

1                                   BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4       PEOPLE OF THE STATE OF ILLINOIS,

5                                   Complainants,

6                                   vs.

No. PCB 99-027

7       JAMES AND CAROL GILMER,

8                                   Respondents/Third-

9                                   Party Complainants,

10                                   vs.

11       CL INDUSTRIES, INC., KRAFT FOODS

12       CORPORATION AND AC HUMKO CORPORATION,

13                                   Third-Party Respondents.

14

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16                                   Proceedings held on May 31, 2000, at 1:15 p.m., at the  
17       Villa Grove City Hall, 612 Front Street, Villa Grove, Illinois,  
18       before the Honorable John C. Knittle, Chief Hearing Officer.

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21                                   Reported by: Darlene M. Niemeyer, CSR, RPR  
22    CSR License No.: 084-003677

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24   KEEFE REPORTING COMPANY  
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A P P E A R A N C E S

STATE OF ILLINOIS, OFFICE OF THE ATTORNEY  
GENERAL

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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On behalf of Respondent.

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

2 (May 31, 2000; 1:15 p.m.)

3 HEARING OFFICER KNITTLE: Good afternoon. My name is John  
4 Knittle. I am the Chief Hearing Officer with the Illinois  
5 Pollution Control Board. I am also the assigned Hearing Officer  
6 for this matter, entitled, People of the State of Illinois versus  
7 James and Carol Gilmer. It is PCB Docket Number 99-27. I should  
8 note for the record that I am assuming responsibility for this  
9 case after Amy Felton left our office, and she was the Hearing  
10 Officer for the substantial amount of time that this case has  
11 been before the Board.

12 Today's date is May 31st of the year 2000. It is  
13 approximately 1:15 p.m. I want to note for the record that there  
14 are three members of the public present. Members of the public  
15 are encouraged and allowed to provide public comment if they so  
16 choose. That usually occurs after the case-in-chiefs and the  
17 case in rebuttal are completed. If you need to -- if you want to  
18 speak and you want to earlier than that and you have a conflict,  
19 please let me know and we will be sure to accommodate you if you  
20 need to be.

21 Pursuant to an off-the-record discussion, none of the  
22 members of the public at this point want to provide comment. Is  
23 that correct from everybody? I see everyone shaking their heads.  
24 I will take that to be a no.

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1           This hearing was noticed pursuant to the Illinois  
2 Environmental Protection Act and the Board's rules and  
3 regulations and will be conducted pursuant to Sections 103.202  
4 and 103.203 of the Board's rules.

5           At this point I would like to have the parties introduce  
6 themselves starting with the complainant.

7           MR. MORGAN: Mr. Hearing Officer, James Morgan from the  
8 Attorney General's Office here on behalf of the complainant.

9           With me is James Gregory Richardson from the Illinois  
10 Environmental Protection Agency. I also have with me Stanley  
11 Komperda and Julia Pezold, P-E-Z-O-L-D.

12           HEARING OFFICER KNITTLE: Thank you, Mr. Morgan. For the  
13 Respondent.

14           MR. MARTINKUS: Jim Martinkus on behalf of the Respondents,  
15 James and Carol Gilmer.

16           HEARING OFFICER KNITTLE: Okay. That takes us to opening  
17 statements. Before we get into that, are there any preliminary  
18 matters we wish to address at this point in time?

19           MR. MARTINKUS: I am assuming that we are having the  
20 official record transcribed, right? That is just --

21           HEARING OFFICER KNITTLE: That is correct. There is an  
22 official record of these proceedings and we will go over the  
23 timing of the record and when the transcript will be complete at  
24 the conclusion of the hearing.

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1 MR. MARTINKUS: Okay.

2 HEARING OFFICER KNITTLE: All right. Anything preliminary,  
3 Mr. Morgan?

4 MR. MORGAN: We have entered into a joint stipulation of  
5 facts that addresses the majority, if not the entirety, of the  
6 potential factual issues in this case. Both parties have  
7 executed that and submitted it to the Hearing Officer.

8 HEARING OFFICER KNITTLE: I do note that I have this in my  
9 possession signed by both attorneys. I will take this to the  
10 Board and make this part of the record. This joint stipulation  
11 is accepted.

12 That takes us to opening statements. Mr. Morgan, do you  
13 have an opening statement?

14 MR. MORGAN: Yes, I do.

15 HEARING OFFICER KNITTLE: Please proceed.

16 MR. MORGAN: Thank you. I am here on behalf of the  
17 complainant, People of the State of Illinois. The subject matter  
18 of this case is how do we deal with the mess that Multi-County  
19 Landfill left when they ceased operations in 1990. The State has  
20 previously undertaken significant closure activities at the  
21 landfill, and we are now at a point where the future maintenance  
22 of the landfill needs to be maintained from this point on.

23 This case presents primarily a legal question because the

24 pertinent facts have been admitted or stipulated to by the

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1 parties. The legal question we are presented with is whether the  
2 respondents, Mr. & Mrs. Gilmer are liable for compliance with the  
3 requirements of the Act and the regulations as a result of the  
4 cessation of waste disposal operations by Multi-County Landfill  
5 at the former Multi-County Landfill site.

6 It has been stipulated that the respondents are the owners  
7 of the site. Pursuant to 35 Illinois Administrative Code  
8 807.104, it states that the owner means a person who has an  
9 interest directly or indirectly in land, including a lease hold  
10 interest, on which a person conducts a waste treatment, waste  
11 storage or waste disposal operation. The owner is the operator  
12 if there is no other person who is conducting a waste treatment,  
13 a waste storage or a waste disposal operation.

14 The Pollution Control Board has previously ruled in the  
15 case of People versus John Prior, PCB 93-248, that the cessation  
16 of waste disposal operations by the former operator of a landfill  
17 leaves the landowner as operator and, therefore, responsible for  
18 compliance with the applicable provisions of the Act and  
19 regulations. Furthermore, in this case the landfill has received  
20 unpermitted hazardous wastes which were disposed of at the  
21 landfill. Count four of the complaint addresses certain  
22 requirements, the hazardous waste regulations that would apply in  
23 such an instance. Again, those regulations apply to both the

24 owner and the operator of the site and, therefore, as the owner

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1 of the site it is the complainant's contention that Mr. & Mrs.  
2 Gilmer are now responsible for compliance with those provisions.

