

18 1,200 land trusts, local regional land trusts across the
United

19 States. Our focus area is the area between the confluence
of the

20 Missouri River and the Illinois River and along the
Mississippi
21 River, hence the name the Great Rivers Land Trust. The
22 organization was set up to protect land and waters in our
area
23 through the form of land acquisition and scenic and
conservation
24 easements and in repairing rights easements. To date we
have

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1 accomplished within the last three years we have preserved
about
2 900 acres within the Alton Lake Heritage Parkway corridor.
The
3 Alton Lake Heritage Parkway corridor is that area along
the Great
4 River Road between Alton and Pere Marquette State Park
north of
5 Grafton.

6 I have a board here which shows the Alton Lake
Heritage
7 Parkway corridor which is the area between Alton and Pere
8 Marquette. At that point where the Parkway starts that is
where
9 the new water treatment plant is being constructed here on
the
10 eastern end. I have another board which shows the lands
that we
11 have protected either through conservation easement,

through land

12 acquisition, and through ownership.

13 HEARING OFFICER KNITTLE: Can I interject here?

14 MR. FREEMAN: Sure.

15 HEARING OFFICER KNITTLE: Are you planning on
submitting

16 these to the Board as exhibits?

17 MR. FREEMAN: We have a number of submittals that
would

18 show the watershed plan. I did not bring a copy of this
today,

19 but I do have copies of that that I can submit.

20 HEARING OFFICER KNITTLE: I just know that if you
are going

21 to be testifying from it and referring to it, it is going
to

22 helpful for the Board to have some idea of what you are

23 testifying to.

24 MR. FREEMAN: Sure. I can do that. I am afraid I
didn't

20

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1 bring the reduction version of that today, but I have all
of the

2 other boards available.

3 HEARING OFFICER KNITTLE: Maybe if we could send
those in

4 after the hearing, the reduction of the big board that you

are

5 testifying to.

6 MR. FREEMAN: Okay. Sure.

7 HEARING OFFICER KNITTLE: Then I would have no
problem with

8 you testifying about it.

9 MR. FREEMAN: Okay. Great.

10 HEARING OFFICER KNITTLE: Is that a problem with
either

11 party?

12 MS. MORENO: No.

13 MS. RICH: (Shook head from side to side.)

14 HEARING OFFICER KNITTLE: Both parties indicate no.
Please

15 continue, sir.

16 MR. FREEMAN: It has been mentioned on numerous
occasions

17 that one of the concerns that we had with the concept of
settling

18 lagoons at the treatment plant site was the fact that
there is a

19 national Scenic Byway which runs right between the old
plant and

20 the new plant, and we were the organization that
established and

21 did the three years of leg work to get the national
designation

22 for the meeting of the Great Rivers Scenic Byway.

23 The other organization that we have worked with
extensively

24 and my counterpart, Alan Ringhausen, will talk to that
after I am

1 through speaking, is the Piasa Creek Watershed
Conservancy. The
2 Piasa Creek Watershed Conservancy is an organization that
dealt
3 with the entire watershed of Piasa Creek, and I will leave
it to
4 him to discuss, but our organization was one of the
organizations
5 that helped initiate that.

6 The Great Rivers Land Trust is also the lead
organization
7 which formed the Big Rivers Ecosystem Partnership, which
both the
8 plant and the Piasa Creek watershed are a part of that.
And I do

9 have some brochures on the Big Rivers Ecosystem
Partnership that
10 I will provide. That partnership is one of I believe 22
at last

11 count ecosystem partnerships established by the Illinois
12 Department of Natural Resources throughout the State of
Illinois.

13 Our area has, obviously, a lot of natural archeological,
historic
14 and other assets to the area, and that is one of the
reasons why
15 we are in business, to protect those assets.

16 I would also like to state that Great Rivers Land
Trust has

Water 17 an established working relationship with Illinois-American
18 Company. We have worked with the organization in helping
them 19 select a design for their new facility that meets
standards of 20 both the community and our design standards for how the
new 21 facility will look. We have worked with Illinois-American
Water 22 for about three years now. In fact, we are acquiring one
of the 23 sites that is an old property that they had originally
acquired 24 to build their old plant from. So we have negotiated an

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1 acquisition of that property. So we do have a track
record of a 2 working relationship with the Water Company.
3 I would like to talk about the concept of a
watershed, and 4 pardon me if I am little bit too layperson, but I want to
get 5 that out for whoever might be reviewing this. A watershed
is 6 that point within a stream, river or an area where rain
falls and 7 runs into an area. The Piasa Creek watershed is a 121
square

six
8 mile watershed. It is located roughly six miles, four to
9 miles upstream from the proposed intake of the new water
10 treatment plant. Piasa Creek watershed is a fairly large
11 watershed that enters the Mississippi River at the mouth
of Piasa
12 Harbor just over the Jersey County line. We are in
Madison
13 County, and it is just over the Jersey County line at
Piasa
14 Harbor.

15 The offset idea, as Ms. Moreno mentioned, is not a
new
16 idea, although I don't believe it has been done often in
17 Illinois. We are proposing the concept of trading the
discharge
18 from a point source sediment pollution to non point
source. And
19 we are going to do that during -- through a number of
ways. What
20 we wish to do, as a part of our watershed project, is to
limit
21 the sediment inputs into the Mississippi River via
reductions or
22 mitigation of sediments in the Piasa Creek watershed. And
I
23 would like to go through the work plan. We have a work
plan that
24 has been, again, hashed out over and over through numbers
of

1 meetings with both the Water Company, representatives from
IEPA,
2 and representatives from IDNR, and I would dare say we
have quite
3 a few other organizations, entities and other not-for-
profits
4 that are very interested in this project. And we have
been
5 addressing and working with those agencies and would
propose to
6 continue working with those entities throughout the life
of the
7 project.

8 I am going to take this down. I do have a handout,
but I
9 think it is helpful to actually look at the watershed.
This is
10 the Piasa Creek watershed. Again, it discharges at the
Piasa
11 Harbor area, roughly about four to six miles up the
Mississippi
12 River from the new water treatment plant. We propose a
contract
13 arrangement with Illinois-American Water Company to enter
into a
14 ten year consulting contract agreement with the company.
The
15 contract would require Great Rivers Land Trust to revise
and
16 implement the Piasa Creek watershed plan, and that plan
will be

17 submitted to you as a form of his testimony, Alan
Ringhausen will

1995. 18 provide you a copy with that plan which was developed in
of 19 Great Rivers Land Trust will work to reduce inputs
Water 20 sediment into Piasa Creek over that ten year period. The
and in 21 Company would act as the funding agent in this project,
load 22 exchange for committing to the ten year project for silt
the IEPA 23 reductions into the Mississippi River, via Piasa Creek,
24 would waive the requirements for silt lagoons at the water

24

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1 treatment -- at the water treatment plant in Alton. The
2 effectiveness of this project would, again, be evaluated
over a 3 ten year period.