3 The State will present the testimony of IEPA project  
4 manager Stan Komperda to describe the conditions at the site as a  
5 result of the abandonment of the site by Multi-County Landfill,  
6 Inc., the work done by the Illinois EPA to close the landfill and  
7 to abate those conditions and the cost of that work. Mr.  
8 Komperda will also describe the post-closure work that must be  
9 done at the site to assure that it will not threaten public  
10 health and the environment again.

11 The violations at issue in this case are under Count one  
12 the failure to initiate closure of the landfill as required by 35  
13 Illinois Administrative Code 807.506, the failure to close the  
14 landfill in a manner that controls the leachate and minimizes  
15 future maintenance requirements as required by 35 Illinois  
16 Administrative Code 807.502 (a) and (b), and the failure to  
17 provide closure and post-closure estimates as required by 35  
18 Illinois Administrative Code 807.623.

19 The second Count involves groundwater contamination as a  
20 result of the inadequate closure of the landfill in violation of  
21 Sections 12 (a) and 22.17 of the Environmental Protection Act and  
22 35 Illinois Administrative Code 620.114, 620.301 (a), 620.405,



23 620.401 (a), (b) and (d).

24 The third Count are operational-related violations. The

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1 failure to install two feet of cover. The failure to collect  
2 litter, mowing about the landfill, and the failure to control  
3 leachate discharging from the landfill.

4 The fourth Count are the RCRA violations, the lack of a  
5 groundwater monitoring system in violation of 35 Illinois  
6 Administrative Code 725.119 (a) and (b), no concrete seals on the  
7 wells, Section 21 (f) (1) of the Act, and 725.191 (c) of the  
8 regulations, and in the failure to have a sampling and analysis  
9 plan in violation of Section 21 (f) (2) and 35 Illinois  
10 Administrative Code 725.192 (a) through (d).

11 Because of these violations, the State is seeking an order  
12 from the Pollution Control Board that directs the respondents to  
13 cease and desist from future violations of the Act, to implement  
14 necessary post-closure measures, to protect and maintain the cap  
15 that has been installed, to control the gas that is currently  
16 being generated at the landfill from the waste, to monitor the  
17 groundwater, to inspect the landfill, to maintain the fence that  
18 has been installed around the landfill, and then to prevent  
19 ponding in the adjacent cell and certain other activities.

20 We are also asking for an appropriate penalty, and because  
21 these violations have occurred repeatedly, attorney's fees.

22 Thank you.

23 HEARING OFFICER KNITTLE: Thank you, Mr. Morgan. Mr.  
24 Martinkus?

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1 MR. MARTINKUS: Let me approach it a little differently.  
2 This is a four-count complaint. Counts one and two do not seek  
3 remedial action. There is nothing in those counts which asks the  
4 Commission to impose any obligation upon my clients to continue  
5 to monitor and do the things that Counsel has just recited. If  
6 you look at Count one, Count one is based upon an allegation that  
7 the respondents are operators, and as a result of being  
8 operators, improperly closed the land site. There is no  
9 liability here for civil penalties or otherwise unless you can  
10 conclude, the Board can conclude that the Gilmers were operators.

11 Similarly, Count two does not seek remedial action. It  
12 does not seek an order requiring the Gilmers to go and do  
13 anything, to monitor wells, to do any of the things which are set  
14 forth in three and four. The theory behind Count two is based  
15 upon the Gilmers being operators. The complaint which frames the  
16 cause of action here does not, in any fashion, attempt to claim  
17 that the respondents were operators by virtue of any  
18 participation in the activities of Multi-County Landfill.

19 What they have framed the issue to be is that they have  
20 become operators by default and they rely upon an interpretation  
21 of 35 Illinois Administrative Code 807.104 which defines owner as

22 a person who has an interest directly or indirectly in land,  
23 including a lease holding interest, in which a person conducts a  
24 waste treatment, waste storage or waste disposal operation. And

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1 they then hang their argument on the next sentence. The owner is  
2 the operator if there is no other person who is conducting a  
3 waste treatment, waste storage or waste disposal operation.

4 I believe the evidence in this case and the law, for that  
5 matter, will show clearly and convincingly that there is no basis  
6 for that interpretation. That there is nothing in that  
7 particular administrative code section which talks about default.  
8 That in the event that an operator ceases operations then the  
9 owner is, in fact, somehow defaulted and by default becomes the  
10 operator. I believe this language is very specific. It engages  
11 one who does not consider himself to be an operator but does, in  
12 fact, do the things that an operator does and is the owner of the  
13 land. There is nothing to suggest that, in fact, the owners in  
14 this case have become operator by default.

15 Now, three and four are much different. Three and four,  
16 they do seek remedial action in addition to other things. They  
17 seek an order from the Board to have them do the monitoring, the  
18 wells, drill the wells, do the testing and the like. Their  
19 complaint is based upon the count -- the section in the statute  
20 that talks about owners and operators being within the scope and  
21 breadth of those individuals who could be held responsible for a

22 15 year period.

23           The problem, of course, with that argument and it fails as  
24 well, is that by virtue of the joint stipulation of facts it is

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1 clear, unequivocally clear, as a matter of law, based upon  
2 paragraph four and ten, specifically ten, that the EPA in this  
3 instance spent 4.1 million dollars in closure activities, but the  
4 closure activities did not commence until October of 1997, and  
5 were completed in the summer of 1999. The key date here, of  
6 course, is October of 1997. Because, as I am sure that you know,  
7 and the Commission knows, the law was changed drastically and  
8 dramatically in July of 1996. Section 58.9 of the Site  
9 Remediation Program section of the Environmental Protection Act  
10 was specifically enacted with the intent to protect individuals,  
11 like the Gilmers, who are simply landlords who have no knowledge  
12 or participation in any of the illegal conduct for which these  
13 claims arise.

14           That particular provision clearly and unequivocally says  
15 not withstanding any other provisions of this Act to the  
16 contrary, no one, the Agency, the State of Illinois or any  
17 person, may bring an act to require any person to conduct  
18 remedial action or to seek recovery of costs for remedial  
19 activity conducted by the State of Illinois or any person. Thus,  
20 accordingly, if you look at their particular argument, that

21 because my clients are owners under Count three and four, they,  
22 in fact, must in some fashion be responsible for this continual  
23 remedial action. Section 58.9 certainly says otherwise.

24 So basically I believe the evidence is going to show in

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1 this case that there is no basis at all to conclude that they are  
2 operators for purposes of Count one and Count two. There is no  
3 basis, based upon the particular preemption provisions of the  
4 Site Remediation Program in Title 17 for them to, in fact, be  
5 responsible for remedial actions. That is what I think the  
6 evidence and law will be.

7 HEARING OFFICER KNITTLE: Thank you, sir. Mr. Morgan, do  
8 you want to call your first witness.

9 MR. MORGAN: Yes. I would like to call Stan Komperda,  
10 please.

11 HEARING OFFICER KNITTLE: Can we go off for a second.

12 (Discussion off the record.)

13 HEARING OFFICER KNITTLE: Let's go back on the record. Mr.  
14 Komperda, the court reporter is going to swear you in.

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

16 HEARING OFFICER KNITTLE: Mr. Morgan.

17 MR. MORGAN: Thank you.

18 S T A N K O M P E R D A,

19 having been first duly sworn by the Notary Public, saith as  
20 follows:

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DIRECT EXAMINATION

22

BY MR. MORGAN:

23

Q. Mr. Komperda, would you state what your current position

24

is with the Illinois Environmental Protection Agency?

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A. I am an Environmental Protection Specialist III, also a

2

project manager.

3

Q. How long have you been an Environmental Protection

4

Specialist III?

5

A. I would say about two years.

6

Q. How long have you been working for the Illinois EPA?

7

A. Over eight years.

8

Q. Okay. Can you briefly run through your job history with

9

the Agency?

10

A. I started in April of 1992, as an EPS I project manager,

11

and began -- I am sorry. As a life science career trainee and

12

then project manager. I began working with some of the

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enforcement cases and moved on to work in the Voluntary Clean Up

14

Program now known as the Site Remediation Program. Several years

15

ago I made the transition to the State Sites Unit where remedial

16

activities are funded by the State. I oversee those activities

17

for the sites I am assigned.

18

Q. Have you had any involvement with the Multi-County

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Landfill site?

20 A. Yes. I was the project manager for that site from  
21 approximately 1997 through 1999.

22 Q. And could you describe for me your role as project  
23 manager for that site?

24 A. I coordinated the remedial clean up activities with our

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1 consultant, our engineering firm, and our contractor and various  
2 subcontractors, all involved in the remedial activities.

3 Q. And when was the first time you went to the site?

4 A. Probably the summer of 1997.

5 Q. And what did the site look like when you first went  
6 there?

7 A. We had been notified by our regional office -- we were  
8 aware of the site. We asked for a list of some landfills or  
9 sites around the state from our various regional offices that  
10 would require some remedial attention. We were notified by our  
11 Champaign Regional Office that Multi-County was definitely one  
12 that we needed to look at. So when I arrived at the site I saw a  
13 large body of water on the north side of the site and very  
14 heavily eroded slopes on the north side of the site and later on  
15 as we walked around we could see other large ruts, not a lot of  
16 vegetation. There was a lot of gas hissing out of very deep ruts  
17 in the sides of the landfill and gas bubbling into the flooded  
18 landfill cell, the lake there on the north side. Lots of odors.  
19 It smelled like rotten garbage. There was not a lot of

20 vegetative cover. It was a very sandy and gravelly type of cover  
21 material. It was not very conducive to a normal landfill cap.

22 Q. Did you see any leachate?

23 A. Yes. In the ruts you could see where the rainwater had  
24 carved down and you could see leachate leaking out from the

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1 landfill that did come in contact with the surface water in the  
2 flooded landfill cell.

3 Q. Did you see any leachate contact between the landfill  
4 and Jordan slough?

5 MR. MARTINKUS: I am just going to object at this point  
6 only because I think this is simply duplicative. We already  
7 stipulated to these facts. Paragraph 11 of the stipulation talks  
8 about the fact that we have these concentrations here. There is  
9 another paragraph that also talks about it. Again, I don't care  
10 but it is just that I don't believe that is an issue in the case.  
11 We are not contesting that there were leachate problems.

12 HEARING OFFICER KNITTLE: Mr. Morgan?

13 MR. MORGAN: I will withdraw the question.

14 HEARING OFFICER KNITTLE: Thank you. You may proceed.

15 MR. MORGAN: Let me ask the court reporter to mark two  
16 exhibits. Would you mark these as Exhibits 1 and 2.

17 (Whereupon said documents were duly marked for purposes of  
18 identification as Exhibits C1 and C2 as of this date.)



19 MR. MORGAN: May I approach the witness?

20 HEARING OFFICER KNITTLE: Yes.

21 Q. (By Mr. Morgan) Mr. Komperda, let me show you what has  
22 been marked as Exhibit Number 1. I apologize. Let me show it to  
23 Mr. Martinkus first.

24 MR. MARTINKUS: Okay.

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1 Q. (By Mr. Morgan) Now let me show you what has been marked  
2 as Exhibit Number 1. Could you tell me what that is?

3 A. This is the survey of the site prior to any remedial  
4 activities, and this was done by our consultant.

5 Q. Could you briefly describe some of the features you see  
6 on the landfill diagram?

7 A. Probably the -- well, the actual landfill is obviously  
8 the largest land form. Then there is the water body of the  
9 flooded landfill cell. And then they have surveyed in all of the  
10 ruts and gullies on the north and south side of the landfill.

11 Q. For perspective, is the open cell water body in what  
12 would be the northeast corner of the diagram?

13 A. That's correct.

14 Q. Okay. Let me show you what has been marked as Exhibit  
15 Number 2. Would you take a look at that and tell me what it is?

16 A. This is a final report that was done by our consultant,  
17 Graef, Anhalt & Schloemer, and it basically discusses all of the  
18 remedial activities that were done at the site and includes some

19 daily logs from our on-scene coordinator, from our consulting  
20 firm and numerous pictures of kind of before and during and after  
21 of the remedial activities.

22 Q. Have you reviewed that report for accuracy?

23 A. Yes, I have.

24 Q. And did you find it to be accurate?

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1 A. Yes, I have.