4 At the project's halfway point, and this is very
critical,
5 at the project's halfway point, a five year period, a
6 determination of effectiveness would be made by the
Agency, by
7 the Illinois EPA. If the project is deemed to be a
success then
8 the second five years of the project would be funded by
the Water
9 Company. The Water Company would continue to be allowed

to

10 provide the direct discharge permit at the Alton treatment
plant.

11 That is generally the guidelines that we are looking at
under the

12 contract arrangement. The process of how we would
establish

13 this, again, we would work towards a five year program.
And

14 everyone has, through our discussions, acknowledged that
while in

15 the end we are going to obtain two to one reductions, that
is,

16 for every ton of sediment discharged into the Mississippi
River

17 by the water treatment plant, we will show retained at the
end of

18 the project retained reductions of two tons through the
Piasa

19 Creek watershed plan.

20 The process would, if deemed on the right track,
within the

21 first five years, would then kick into the next five
years, and

22 eventually those retained reductions would be achieved.
We

23 propose to analyze the sediment reductions through a
sediment

24 input reduction analysis method, and two methods are
generally

25

I 1 proposed. A stream bank stabilization calculation, which
2 believe that Don Roseboom will testify to that. That is
the 3 stream bank erosion will be identified and landowner
permission 4 granted to develop a baseline analysis to determine the
rate of 5 erosions at certain points within the Piasa Creek
watershed.
6 This would be determined by measuring the height, length
of the 7 erodible bank and determining the rate of erosion over
time. The 8 analysis of this stream bank stabilization, stream bank
erosion 9 method would be performed on a quarterly basis throughout
the 10 life of the project.
11 The other measure that we feel is probably going to
gain a 12 lot of silt reduction is through development of silt basin
13 trapping. And the silt basin trapping method, we would
identify 14 the use of the Department of Agriculture, the U.S.
Department of 15 Agriculture. They have a standard that is called the
estimated 16 sediment accumulation in reservoirs, Illinois Engineering
Form 17 10. It is an established method to measure the --
successfully 18 measure the amounts of sediment input that is stopped
otherwise

19 prohibited from entering the Mississippi River through
that form.

20 And it is either through building reservoirs, lakes or
silt dams,

21 and we would propose to actually physically find what
those

22 reductions were.

23 The first thing that we will probably do in the
process --

24 well, I should say the first thing we will do is we will
seek to

26

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1 develop a geomorphic inventory assessment on the entire

2 watershed. Although much work has been done in the
watershed, so

3 far there has not been a full scale geomorphic assessment
done.

4 We would hire a consultant that has been recognized and
accepted

5 by the IEPA that would do a targeted study that would go
through

6 and create a game plan on where and what locations and
what types

7 of sediment trapping and sediment reductions would take
place

8 within the watershed. That will be done within the next
year or

9 at least will be initiated within the next year.

10 The last thing that I would like to talk about is
the
11 project scheduling. Again, I have mentioned that this is
a
12 complicated ten year project, but I believe that it is
required
13 to be a multi-year. You can't just go out and tomorrow
show that
14 you are going to reduce two to one through the watershed
project.
15 So we have developed a project schedule that, again, will
be
16 submitted as a part of this testimony.
17 Year number one would be the critical time period
that we
18 are looking at. The first thing we will be doing is
19 reestablishing the Piasa Creek Watershed Conservancy, and
we have
20 agreements with the next gentleman who will speak, that
will
21 initiate that, and I believe he is the person to do that.
He has
22 worked with the watershed and worked with the landowners
and is
23 well-known. So he is quite capable and probably the
person to do
24 that and run that program for the next ten years.

27

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1 We would then update the Piasa Creek watershed plan,

which

2 he will submit to you, and initiate the geomorphic
inventory
3 assessment, and we would over the course of the next year,
be
4 acquiring additional staff to help implement the watershed
plan.

5 Also within that time period it is very important that we
6 establish a baseline analysis of what kinds of sediments
is
7 actually being initiated into the stream and by defining
those
8 areas that are most important and calculating the rates of
9 erosion in that area. So that will done just as soon as
possible
10 and as soon as the Control Board will make a ruling on
this.

11 Also landowner contacts will be begun because most
of the
12 property is privately owned within the Piasa Creek
watershed it
13 is very important to have a working relationship and begin
to
14 identify those sites that are privately owned, because it
is
15 important -- it is a requirement that private landowners
work
16 with us. Although within the process we will be acquiring
lands
17 and easements, much of this work will be done on private
lands
18 that will be held by private individuals, things such as
sediment
19 basins and certain stream bank erosion protection
measures.

20 At the end of the first year we would provide both
the
21 Agency and the Illinois-American Water Company with the
report of
22 our findings and a more refined version of what our game
plan is
23 to achieve those eventual two to one reductions of silt
loads.
24 Through years two through five, again, we would continue
through

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1 the watershed conservancy meetings and continue the
conservancy
2 involvement, and those are the stakeholders, the
landowners
3 within the watershed. We also hope to address storm water
4 ordinances in the Village of Godfrey. We have initiated
that
5 already.

6 Part of the watershed within the Piasa Creek area is
the
7 Rocky Fork Creek, and we have what we believe is a
potential
8 problem with development and storm water control within
that
9 municipality. We hope to make some adjustments in those
storm
10 water ordinances to really begin showing an impact in
reducing

Piasa 11 the amount of water runoff that eventually gets into the
12 Creek and thus contributes and exacerbates the problem
that we 13 have with sediment loads within Piasa Creek and ultimately
14 the Mississippi River. So that would be begun during the
second 15 year.

16 Then through the years two through five we would
begin the 17 implementation of the actual recommendations of the
geomorphic 18 inventory assessment. And those things could include and
will 19 include stream bank stabilization, silt dams, etcetera.
We would 20 hold semiannual meetings with both Illinois-American Water
21 Company and the Agency to determine that we are on the
right 22 track and make any adjustments that may be deemed
necessary.

23 Continue this silt -- the sediment reduction analysis that
was 24 initiated in the first year, and that would carry out
through the

29

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1 life of the project. At the end of each year we would
provide

2 annual reporting to the Agency in an effort to keep
everyone in
3 the loop and in an effort to keep everyone advised as to
what is
4 going on and how well the thing is working.

5 Year six is the threshold meeting. That is
identified to
6 coincide with Illinois-American Water Company's five year
permit
7 analysis. In this year the Agency would have an
opportunity to
8 determine whether or not this project is working, and
whether or
9 not the reality of actual two to one silt reductions will
be met
10 in the next few years. So we are proposing within that
year
11 actually, and that would fall under July of 2005, that
that
12 threshold mark be identified and the Agency would at that
time
13 make a determination whether or not this is working.

14 If it is working, then we would continue on to the
next
15 five years. And that next five years is where all of the
experts
16 have really identified that we will begin showing those
real
17 sediment reductions within Piasa Creek. We hope to meet
our goal
18 of two to one reductions by the year 2008, and by the end
of the
19 contract period, which would be December of 2010, we will
have
20 shown real retained reductions of sediments input into the
Piasa

21 Creek and ultimately into the Mississippi River.

22 That is the bulk of the project, and we would follow
it up

23 by saying that this is an opportunity not only -- and this
has

24 been identified briefly. This is an opportunity to not
only show

30

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1 the real reductions in what the Water Company is
discharging into

2 the Mississippi River, but we hope to go much further than
that.

3 We actually look at this as a seed project that will grow
and

4 will really substantially go beyond those two to one silt
5 reductions. We hope to use this and use the model of IEPA
and

6 U.S. EPA to identify reductions of other pollutants, not
just

7 sediments, and to really treat non point source pollution
within

8 this 121 square mile watershed eventually, again, as Lisa

9 identified proposing a model for the State of Illinois on
how non

10 point source pollutions and forms of point pollution
sources can

11 work together to achieve a much greater good.

12 It has been asked what happens if our organization

is not

13 around. I wanted to try to kind of quell that thought.
Our
14 organization as a Land Trust, again, as I identified there
was
15 1200 land trusts in the United States. Our organization
is
16 within the top five percent of those land trusts within
the
17 United States in terms of funding and actual ability to do
real
18 land protection projects. We are working -- we have an
agreement
19 with the Nature Conservancy -- the Illinois Nature
Conservancy
20 that if for some reason, whatever that reason is in the
future
21 that if the Great Rivers Land Trust were not around those
22 easements would be accepted by the Nature Conservancy.
They are
23 at this point our backup organization. However, the
Nature
24 Institute, which is another well-funded, well-established
nature

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1 Land Trust organization within the area, who we have a
seven year
2 working relationship with, we are forming -- in the
process of

3 forming a partnership agreement with that organization and
as a
4 part of that, what we will be doing is forming agreements
that if
5 for one reason or another either organization went away
that both
6 land and easements would be transferred to that other
7 organization. So I wanted to address that in case there
was a
8 concern that our organization not be around in the future.
There
9 is back up to that.

10 That would conclude what I actually want to say. I
would
11 want to submit the items I had mentioned.

12 HEARING OFFICER KNITTLE: Yes, let's go through the
items
13 you want to submit one by one.

14 MR. FREEMAN: All right. The first item is -- I
brought
15 enough of these for your Board.

16 HEARING OFFICER KNITTLE: Okay.

17 MR. FREEMAN: The brochures of the Big Rivers
Ecosystem
18 Partnership.

19 HEARING OFFICER KNITTLE: I am going to call this
Land
20 Trust Number 1.

21 MR. FREEMAN: Okay.

22 HEARING OFFICER KNITTLE: Are there any objections
to Land
23 Trust Number 1?

24 MS. RICH: No.

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1 MS. MORENO: No.

2 HEARING OFFICER KNITTLE: Okay.

3 (Whereupon said document was duly marked for purposes
of
4 identification and admitted as Land Trust Exhibit 1
as of
5 this date.)

6 HEARING OFFICER KNITTLE: The second one is
pamphlet.

7 MR. FREEMAN: That is our brochure, yes. That is
the
8 executive summary of us.

9 HEARING OFFICER KNITTLE: Okay. That will be Land
Trust
10 Number 2.

11 (Whereupon said document was duly marked for purposes
of
12 identification as Land Trust Exhibit 2 as of this
date.)

13 HEARING OFFICER KNITTLE: All right. What is
next?

14 MR. FREEMAN: This is the work plan that I generally
talked
15 through.

16 HEARING OFFICER KNITTLE: Okay. Is that it, sir?

17 MR. FREEMAN: That's all I had.

of 18 (Whereupon said document was duly marked for purposes
date.) 19 identification as Land Trust Exhibit 3 as of this

are 20 HEARING OFFICER KNITTLE: You also, as I understand,
21 going to submit a reduced copy of the large map and the --

that 22 MR. FREEMAN: That is a part of the watershed plan
23 Alan Ringhausen will provide you.

worry 24 HEARING OFFICER KNITTLE: Okay. So we don't have to

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1 about that. Ms. Rich, do you have any questions for this
2 witness?

3 MS. RICH: No.

4 HEARING OFFICER KNITTLE: Ms. Moreno?

5 MS. MORENO: Yes.

6 CROSS EXAMINATION

7 BY MS. MORENO:

8 Q. Wayne, I have a couple of questions just for
9 clarification for the Board. Now, you said you are the
executive 10 director of the Land Trust?

11 A. Yes.

12 Q. What do you do as executive director?

13 A. The organization currently is set up -- we have
an 11
14 member very active Board of Directors that has been in
place for
15 since its inception obviously in 1992. I work for a not
for
16 profit Board of Directors. We are a not for profit
corporation
17 in the State of Illinois. My responsibilities as
executive
18 director is organize -- I serve essentially as the CEO of
the
19 organization. I coordinate day-to-day operations. I have
a
20 staff currently of two people, and we do hire consultants
on a
21 routine basis that work for us.

22 Q. So that as executive -- is it fair to say that as
23 executive director of the Land Trust that you will be kind
of the
24 day-to-day supervisor of this project?

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1 A. Absolutely. I am ultimately responsible for this
2 project.

3 Q. Now, could you tell us what your educational
background
4 is?

5 A. I am a registered landscape architect in the
State of
6 Illinois and have 17 years experience in the landscape
7 architecture field. I am an environmental planner. I
have
8 worked for not for profit -- I have worked as a not for
profit
9 employee for about three years. But I have been involved
in the
10 environmental movement since a child. I have been
involved with
11 the environmental organizations since I was seven years
old. So
12 for whatever that is worth.

13 MS. MORENO: That's all of the questions that I
have.

14 HEARING OFFICER KNITTLE: Thank you. Is there
anyone here
15 who has questions for this witness?

16 All right. Seeing none, you can step down, sir.
Thank you
17 very much.

18 (The witness left the stand.)

19 HEARING OFFICER KNITTLE: Let's take a five minute
recess
20 and be back here at 10:35.

21 (Whereupon a short recess was taken.)

22 HEARING OFFICER KNITTLE: We are back on the record
after a
23 short recess. I take it there is another citizen from the
Land
24 Trust who wants to provide comment, is that true.

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1 Yes.

up and
2 HEARING OFFICER KNITTLE: Sir, if you could come on
3 have a seat and identify yourself for the court reporter.