2 Q. Okay. Is that a true and correct copy of the report?

3 A. Yes, it is.

4 MR. MORGAN: At this time I would ask that this exhibit be  
5 admitted.

6 MR. MARTINKUS: I am not sure what the purpose of the  
7 report is. Obviously, it is a hearsay report, and I don't know  
8 if it is being offered for the truth of some statement that is  
9 not contained in the joint stipulation of facts. So I guess for  
10 the record I am going to object based upon hearsay and based upon  
11 there has been no showing of the relevancy of the report.

12 HEARING OFFICER KNITTLE: Mr. Morgan?

13 MR. MORGAN: Thank you. The intent behind offering this  
14 report was a shorthand way of providing the Board with a  
15 description of the work that was performed at the site.

16 MR. MARTINKUS: If it is offered for that limited purpose  
17 of doing that, then I will withdraw the objection. In other

18 words, I have obviously not looked at the report. I don't know  
19 if there are conclusions or opinions or so forth, so I certainly  
20 would reserve my objection -- continue my objection to the extent  
21 it is offered for any other purpose. But if it is limited to  
22 simply show the work that was done, I am not sure that the  
23 relevancy of it, but to that extent I don't object to it.

24 HEARING OFFICER KNITTLE: Mr. Morgan, is that the sole

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1 purpose that you are offering this Exhibit for?

2 MR. MORGAN: Well, there is one other section in there that  
3 addresses the contractor's suggestions about what the future  
4 remedial activity -- excuse me -- what future maintenance  
5 activity might be appropriate at the landfill. That is in there  
6 and I was going to question Mr. Komperda about those activities  
7 directly.

8 MR. MARTINKUS: That's fine. Then I take it that the offer  
9 is that it would not be offered for the purpose of showing what  
10 this unknown contractor, to me, opinion's are about something and  
11 then, obviously, that is okay. I want to make sure that on the  
12 record here I am not agreeing to this exhibit being offered for  
13 the purported purpose of having the contractor, an unknown  
14 contractor, in some report give opinions as to what may or may  
15 not be required.

16 MR. MORGAN: My intent was solely that it would be to  
17 describe the work that was performed and that's it.

18 HEARING OFFICER KNITTLE: So based on the -- Mr. Martinkus,  
19 you are withdrawing your objection based on Mr. Morgan's  
20 assertion as to what he wanted to show with this report?

21 MR. MARTINKUS: Yes. Based upon the last statement, yes.

22 HEARING OFFICER KNITTLE: Okay. It will be accepted as  
23 noted on the record.

24 (Whereupon said document was admitted into evidence as

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1 Complainant Exhibit 2 as of this date.)

2 HEARING OFFICER KNITTLE: Mr. Morgan.

3 MR. MORGAN: Thank you.

4 Q. (By Mr. Morgan) Mr. Komperda, can you tell me when the  
5 work at the landfill undertaken by Graef, Anhalt, Schloemer &  
6 Associates was completed?

7 A. Approximately late -- let me rephrase. Early winter of  
8 1998.

9 Q. Okay. And can you tell me what the purpose of that work  
10 was?

11 A. The main focus of the work was to provide a cap on the  
12 landfill to reduce the infiltration of rain water into the  
13 landfill and prevent further erosion. Also, to handle leachate  
14 that was generated from the landfill and then to attempt to  
15 relieve some of the gas pressure in the landfill so that there  
16 wouldn't be any further degradation of the cap that was put on,

17 and finally the cap was covered with top soil and seeded.

18 Q. Okay. Would you tell me a little bit more about the gas  
19 pressure developing in the landfill?

20 A. As I said earlier, when we first got out to the landfill  
21 site I think everybody was amazed by the amount of gas that was  
22 being generated at the site. I don't think any of us had seen  
23 anything similar anywhere else in this State. There were very  
24 high pressures. The gas basically consists of a methane, carbon

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1 dioxide mixture. The concern when you have that kind of pressure  
2 is that you will have a blow-out of the cap, which we actually  
3 did experience later that summer when the cap went on. We  
4 witnessed a large area of two foot thick clay that had already  
5 been compacted that was lifted off the ground about three feet  
6 over an area of about 50 square feet. The gas pressure had just  
7 built up to such an extent. So we vented that area to try and  
8 lower that.

9 Q. Okay. Since the early winter of 1998, when this work  
10 was completed, has the Illinois EPA undertaken any other  
11 activities at the site?

12 A. We had an ongoing leachate pumping program that occurs  
13 twice a week with a local company here. They go to our leachate  
14 collection trench, withdraw leachate from there and ship that  
15 over here to Villa Grove, to a publicly owned treatment works.  
16 It has also been fenced. There has been some erosion protection

17 put on the slope of the landfill that extends down into what was  
18 previously the lake, the landfill cell, to try and arbor that to  
19 keep that from eroding. There have been some other controls to  
20 put into -- to control some leachate seeps that have popped out  
21 since then through the cap. And also I believe some seeding  
22 repairs. I think Ms. Pezold could probably testify to some of  
23 that better than I because she has been involved in more of those  
24 actions than I have.

21

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1 Q. Okay. The leachate collection that is currently being  
2 done -- the leachate collection, is that still currently being  
3 done?

4 A. Yes.

5 Q. And do you have a feel for how long that will need to  
6 continue?

7 A. We hope not indefinitely. We would hope that some party  
8 would step in and be involved, but for now if we don't pump the  
9 leachate out of there the danger is that the leachate pressure  
10 will buildup behind the wall that slopes down into the former  
11 lake and will then blow out that wall. In fact, we experienced  
12 some of that early on in the project. That is why we put the  
13 drain system in there. So for the foreseeable future I think it  
14 is going to need to take place. Hopefully the cap will start  
15 drying things out in the landfill in a hurry.

16 Q. Can you tell me what other work will be necessary to  
17 maintain the cap and other work that the Agency has had performed  
18 at the site?

19 A. Probably the biggest issue is what do we do about these  
20 gas pressures within the landfill. We have some vents that we  
21 have put in. It is just kind of an interim system, not at all  
22 what it is really supposed to be. We basically ran out of money,  
23 so we had to make due with what we could. But we would need some  
24 kind of a gas collection system, potentially even an active gas

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1 collection system, to handle the volume. It is a relatively  
2 young landfill, so it still has a fairly productive life, in  
3 terms of methane gas, ahead of it.

4 Q. Is this site a potential site for development of a  
5 landfill gas energy project?

6 A. Yes.

7 MR. MARTINKUS: I am going to object to the relevancy of  
8 this inquiry at this point.

9 HEARING OFFICER KNITTLE: Mr. Morgan, can you tell the  
10 Board how it is relevant.

11 MR. MORGAN: Certainly. We are talking about future  
12 measures necessary to, in essence -- excuse me -- future  
13 post-closure activities with regard to the landfill. The  
14 regulations allow for collection of the gas and if available use  
15 for energy projects. So I am just exploring what options are

16 available to control the gas problem at the landfill.

17 HEARING OFFICER KNITTLE: Okay. Objection overruled. Do  
18 you remember the question, Mr. Komperda.

19 THE WITNESS: Could you say it again?

20 Q. (By Mr. Morgan) Does this site have potential for  
21 development as a landfill gas energy site?

22 A. Yes, it does. We actually have had some dealings with  
23 these firms that get into these kinds of project, and we did ask  
24 one of the firms just off the top of their heads if they thought

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1 a project like this could potentially be developed, and I think  
2 overall there is a potential for a two megawatt plant to be  
3 developed, maybe more. It all depends. You would have to get  
4 into these sites and really kind of do an investigation to really  
5 find out if it is worthwhile to bring in the capital investment  
6 that you need for that. But what would be nice is if something  
7 like that were able to be worked out, is that you could  
8 potentially arrange a situation where the company that was doing  
9 the gas energy project would also undertake many of the O&M  
10 activities, the operation and maintenance activities, the  
11 leachate pumping, making sure there are not any seeps on the site  
12 and if there is any erosion they would come in and bring some top  
13 soil in and seed it. Just make sure that the site is basically  
14 checked on on a daily, if not weekly, basis and make sure that



15 things stay static.

16 Q. Okay. What are the other alternative measures that can  
17 be used to control the gas pressure at the site?

18 A. The other alternatives would be an active extraction  
19 system. Basically wells would have to be installed into the  
20 landfill fairly deep, probably extending at least 50 feet deep.  
21 A negative pressure would be put on those wells. The methane gas  
22 would be pulled out and then would be flared. That is one  
23 alternative.

24 The other alternative is a passive flare system, where we

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1 would put dozens of small vents all over the landfill and those  
2 would have a little solar sparker type igniters which would  
3 continually flare the gas. I think that the landfill is  
4 producing too much gas to allow for just a standard venting,  
5 which is what is happening right now. I think our Bureau of Air  
6 would like to see an actual flaring combustion of this methane  
7 gas.

8 Q. Do you have an estimate what any of the latter two  
9 alternatives could cost?

10 A. For the active extraction?

11 Q. Yes.

12 A. I don't have a formal estimate. I could give you one  
13 off the top of my head just based upon my experience. I would  
14 say --

15 MR. MARTINKUS: I am going to object. First of all, I am  
16 not sure what the relevancy of what that cost is at this point.  
17 Second, I don't know if there is any foundation laid to allow  
18 this witness to give this type of opinion.

19 HEARING OFFICER KNITTLE: Mr. Morgan, your response?

20 MR. MORGAN: Well, the intent behind this question was to  
21 identify for the Board the potential expenses the Gilmers might  
22 be facing in terms of determining the appropriate penalty. I can  
23 lay a ground -- excuse me -- a foundation for Mr. Komperda to  
24 make an estimate based on his experience.

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1 HEARING OFFICER KNITTLE: Let me address then -- it was a  
2 two-part objection. I would overrule relevancy. I don't think  
3 foundation has been laid yet, so it is sustained on that ground.

4 Q. (By Mr. Morgan) Mr. Komperda, have you had any  
5 involvement with the installation of active gas systems in any  
6 other landfill?

7 A. I have had involvement with one facility, the Sexton  
8 Landfill up in Chicago. I have reviewed the plans that they  
9 submitted to us for that. I am also currently involved in  
10 another gas project at the Paxton Landfill. We have not put in  
11 any extraction wells yet, but we are going to be doing that here  
12 in the next few months.

13 Q. Could you compare for me the two other landfills you

14 have experience with with the Multi-County Landfill?

15 A. Well, the Sexton Landfill is basically a privately  
16 funded gas extraction system, a deal setup between the owner and  
17 this gas energy company. My involvement with that is basically  
18 going to be used as a remedial strategy for some other problems  
19 that are occurring there.

20 The Paxton Landfill will actually be a state-funded  
21 extraction system, I think the first of its kind. It is much  
22 larger in scope, I think, than what Multi-County would be if it  
23 went that route.

24 Q. And is there currently an estimate of what the cost

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1 would be for -- I have the two confused -- the Paxton Landfill?

2 A. The Paxton Landfill, we are talking about a million to a  
3 million and a half dollars for an extraction system. That  
4 includes basically drilling the wells, building the manifold and  
5 condensate collection system and then the flare system.

6 Q. Can you make a comparison between what the possible cost  
7 would be at Multi-County based on the current cost projections  
8 for Paxton?

9 A. The values that I have heard basically is --

10 MR. MARTINKUS: Excuse me. I am going to object. Are  
11 these values or costs? The question had to do with cost, and the  
12 witness is now talking about values.

13 HEARING OFFICER KNITTLE: Mr. Morgan, do you have anything?

14 MR. MORGAN: No.

15 HEARING OFFICER KNITTLE: I am going to allow him to go on.  
16 You can address that on cross-examination if you want.

17 THE WITNESS: The number that I hear is a million dollars  
18 per megawatt. So if Multi-County were to generate two megawatts,  
19 it would cost a million dollars per megawatt.

20 Q. (By Mr. Morgan) Okay. And do you have any experience in  
21 what the cost would be for a passive system?

22 A. We have never put one of those in. A passive system may  
23 not even be an option. If the pressures are too high we would  
24 literally have to pin hole the landfill, you know, maybe have

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1 over 100 of these type of flares on there. So when you look at  
2 those costs then you may be -- you may be better off going with  
3 an active system. But really this is where we need to do some  
4 investigation and see what the pressures are like in the landfill  
5 right now post-remediation. And they are likely to be higher  
6 than what they were pre-remediation because now we have a cap  
7 sitting on top of everything.