4 MR. RINGHAUSEN: My name is Alan Ringhausen.

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

you
6 HEARING OFFICER KNITTLE: Sir, if you have testimony
7 want to provide, you can commence at any time.

8 MR. RINGHAUSEN: Yes, I will. My name, as I
mentioned, is
9 Alan Ringhausen, and back when the Piasa Creek Watershed
10 Conservancy was being built I was a part of that. I had
some
11 personal interest in it at the time. For one, I lived
within the

And
12 watershed, so that caught my attention right off the bat.

13 one of the other reasons is I have been involved in some
14 environmental issues. I have a Master's degree in
environmental
15 studies and had looked at some watershed issues in the
past.

16 Over the past few years I have been involved with other
17 environmental issues, working as a consultant for various
18 government agencies. Currently I am working with the

Illinois

19 Association of Resource Conservation Development Areas.

20 But at the time I worked with Piasa Creek Watershed

21 Conservancy, and there were a number of organizations that
worked

22 together to help pull this plan together. Some of the
principal

23 groups at the time were the Great Rivers Land Trust, who
had

24 spoken earlier about the issue, and also the Resource

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1 Conservation Development Office out of southwestern
Illinois in

2 Mascoutah came up and assisted us on that. Also the
National

3 Resource Conservation Service, the Soil and Water
Conservation

4 Districts from the various counties as well.

5 Now, as was mentioned, the Piasa Creek watershed
covers a

6 rather large area and it covers portions of three
different

7 counties; Jersey, Madison and Macoupin Counties. So we
brought

8 in players from each of those counties as far as the
Natural

9 Resource Conservation people were involved. They knew the
ground

10 and they knew the people. And we started to develop a
technical
11 team from there and looked at the watershed as a whole.
And we
12 put together this technical team. And then we wanted to
get
13 input from the people who lived there and owned property
there,
14 and we put together a watershed partnership, and it
consisted of
15 a cross-section of people from all of the counties, and
from
16 various aspects of looking at the watershed. We had
landowners,
17 the farmers. We also had some of the political people,
such as
18 county board members, mayors, city council members from
the
19 various counties and towns involved in the watershed. And
also
20 we had some representatives from some of the educational
21 communities. We had representatives from Lewis & Clark
College
22 and from SIU Edwardsville, all the players in helping to
pull
23 this all together.
24 One of the things that we did when we were putting
together

1 this watershed plan was to ask these players, the people
in the
2 partnership, what their thoughts were on the process. We
wanted
3 to ask them what they thought the problems were and what
they
4 thought the solutions were and to look at it from a broad
view.
5 And traditionally a lot of the farmers, for instance,
looked at
6 the government programs that were there and available to
them and
7 how that could be applied to their ground. We wanted them
to
8 look even beyond that and if they had to set up their own
program
9 how would they do it. And in the process we elicited
responses
10 from all of those participants, got their ideas on what
the
11 issues were within the watershed, categorized those,
prioritized
12 those, and then did the same with the solutions and had a
general
13 breakdown of that.

14 Some of the top priorities were sedimentation, water
15 quality and the urban issues. In the watershed there is a
lot of
16 agricultural components to it, but there is also an urban
17 component here in the Godfrey section, the Madison County
area of
18 the watershed. So we had to look at all the aspects. It
wasn't
19 just an agricultural issue. It was urban issues as well.
And

20 pulled it all together in a plan that they all agreed on.
And we
21 put this plan together based on the Natural Resource
Conservation
22 planning process. It is a nine step process, and I guess
if you
23 look at that process we were about to level seven, which
would be
24 the implementation phase at the time. But our goal was to
have a

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1 plan in place for any potential funding sources that may
become
2 available so that when they were ready to go there was a
starting
3 point and basically we would be ahead of where other
groups are
4 and act as a model, just as was mentioned earlier, to
other
5 watersheds in the future.

6 The result was this plan, which we will submit as
well on
7 the Piasa watershed with the map, and it outlines the
entire
8 process which began in the fall of 1994. We had a series
of
9 meetings for about a year. We would meet on a monthly
basis and
10 discuss the various issues and narrow down the process
until we

11 came together with this plan that is now in place and
ready to be

12 implemented basically.

13 That's it in a nutshell, but it was a complicated
process,

14 a lot of different players involved, a lot of interested

15 participants, and all of them had some stake within the
watershed

16 and still do.

17 HEARING OFFICER KNITTLE: Thank you, sir. Ms. Rich,
do you

18 have any questions?

19 MS. RICH: No questions.

20 HEARING OFFICER KNITTLE: Ms. Moreno?

21 MS. MORENO: Yes. I have a number of questions.

22 CROSS EXAMINATION

23 BY MS. MORENO:

24 Q. Now, the plan that we have obviously was prepared

--

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1 well, let me ask you. That plan was ready to go as of
when?

2 A. It would have been late 1995.

3 Q. Okay. Now, may I assume that this plan is kind
of the

4 floor of the program that you were going to be working

with with

5 the Land Trust? I mean, is this the point of departure,
6 essentially?

7 A. Yes, it is. All of the issues that they were
talking

8 about as far as controlling sediment loss in the
watershed, the

9 various methods of doing so are all contained within the
plan.

10 Q. Looking through the plan I noticed that there is
a lot

11 of numbers in terms of dollar estimates and things like
that.

12 Now, can we assume that the plan is going -- that this
plan is

13 going to be updated to the present day, I mean, where

14 appropriate?

15 A. Yes, it would be. And I believe that was one of
the

16 points that was outlined by Wayne Freeman as he spoke,
that part

17 of the proposal would be to update this plan and bring it
up to

18 the year 2000 and make it useful today.

19 Q. Do you understand that you personally are going
to be

20 involved in that?

21 A. Yes.

22 Q. That was his testimony?

23 A. Yes. All of the information -- I still have a
data base

24 of information, all the participants, all of the original
plans

1 all on computer disk and ready to be updated. And it
would be a

2 fairly simple process.

3 Q. Okay. Just out of curiosity, have you and Mr.
Freeman

4 gotten to the point where you have discussed kind of a
time line

5 for updating? I mean, I am just curious as to -- I mean,
when

6 you expect to at least start the updating process?

7 A. As soon as possible. I guess I am just waiting
for the

8 word go.

9 Q. Right. And you just said you have all of the
background

10 documentation and --

11 A. It is already in place.

12 MS. MORENO: Okay. Thank you very much.

13 HEARING OFFICER KNITTLE: Does anyone else have any
14 questions for this witness?

15 Seeing none, sir, you can step down. Thank you for
your

16 time. Oh, before we close you off, you wanted to submit
17 something as an exhibit?

18 MR. RINGHAUSEN: Yes, this is the map and watershed
plan

19 that was established by the group.