8 Q. Other than controlling the gas, what other long-term  
9 measures are necessary to protect the cap and other measures that  
10 have been put in place?

11 A. We would like to see some mowing occur for the grass on  
12 the cap. We would also like to see erosion checks. You know,

13 you are bound to have some erosion occurring. That would need to  
14 be filled and seeded. We would like to see the leachate be taken  
15 care of on a regular basis. A full-scale groundwater monitoring  
16 has not taken place yet and that also needs to take place,  
17 because we really -- there are some impacts. We don't know the  
18 extent of them. Are they going to get worse, or are they going  
19 to get better. That has not been done.

20 Also, obviously, the extraction of the gas somehow. Then  
21 this pond that is down in the bottom of the lake, I have been  
22 hoping to work out something with the City of Villa Grove where  
23 we could obtain some free soil and continue to backfill that  
24 pond. We have backfilled about 120,000 cubic yards from a lake

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1 dredging project that occurred here simultaneously with our  
2 remedial actions. We were able to backfill that pond and raise  
3 the level of the bottom up and also adjust the slope angle down  
4 into the pond.

5 But if it fills up with water again and those waves  
6 continue to lap against the edges there, you know, we could  
7 potentially have erosion. Of course, the last thing you want  
8 with a landfill is you don't want any kind of ready access to  
9 water and leachate. You don't want any mixture occurring, like  
10 what was occurring before. So hopefully the pond could be  
11 backfilled, at least halfway. That would really take a lot of  
12 future concerns away.

13 Q. Are there any other activities that are necessary?

14 A. Regular inspections. I think requirements under the Act  
15 is basically what we would ask for under 807 and 811, any of the  
16 standard post-closure care requirements is something that we  
17 would like to see actively done.

18 Q. One question about the periodic mowing. About how often  
19 would that have to occur?

20 A. I think we generally ask for twice a year. But I think  
21 you could get by with once a year. You just want to make sure  
22 that there is a good quality of grass growing up there and you  
23 don't get it so thick that you wind up killing it causing further  
24 problems later.

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1 Q. And with regard to groundwater monitoring, is there a  
2 system currently in place? Excuse me. Are there any wells  
3 currently in place?

4 A. Yes, there are some wells. We are kind of suspect as to  
5 the quality of those wells right now, because there has been some  
6 frost heave. Some of the wells were damaged during the  
7 construction activities. That is inevitable on a project of that  
8 size. There are some wells. We could get some data, but what we  
9 would really like to see is an actual good well network in place  
10 and sampled on a quarterly basis so we could get a real good look  
11 at what is going on under ground.

12 Q. Can you tell me what the current cost of the leachate  
13 collection and disposal is?

14 A. I don't know that off the top of my head.

15 Q. Okay. Can you tell me through the last date available  
16 how much the Illinois EPA has spent at the Multi-County Landfill  
17 site?

18 A. I think our current total is up to 4.1 million dollars.  
19 That includes \$500,000.00 appropriated from the General Assembly  
20 specifically for this site.

21 Q. And does the Illinois EPA currently have any funding  
22 available for further work at the landfill?

23 A. I think that we are going to continue to do the leachate  
24 management. Now, to what point those funds dry out, I am not

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1 aware of.

2 MR. MORGAN: Okay. That's all of the questions I have.  
3 Thank you very much.

4 HEARING OFFICER KNITTLE: Thank you. Let's go off the  
5 record.

6 (Whereupon a short recess was taken.)

7 HEARING OFFICER KNITTLE: Back on the record. Starting  
8 cross-examination of Mr. Komperda.

9 Mr. Komperda, let me remind you that you are still under  
10 oath.

11 THE WITNESS: Okay.

12 HEARING OFFICER KNITTLE: Mr. Martinkus.

13 CROSS EXAMINATION

14 BY MR. MARTINKUS:

15 Q. Good afternoon, Mr. Komperda.

16 A. Good afternoon.

17 Q. You indicated on direct testimony that you estimated  
18 about \$1,000,000.00 per megawatt for the cost of the installation  
19 of the wells; is that accurate?

20 A. For the wells and generating equipment and that kind of  
21 stuff.

22 Q. So if I follow you, in other words, in order to put into  
23 place an active extraction system here on this particular  
24 landfill, you are looking at a cost of approximately

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1 \$2,000,000.00?

2 A. The extraction -- that would be the extraction system  
3 and electrical generators.

4 Q. Okay.

5 A. For an extraction system and say a flare that you would  
6 need, probably about a million dollars for that.

7 Q. Okay. The flare system would be the passive flare  
8 system as opposed to the active extraction?

9 A. If we put in collection wells and had a negative pump  
10 that would be an active flare. Passive flare, it could be less



11 than that if the number of flares was not excessive.

12 Q. You also testified concerning other long-term measures  
13 such as cap checks, erosion checks, leachate management, a good  
14 well network, periodic mowing, ground watering system, pond  
15 filling and regular inspections. Do you have some idea as to the  
16 approximate cost annually of those types of measures?

17 A. I don't believe we have a cost developed for that.

18 MR. MARTINKUS: That's all I have.

19 HEARING OFFICER KNITTLE: Mr. Morgan, any re-direct?

20 MR. MORGAN: No redirect, Your Honor.

21 HEARING OFFICER KNITTLE: Well, Mr. Morgan --

22 MR. MORGAN: I mean Mr. Hearing Officer.

23 HEARING OFFICER KNITTLE: -- as much as I would like to be  
24 Your Honor.

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1 Mr. Komperda, you can step down, even though you are going  
2 to remain in your seat. You are no longer on the witness stand.

3 THE WITNESS: Thanks.

4 (The witness left the stand.)

5 HEARING OFFICER KNITTLE: Mr. Morgan, do you have any  
6 additional witnesses?

7 MR. MORGAN: No further witnesses.

8 HEARING OFFICER KNITTLE: Before you sign-off your  
9 case-in-chief I just want to note I don't have the survey. You  
10 have not offered that into evidence. Do you want to do that?