4. 20 HEARING OFFICER KNITTLE: Okay. This is Land Trust

21 Does that sound good to you?

22 MR. RINGHAUSEN: There is two copies.

23 HEARING OFFICER KNITTLE: Thank you, sir. Is there
any

24 objection to this being admitted as Land Trust Number 4?

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1 MS. RICH: No.

2 MS. MORENO: No.

3 HEARING OFFICER KNITTLE: All right.

4 (Whereupon said document was duly marked for purposes
of

5 identification and admitted as Land Trust Exhibit 4
as of

6 this date.)

7 HEARING OFFICER KNITTLE: I don't think I asked
about Land

8 Trust 2 and 3, which are the brochure. Any objections to
this

9 from either side?

10 MS. MORENO: No.

11 MS. RICH: No.

12 HEARING OFFICER KNITTLE: Both sides indicate no.
And the

13 work plan. Ms. Rich?
14 MS. RICH: No.
15 HEARING OFFICER KNITTLE: Ms. Moreno?
16 MS. MORENO: No.
17 HEARING OFFICER KNITTLE: All those are admitted as
is Land
18 Trust Number 4.
19 (Whereupon said documents were admitted as Land Trust
20 Exhibits 2 and 3 as of this date.)
21 HEARING OFFICER KNITTLE: Thank you, sir.
22 (The witness left the stand.)
23 HEARING OFFICER KNITTLE: Are we now ready, Ms.
Moreno, to
24 start up with the Agency's testimony?

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1 MS. MORENO: Yes. Could I have just a second? I am
going
2 to decide between my two witnesses.
3 HEARING OFFICER KNITTLE: Let's go off the record
for just
4 a second.
5 (Discussion off the record.)
6 HEARING OFFICER KNITTLE: All right. Back on the
record.
7 Ms. Moreno, please call your witness.

8 MS. MORENO: I call Richard Mollahan.

9 HEARING OFFICER KNITTLE: Okay. Could you have a
seat over

10 there. Could you swear the witness in, please.

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

12 HEARING OFFICER KNITTLE: Thank you, sir. You can
have a

13 seat.

14 All right. Ms. Moreno, your witness.

15 MS. MORENO: Thank you.

16 R I C H A R D M O L L A H A N ,

17 having been first duly sworn by the Notary Public, and
saith as

18 follows:

19 DIRECT EXAMINATION

20 BY MS. MORENO:

21 Q. Mr. Mollahan, would you please state your name
for the

22 record?

23 A. My name is Richard Mollahan.

24 Q. And where do you live, Mr. Mollahan?

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1 A. I live at 131 Deer Creek Road in Rochester,
Illinois.

2 Q. And who are you employed by?

3 A. I am currently employed by the Illinois
Environmental

4 Protection Agency within the Bureau of Water, the
Watershed

5 Planning Section.

6 Q. And with the Watershed Planning Section could you
7 describe your duties for us, please?

8 A. My responsibilities within the Watershed Planning
9 Section are to manage the water quality management plan
and non

10 point source program for the Watershed section.

11 Q. And could you give us a short idea of what the
non point

12 source program is?

13 A. The non point source program that I administer or
14 manage, I should say, is part of the Clean Water Act,
Section

15 319. It is a non point source grant program essentially
that

16 provides funds to different local entities to implement
17 management practices for the correction of non point
source

18 pollution or for education and information programs
related to

19 control of non point source pollution. In that program,
which

20 started approximately in 1989, the funding was not
available

21 until the year 1990.

22 Since 1990, we have been receiving grants in the
state and

23 are currently receiving approximately 8.4 million dollars

24 annually. Within the ten year period that we have been
receiving

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1 these funds we have implemented approximately 160
projects, 80 of
2 which are projects that are of a similar nature to what is
being
3 proposed here today by the Water Company and the Land
Trust in
4 that they were for corrective measures for erosion control
in
5 either streams or in lake settings.

6 Q. And you are familiar with the program that the
Water
7 Company and the Land Trust are presenting to the Board?

8 A. Yes, I have read through the information that has
been
9 provided as from the Water Company and from the Land Trust
and
10 the proposals that they are making at this time. Although
we
11 have not identified the specific areas that we would be
12 implementing management practices in, are of a similar
nature to
13 those that we have actually implemented using federal
funds in
14 the State of Illinois in the past. What we have learned
from

15 those is that they can be quite effective.

16 We have two projects in the state that are national
non

17 point source monitoring sites that have implemented these
exact

18 practices. And Don Roseboom with the Illinois State Water
Survey

19 is our contractor on those projects and he will be
available to

20 provide some additional information on the effectiveness
of those

21 practices. I believe that you will realize a significant

22 reduction here, and I think that we will easily achieve
the two

23 to one ratio.

24 Q. Now, let me just clarify so that the Board
understands.

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1 The project that is being presented as a part of this
adjusted

2 standard is not a 319 project?

3 A. That's correct.

4 Q. But it is similar to other --

5 A. Yes, it is essentially -- it is taking practices
that we

6 have funded under Section 319, and they are applying that
on a

7 watershed basis, which we have also done under 319. Now,

we are

8 not directly participating in the funding of this project,
but we
9 will end up being an oversight body on evaluation of the
10 effectiveness of the efforts by the Land Trust.

11 Q. Okay. To make sure I understand here, there is a
set of
12 standard controls that are recognized in the field of
sediment
13 and erosion reduction; is that correct?

14 A. Yes. Within the state's non point source
management
15 program we have identified specific what are termed best
16 management practices or management practices that are most
17 suitable for the correction of specific non point source
18 pollution problems, and within that body of management
practices,
19 the practices being recommended here are all inclusive
within
20 that. The designs, then, that are going to be utilized on
these
21 sites, including the reference to the USDA's tech guidance
are
22 what we utilize within that program, that Section 319
program.

23 Q. So that you are satisfied, based upon your
experience
24 and expertise that, first of all, the structure of the
program

the
1 that is being recommended here is entirely consistent with
2 recognized management practices?

3 A. Yes. I think that this proposal here is quite
4 consistent with that our current 319 program approaches
are.

5 Q. Right. And based on the 80 -- I think you said
that
6 there are 80 projects that you have been involved with and
had
7 oversight authority that are of a similar nature of this
8 particular project, and based upon your comparison of this
9 project, assuming, as we must, that it is going to be a
well run
10 project and the projects that you have already seen that
are to
11 completion or along the way, that you are quite satisfied
that
12 properly implemented that the reductions that are being
proposed
13 can be achieved?

14 A. Yes. I think that a real key to that is not only
the
15 proper implementation, but also the maintenance of those
16 structures once they are in place for the long-term will
be on
17 the ten years but, yes, the practices as they have been
discussed
18 would be more than satisfactory for meeting the design
limits
19 that we usually review.