11 MR. MORGAN: My intent was to offer that for demonstrative  
12 purposes only.

13 HEARING OFFICER KNITTLE: So you don't want to offer that  
14 into evidence?

15 MR. MORGAN: Well, I guess I better so the Board can see  
16 it.

17 HEARING OFFICER KNITTLE: Okay. Is there an objection to  
18 that?

19 MR. MARTINKUS: No, if it is being offered as a  
20 demonstrative exhibit, I have no objection.

21 HEARING OFFICER KNITTLE: Okay. That will be admitted as  
22 noted.

23 (Whereupon said document was admitted into evidence as  
24 Complainant Exhibit 1 as of this date.)

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1 HEARING OFFICER KNITTLE: All right. Thank you, Mr.  
2 Morgan.

3 Mr. Martinkus, do you have any witnesses you would like to  
4 call?

5 MR. MARTINKUS: I do.

6 HEARING OFFICER KNITTLE: All right.

7 MR. MARTINKUS: Prior to that I am going to move for a  
8 directed verdict as to each of the four counts. What I will do,  
9 if it is agreeable, is simply save my argument on the directed

10 verdict when we close the evidence in the case-in-chief.

11 HEARING OFFICER KNITTLE: Okay. Yes, that is probably a  
12 good idea. I am not capable of granting a directed verdict at  
13 this point in time. I do note for the record that you have made  
14 that motion.

15 MR. MARTINKUS: I would call Carol Gilmer.

16 HEARING OFFICER KNITTLE: Mrs. Gilmer.

17 MR. MARTINKUS: How do you want to do it?

18 HEARING OFFICER KNITTLE: Let's go off.

19 (Discussion off the record.)

20 HEARING OFFICER KNITTLE: All right. Let's go back on the  
21 record.

22 Could you swear the witness in, please.

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

24 C A R O L S U E G I L M E R ,

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1 having been first duly sworn by the Notary Public, saith as  
2 follows:

3 DIRECT EXAMINATION

4 BY MR. MARTINKUS:

5 Q. Would you state your full name, please.

6 A. Carol Sue Gilmer.

7 Q. Carol, where do you live?

8 A. 1755 East County Road 1550 North, Villa Grove.

9 Q. How long have you lived there?

10 A. Approximately 15 years.

11 Q. Who lives there with you?

12 A. My husband James.

13 Q. Both you and your husband James are respondents in this  
14 action; is that correct?

15 A. Yes, sir.

16 Q. Do you have children?

17 A. Yes, sir.

18 Q. How many children and what are their ages?

19 A. We have two, a daughter, 42 and son, 40.

20 Q. All right. I hate to ask you this, but how old are you?

21 A. I am 63.

22 Q. You are close enough to hit me, so I am going to be very  
23 careful.

24 A. I am 63.

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1 Q. How old is Jim?

2 A. Jim is 63 also.

3 Q. Can you testify as to what do you and Jim do for a  
4 living?

5 A. We have a small business, home repair, home remodeling.

6 Q. And how long have you been engaged in that type of work?

7 A. For the past two years.

8 Q. Do you have any other sources of income other than the

9 income you receive from the small remodeling business?

10 A. Social Security, which we took at 62.

11 Q. Okay. So you are just starting to receive that now; is  
12 that correct?

13 A. Just started to, yes.

14 MR. MARTINKUS: Could you mark this as Exhibit Number 1,  
15 please.

16 HEARING OFFICER KNITTLE: Mr. Martinkus, I am having this  
17 marked as R1.

18 (Whereupon said document was duly marked for purposes of  
19 identification as Exhibit R1 as of this date.)

20 Q. (By Mr. Martinkus) I am showing you what has been marked  
21 as Respondent's Exhibit Number 1, R1, which is a document  
22 entitled, Financial Affidavit of Respondents. Are you familiar  
23 with this?

24 A. Yes, sir.

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1 Q. Is this a document that my office prepared based upon  
2 information that you provided us?

3 A. Yes, sir.

4 Q. And to the best of your recollection, is this particular  
5 document an accurate reflection of your monthly living expenses  
6 and your monthly income and your assets and debts?

7 A. Yes, sir.

8 Q. Other than what is recited on this particular document,

9 neither you nor Jim have any other assets, debts, expenses or any  
10 annuity consequences; is that correct?

11 A. No, sir.

12 Q. All right. So that is correct? Yes?

13 A. Yes.

14 Q. All right. First of all, with respect to the paragraph  
15 one, living expenses, this is your best estimate of what your  
16 monthly living expenses are?

17 A. Yes, it is.

18 Q. That would be approximately \$2,732.96 per month; is that  
19 correct?

20 A. Yes.

21 Q. You estimate your income to be about \$3,111.00; is that  
22 true?

23 A. Yes.

24 Q. So about maybe \$400.00 or so more than what your

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1 expenses are each month; is that correct?

2 A. Yes.

3 Q. So you just kind of barely make ends meet from paycheck  
4 to paycheck?

5 A. That's right.

6 Q. With respect to your debts, you have total debts of  
7 \$23,019.97; is that correct?

8 A. That's correct.

9 Q. You have a mortgage loan and the remaining balance is  
10 about \$7,500.00?

11 A. Yes.

12 Q. And then you have a lien on your truck of about  
13 \$11,000.00; is that correct?

14 A. Yes, sir.

15 Q. Other than basically your house you don't have any other  
16 significant assets of any kind; is that correct?

17 A. No, we don't.

18 Q. Now, I want to call your attention to your ownership of  
19 the land here in question. You are familiar with that land?

20 A. Yes, I am.

21 Q. And just approximately how long have you and Jim owned  
22 this land, your best estimate?

23 A. Well, about 30 years.

24 MR. GILMER: Right.

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1 THE WITNESS: I would say close to 30 years.

2 Q. (By Mr. Martinkus) You have already entered into a  
3 stipulation where you have agreed that you and Jim leased the  
4 land to Multi-County Landfill; is that true?

5 A. That's correct.

6 Q. That was done sometime in the late 1970s, early 1980s,  
7 something to that effect?

8 A. It was around 1970, 1972, somewhere in there.

9 HEARING OFFICER KNITTLE: Let me jump in just real quick.  
10 This is not an official court proceeding, but we abide by the  
11 same rules. When you are on the stand I am going to ask you not  
12 to look at your husband and communicate with him while you are  
13 giving your answers.