20 Q. Okay. The program, as presented, is cast in
terms of a

21 ten year project.

22 A. Yes.

23 Q. Now, I realize that when the Board is looking at
24 compliance projects they are generally looking at kind of
shorter

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1 term things. So let me ask you about this time frame. Is
this a
2 reasonable and realistic time frame? And if so, would you
3 explain why?

4 A. Well, I would probably like to allow Don Roseboom
the
5 opportunity to get into a little bit more detail about
why.

6 Q. Sure.

7 A. However, yes, ten years is actually probably the
least
8 amount of time that you would really want to look at this
type of
9 activity, especially when you are talking about things
such as

10 stabilizing stream vegetation, looking at the phenomenon
of storm
11 events over a period of time. It is rare that you get
even like

12 a small five year window or anything that will give you

well

13 established vegetation and give you just the right type of
14 rainfall, and you are going to be able to be out on the
site and
15 capture the information that you need during that event.

16 It takes a period of time to really start to look at
a what
17 the overall affects of these practices are in combination
as
18 well. So a ten year period of time is what I would say is
about
19 the minimum in being considered in trying to do an overall
20 evaluation of the effectiveness of this project.

21 Q. Okay. And, finally, from the discussions that
you have
22 had or you and -- that we have all had together, the Water
23 Company, the Land Trust and the Agency, could you explain
what
24 your understanding is of the Agency's and presumably your
unit's

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1 possible oversight of the development and implementation
of the
2 project, what you anticipate the Agency's role will be?

3 A. Okay. I believe what our role is going to be is
first
4 initially meeting with the parties and discussing the
revisions

5 that will be made to the current plan that was created
back in
6 the mid 1990s. We will be involved in the review and
approval of
7 the sites that are to be selected for the implementation
of
8 practices, best management practices. And we will also be
doing
9 the quarterly reviews that will be submitted by the Land
Trust.
10 We will be receiving those and going through those. So
there
11 will be periodic meetings where we may even be out on site
to
12 take a look at how the implementation or the structure or
13 construction of these site or practices are taking place.
14 At the five year period of time, we will take a look
at
15 basically where the project is at that time, what
structures have
16 been put into place, what easements have been acquired, do
some
17 discussion with all of the parties at that time again, and
make a
18 decision as to whether the project is on schedule and
proceeding
19 effectively and will be basically making a report back to
at
20 least legal counsel at the IEPA.

21 Q. Okay. I have one final question. Looking at
this
22 project as compared to say some of the projects that you
have had
23 occasion to supervise under the 319 program, is this a --

24 quantitatively, is this a big project, a small project?
How does

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1 it fit in the scheme of the types of projects that are --
2 watershed projects that are currently being implemented in
the
3 state?

4 A. I would say that for the most part that it is on
the

5 larger size as far as projects are concerned. It is a
relatively

6 large watershed, and we are talking a comprehensive
watershed

7 approach on this, and we have not done a great number of
projects

8 on that scale. The Mackinaw River is one. The north
branch of

9 the Chicago River is another. Lake Pittsfield is one of
the

10 watershed projects that we have done, but its scale, its
size, is

11 significantly smaller. So from that perspective, it is a
bigger

12 project in both size as well as in money. Not too many of
our

13 projects are looking at the kind of money that is
available to

14 implement practices on this.

15 The other advantage I actually see in this project

is that

16 there is a great deal of landowner and organizational
17 coordination that has already taken place on this site,
which is
18 not something that we usually experience in a lot of the
other
19 areas as well. Many times we are walking in and it may
just be
20 the Soil and Water Conservation District and a few
landowners
21 that are interested in doing something within a small
segment of
22 a stream. So we normally don't see as much public
involvement
23 and participation on projects as we do here.
24 Q. Assume that, again, just to reiterate, that,
based on

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1 your expertise that you have in the 319 program and non
point
2 source related things that you have done yourself that you
are
3 completely satisfied that properly implemented this
project is
4 consistent with other projects and it will work?
5 A. I am fully satisfied that with proper
implementation and
6 maintenance that they will be quite effective and work
just fine.

7 MS. MORENO: Okay. Thank you.

8 HEARING OFFICER KNITTLE: Ms. Rich, any questions?

9 MS. RICH: No.

10 HEARING OFFICER KNITTLE: Sir, you can step down.

11 (The witness left the stand.)

12 HEARING OFFICER KNITTLE: Ms. Moreno, do you have
another
13 witness?

14 MS. MORENO: Yes, Mr. Don Roseboom.

15 HEARING OFFICER KNITTLE: All right. Please have a
seat
16 here. Could you swear him in, please.

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

18 DON ROSEBOOM,

19 having been first duly sworn by the Notary Public, and
saith as

20 follows:

21 DIRECT EXAMINATION

22 BY MS. MORENO:

23 Q. Mr. Roseboom, where do you reside?

24 A. I reside in Peoria, Illinois.

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1 Q. And what is your employment?

2 A. I work for the Illinois State Water Survey. I
direct
3 the Watershed Restoration Program and Watershed Science
Section.
4 Q. And could you explain what --
5 A. That program looks at both the monitoring and
6 restoration practices in the watersheds around the state.
I have
7 been involved in this watershed analysis and study since
1975.
8 Q. And what is your background?
9 A. My background is in chemistry and biology.
10 Q. I understand that you are doing work under
contract with
11 the Agency for Mr. Mollahan's 319 program?
12 A. Yes. One of the things we have been asked to do
is the
13 Watershed Science Section is to come in and look at the
14 effectiveness of the practices based on both nutrient and
15 sediment reduction. And the program that Rick Mollahan
was
16 referring to was the Lake Pittsfield watershed project,
and it is
17 what I handed to the Hearing Officer, and it consists --
and I
18 also put a shorter version in there, so that it might be
easier
19 reading. It is a summation of that report.
20 Q. So that the Lake Pittsfield project that you are
working
21 on is sediment control?
22 A. Yes.
23 Q. A project that in terms of its scope -- not so

much

24 scope, but in terms of the goals are pretty much
consistent with

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-- 1 the program that the Land Trust and the Water Company are
that 2 A. The Lake Pittsfield is a drinking water reservoir
3 had a sedimentation problem from land use where they lost
25 4 percent of their reservoir through sedimentation, and
during 5 periods of drought they were suffering lack of water. And
the 6 Lake Pittsfield area has similar geology, land use and
topography 7 that the Piasa Creek watershed does, and that the
practices that 8 were installed starting in 1980 were highly effective in
terms of 9 reducing sediment delivery to the lake.

are 10 Q. In your capacity as I guess a watershed guy, you
11 familiar with the Piasa Creek watershed?

12 A. I have toured the watershed with the
representative of 13 the Piasa Creek to see to make sure that the watershed
land use 14 and topography were similar. And upon visiting the

watershed I

15 have found that they are very typical of western Illinois
and

16 particularly this region of the state that has a
combination of

17 glaciated and unglaciated areas.

18 Q. So you are familiar with the project that the
Land Trust

19 and the Water Company are proposing?

20 A. Yes, I am. It is recently acquired knowledge,
but, yes,

21 I am familiar.

22 Q. You are familiar and you have talked to -- you
have

23 talked to the Agency and you have talked to the people
with the

24 Land Trust and the Water Company?

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1 A. That's correct.

2 Q. And I will ask you basically what I asked Mr.
Mollahan,

3 which is based on your expertise in this area and your

4 understanding of the project as proposed, are you
satisfied that,

5 first of all, the project that they are proposing, the
management

6 practices are consistent with the management practices
that are

7 recommended for these types of projects?

various

8 A. Looking at the size of the watershed and the

9 sediment reduction that is required of the company, they
should

10 easily be able to achieve those ends and document that
reduction.

11 Q. Okay. One of the things that I understand you
have some

12 expertise on and will be useful to the Board and to me,
too,

13 frankly, is in the -- Mr. Freeman, in his testimony of the
work

14 plan, essentially, discussed the modeling and analysis
that the

15 watershed was going to be -- that they were relying on.
And my

16 understanding is that he was talking about the sediment
input

17 reduction analysis method, SIRAM, and then the stream bank

18 erosion calculations and the other calculations. Could
you walk

19 us through how we get to find out what we need to know?

20 A. All right. There is two stages of analysis that
were

21 brought up. One was the stream channel erosion modeling or

22 monitoring. On that you establish monuments on the
streams that

23 are areas that are eroding rapidly. Those areas would
initially

24 be decided on by Steve Golf (spelled phonetically) who is
a

utilized 1 geomorphologist who works out of St. Louis, and has been
some 2 on the Mackinaw River with the Nature Conservancy and also
400 3 land developers near the Chicago area where there is the
where he 4 million dollar three square mile real estate development
morphology. 5 had to document the effects of run-off on channel

6 Q. So this is a guy who knows what he is doing?

do 7 A. So the guy knows what he is doing. What he would
the 8 would be to come through and give you indications of where
that on 9 greatest amounts of channel instability are and suggest
of 10 those areas where we would monument and measure the amount
delivered to 11 channel erosion in terms of tons of sediments being
stream 12 the stream. Those would then become areas when they were
stream 13 documented of areas that would be utilized in terms of the
stream 14 stabilization practices, so that you would come in and
stream 15 stabilize those areas which were the most rapidly eroding segments.

for 16 The second portion of the information that you asked
for 17 was on sediment trapping and the USDA's measurements that

done 18 determine the volume of sediment within a lake. And it is
19 by the reduction in volume of the lake, and you take
samples of 20 the lake sediment in the bottom to determine the density
of the 21 sediment.

22 Q. Okay.

23 A. Once you know the density of the sediment and the
volume 24 of the sediment, you can calculate the tons of sediment
that are

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1 delivered to that water body.

2 Q. So that basically you could take these
calculations 3 using standard assumptions and figure out, first of all,
the 4 amount that is being eroded away?

5 A. Yes.

6 Q. And then do these calculations themselves give
you any 7 guidance in terms of the types of remedial practices,
management 8 practices that you might put into effect?

9 A. Yes, they do. Because on the stream channel
erosion

10 they document the causes of the erosion, which is what
Steve Golf
11 will be getting into, both lateral erosion and erosion
that
12 degrades the bottom of the stream channel. And the reason
that
13 is important is when you create a larger, deeper channel
14 sometimes you reduce the erosion but you increase the
delivery of
15 sediment to the downstream sources.

16 Q. Okay.

17 A. And what Steve Golf will do will be to suggest
methods
18 of stabilization to reduce not only the amount of erosion,
but
19 the rate of sediment delivery off site.

20 Q. Okay.

21 A. The second part, in terms of the lake sediment
that
22 reduction, we have looked at a lake here in the watershed
23 has been completely filled with sediment, and we did some
24 sediment calculations using the -- based on the amount of

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1 sediment that they are removing from the lake to restore
it, and
2 we find that it -- over the long-term course of that lake,
which

3 is in Godfrey, Illinois, and it is a 36 acre lake, there
was
4 about one ton per acre per year delivered to that lake.
So that
5 gives us some ideas of the rate of the sediment delivery
off the
6 watershed. And so we begin to have some ideas that we can
track
7 during the course of the watershed study in order to
determine
8 how effective our different practices are and predict
those
9 properly and the effect of those practices downstream ten
years
10 from now.

11 Q. Okay. I will ask you the question that I asked
Mr.
12 Mollahan. As you know, this program calls for essentially
a ten
13 year implementation and beginning of maintenance schedule.
Is
14 that schedule consistent with your experience as to what
you
15 would need to see serious reductions or sustained
reductions, I
16 will say?

17 A. It would be the minimum required for say a 120
square
18 mile watershed, but it is quite within the capabilities of
what
19 would be required to meet the sediment reduction demanded
of the
20 Illinois-American water treatment plan and in terms of
what is
21 required to meet that sediment reduction, that should well
be

22 within their reach. If you are looking at one ton per
acre per
23 year and they are asking to get 6600 tons per year that
should be
24 able to be documented.

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1 Q. So you are satisfied that the reductions that
they
2 expect to get that they will be getting?

3 A. They should be getting that.

4 MS. MORENO: Okay. Excuse me just a second.

5 (Ms. Moreno and Mr. Mollahan confer briefly.)

6 Q. (By Ms. Moreno) You talked about stream bank
erosions,
7 but I think there is another component having to do with
sediment
8 basin effectiveness. Could you discuss that?

9 A. That is a little bit of what -- we needed to get
an

10 outline to get an idea of what the sedimentation rates
coming off

11 the watershed are in terms of sediment per acre delivered
from

12 the different parts of the watershed. And one of the
components

13 they have in their program is to come in and determine the
14 sedimentation rates of different water bodies, foreign

ponds,

15 etcetera, in the watershed during this initial phase, so
they can

16 get an idea of rate of sedimentation coming into these
basins.

17 Q. So if I understand how this type of project
works, that

18 first you need to establish a baseline, and then once you
have

19 established your baseline you have to figure out what
reductions

20 you need and how you are going to get --

21 A. How are you going to document that.

22 Q. How you are going to document, exactly. And just
23 generally speaking, what are the processes that are used
to

24 document reductions, I mean generally in the field?

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1 A. If you are looking at lake sedimentation what you
2 typically do is set up monuments in the water body, say it
was a

3 lake or a pond and across those transections you document
the

4 depth of sediment in the pond, normally calibrated pulling
device

5 that shows the depth of sediment that is accumulated in
the pond,

6 and you do that in a series of transects so you can

determine the

7 volume of sediment that is in each segment of that water
body,

8 and then you divide that water body up in transects.

9 Once you have done that, you take samples of that
sediment,

10 determine the density of the sediment, which is the
columns per

11 cubic foot and since you know the number of cubic foot
that have

12 filled in, decrease the volume of that water body, you can
then

13 determine the pounds of sediment or tons of sediment which
is the

14 likely unit that would be delivered to that body over the
course

15 over time that that -- since the dam was constructed.

16 Q. So these are all -- again, these are all standard
17 well-known ways of calculations?

18 A. This is what the Water Survey has done in their
drinking

19 water reservoir studies since the 1940s.

20 Q. Okay. So this is the --

21 A. This is standard practice.

22 Q. This is standard practice basically, then?

23 A. Right.

24 Q. Okay. You said that you have -- you yourself
have been

1 up to the watershed?

2 A. Yes. Where we get the initial -- I think it is
-- I

3 can't remember the name of the lake, but it is the Boy
Scout Camp

4 in Godfrey, and we got the volumes of sediment that they
were

5 going to have to remove to restore the lake. And so what
we have

6 is at least the minimum sediment delivered to that lake
since it

7 was built.

8 MS. MORENO: Okay. Those are all of the questions I
have.

9 HEARING OFFICER KNITTLE: Ms. Rich, do you have any
10 questions?

11 MS. RICH: No questions.

12 HEARING OFFICER KNITTLE: Any questions for this
witness?

13 Sir, you can step down. Actually, if you will hold on
just one

14 second. Are you planning on introducing these as
exhibits?

15 MS. MORENO: I am not sure. I need to --

16 HEARING OFFICER KNITTLE: Now is the time while he
is still

17 up there.

18 MS. MORENO: Hang on just a second.

19 ROSEBOOM: I brought an extra copy.

20 MS. MORENO: All right. I would like to move for
the

21 introduction of this as Respondent's or Agency Exhibit
Number 1.

22 HEARING OFFICER KNITTLE: Together you want to offer
them?

23 Let's offer them separate, if you don't mind.

24 MS. MORENO: Well, are there two things?

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1 MR. ROSEBOOM: They both concern the same topic.
One is a

2 quick summary and one is a detailed --

3 MS. MORENO: This is the summary of this document.
It is

4 the same document basically. If you want to have two
that's

5 fine.

6 HEARING OFFICER KNITTLE: No, I have no preference.

7 MS. MORENO: Okay.

8 HEARING OFFICER KNITTLE: Is there any objection, Ms.
Rich?

9 MS. RICH: No.

10 HEARING OFFICER KNITTLE: These will be admitted as
IEPA

11 Exhibit Number 1.

12 (Whereupon said document was duly marked for purposes
of

13 identification and admitted as IEPA Exhibit 1 as of
this

14 date.)

15 HEARING OFFICER KNITTLE: Now, sir, you can step
down.

16 Thank you for your time.

17 (The witness left the stand.)

18 HEARING OFFICER KNITTLE: All right. Any other
witnesses,

19 Ms. Moreno?

20 MS. MORENO: No, the Agency does not have any
further

21 witnesses at this time. We do have Mr. McSwiggin, but as
we have

22 discussed --

23 HEARING OFFICER KNITTLE: Right. We are going to
give you

24 leave to submit his testimony in written form after the
hearing

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1 when he is able to compose that testimony.

2 MS. MORENO: I appreciate it and I am sure he
appreciates

3 that, too.

4 HEARING OFFICER KNITTLE: Are there any members of
the

5 public who wish to provide public comment at this point in
time?

6 I don't see any. This is your shot. Nobody is stepping

forward.

7 I do note for the record that there appear to be at least
four or
8 five citizens out there not affiliated with either of the
9 parties. But nobody wants to provide public comment at
this
10 point.

11 Ms. Rich, is there any rebuttal testimony that you
wish to
12 offer?

13 MS. RICH: No.

14 HEARING OFFICER KNITTLE: Okay. We can move right
on. We
15 have not talked about closing statements or post hearing
briefs
16 too much. Do you want to -- let's go off the record.

17 (Discussion off the record.)

18 HEARING OFFICER KNITTLE: We are back on the record.
19 Pursuant to an off-the-record discussion and I think maybe
even
20 an on the record discussion both parties are waiving their
21 closing arguments at this point in time.

22 Is that correct, Ms. Rich?

23 MS. RICH: That's correct.

24 HEARING OFFICER KNITTLE: Ms. Moreno?

1 MS. MORENO: Yes.

2 HEARING OFFICER KNITTLE: Okay. We talked off the
record

3 about a briefing schedule and a schedule for public
comments. As

4 I am sure everybody remembers, the Agency recommendation
is to be

5 filed on or before January 21st, which is 2000. After
that is

6 filed we will have a public comment period. Public
comments are

7 due on or before February 11th of 2000. After the public
comment

8 period closes, we are going to commence a briefing
schedule. We

9 have agreed to concurrent briefs both due on March 3rd,
2000,

10 with the Petitioner having leave to file reply brief if
they so

11 desire which will be due on or before March 10th of 2000.
I will

12 set all of this out in a Hearing Officer order as well.

13 The only other thing I want to comment on is it
states in

14 our rules that post hearing comments are generally to be
filed

15 within 14 days after the close of the last hearing. I am

16 extending this because of the amended petition and the
Agency

17 record. It can be extended pursuant to hearing officer

18 discretion. I think it is important for the public to
take a

19 look at the Agency amended recommendation and if they want
to

20 provide comment to the Board on that they should have the
21 opportunity to do. So that's why that is being extended.

22 Other than that, I have nothing else. I am not
23 specifically required to make a credibility statement at
adjusted
24 standard hearings, but for what it is worth, I found all

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1 witnesses to be credible and there are no credibility
issues as
2 far as I am concerned.

3 Okay. That is it. Thank you all very much for your
time.

4 MS. RICH: Thank you.

5 MS. MORENO: Thank you.

6 (Hearing exhibits were retained by Hearing Officer
7 Knittle.)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4

the

5 I, DARLENE M. NIEMEYER, a Notary Public in and for

that

6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY

correct

7 the foregoing 64 pages comprise a true, complete and

A.D.,

8 transcript of the proceedings held on the 6th of January

held

9 2000, at Alton City Hall, Alton, Illinois, in proceedings

recorded

10 before the Honorable John Knittle, Hearing Officer, and

11 in machine shorthand by me.

12 IN WITNESS WHEREOF I have hereunto set my hand and
affixed

13 my Notarial Seal this 14th day of January A.D., 2000.

14

15

16

17

Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

19

CSR License No. 084-003677

20 My Commission Expires: 03-02-2003

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