14 MR. MARTINKUS: You do your best and we will ask Jim other  
15 questions.

16 THE WITNESS: All right.

17 HEARING OFFICER KNITTLE: If you don't know that is  
18 perfectly acceptable and you can say you don't know, but please  
19 testify from your own basis of knowledge.

20 THE WITNESS: Very good.

21 HEARING OFFICER KNITTLE: Thank you.

22 Q. (By Mr. Martinkus) So the question, then, is to the best  
23 of your recollection, approximately how long -- strike that.  
24 When did you enter into the lease with the Multi-County Landfill?

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1 A. To the best of my recollection, it was the early 1970s.

2 Q. All right. And you and Jim were the landowners or the  
3 landlords of this particular lease; is that correct?

4 A. That's correct.

5 Q. And do you recall what the payments were that you  
6 received for leasing this particular property to Multi-County to



7 be operated as a landfill?

8 A. That was determined by the amount of traffic that came  
9 into the landfill, so it varied from month to month.

10 Q. All right. Do you recall roughly or approximately how  
11 much your lease rights were or lease payments were? If you  
12 don't, that's fine.

13 A. I can't even remember now. It has been so many years.

14 Q. That's okay. In any event, did you or Jim participate  
15 in any of the operations of the company in terms of having  
16 knowledge with respect to what was going on in the landfill?

17 A. Not after 1978.

18 Q. Okay. And did you and Jim, if you know, for Jim at  
19 least, have any knowledge whatsoever of the commission or  
20 omission of anything, any acts at all by Multi-County Landfill  
21 with respect to the accepting of hazardous waste material or  
22 other waste material, for that matter, from CL Industries or any  
23 other entity?

24 A. Absolutely none.

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1 Q. Did you receive any special payments from either  
2 Multi-County or CL to allow such dumping to occur on your land?

3 A. Absolutely not.

4 Q. Did you have any knowledge that there even was such  
5 dumping being performed on your land?

6 A. No, sir.

7 Q. Did you have any knowledge or participation of any  
8 conduct whatsoever that would have resulted or contributed to a  
9 release of any regulated substances on the landfill?

10 A. No.

11 MR. MARTINKUS: That's all I have.

12 HEARING OFFICER KNITTLE: Mr. Morgan, do you have  
13 cross-examination?

14 MR. MORGAN: Yes. I have to find my Exhibit Number 1,  
15 please.

16 HEARING OFFICER KNITTLE: All right. Just for the record,  
17 I have changed that to C1.

18 MR. MORGAN: Okay.

19 CROSS EXAMINATION

20 BY MR. MORGAN:

21 Q. Mrs. Gilmer, would you take a look at what has been  
22 marked as Exhibit Number C1?

23 A. Yes, sir.

24 Q. That shows the landfill proper. Do you and Mr. Gilmer

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1 own any property south of Jordan slough near the landfill?

2 A. South of Jordan, yes, our home is there.

3 Q. Okay. How far away is your home from the landfill?

4 A. Since I can't look at my husband, and I am not a very  
5 good estimator, so you will have to ask my husband that.

6 Q. Okay. Do you have to drive by the landfill to get to  
7 your house?

8 A. Yes, sir.

9 Q. Okay. Which side, the east side or the west side?

10 A. The west side.

11 Q. Okay. And between your house and the landfill, is there  
12 a large open field?

13 A. Between our house and the landfill a large open field?

14 Q. Yes.

15 A. No.

16 Q. Okay. On your financial affidavit, it refers to your  
17 assets including a home and household goods, a truck and an IRA.  
18 Do you own any other property besides those items and the  
19 landfill area?

20 A. No, sir.

21 MR. MORGAN: Okay. That's all of the questions I have.  
22 Thank you very much.

23 THE WITNESS: You are welcome.

24 HEARING OFFICER KNITTLE: Mr. Martinkus, do you have any

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1 redirect?

2 MR. MARTINKUS: No, no redirect.

3 HEARING OFFICER KNITTLE: Thank you, ma'am.

4 (The witness left the stand.)

5 HEARING OFFICER KNITTLE: Mr. Martinkus, your next witness,

6 please.

7 MR. MARTINKUS: I would call Mr. Gilmer.

8 HEARING OFFICER KNITTLE: All right. Could you please  
9 swear him in.

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

11 J A M E S G I L M E R,

12 having been first duly sworn by the Notary Public, saith as  
13 follows:

14 DIRECT EXAMINATION

15 BY MR. MARTINKUS:

16 Q. State your name, please.

17 A. James Gilmer.

18 Q. And, Mr. Gilmer, you are one of the respondents in this  
19 cause; is that correct?

20 A. Yes, sir.

21 Q. You live with your wife?

22 A. Yes.

23 Q. I am going to show you the Financial Affidavit of  
24 Respondents, marked as Exhibit R1. Are you familiar with that

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1 document sir?

2 A. Yes, sir.

3 Q. Once again, based upon the information that you and your  
4 wife presented to me, we prepared that at your request; is that

5 true?

6 A. Yes, sir.

7 Q. Does that accurately reflect your expenses and assets  
8 and debt?

9 A. Yes, sir.

10 Q. With respect to the allegations in this particular  
11 complaint, did you have any knowledge of the acts giving rise to  
12 this complaint? In other words, did you have any knowledge or  
13 participation with respect to CL Industries, Inc., of Georgetown,  
14 Illinois, depositing hazardous waste materials at any period of  
15 time?

16 A. No.

17 Q. As far as you know, did your wife have any such  
18 knowledge or participation?

19 A. No.

20 Q. You were not involved in the operation and  
21 decision-making policies of Multi-County Landfill in any way,  
22 were you?

23 A. Absolutely not.

24 MR. MARTINKUS: Subject to cross-examination, I would

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1 tender R1.

2 HEARING OFFICER KNITTLE: Mr. Morgan?

3 MR. MORGAN: No objection.

4 HEARING OFFICER KNITTLE: That will be admitted.

5 (Whereupon said document was admitted into evidence as  
6 Exhibit R1 as of this date.)

7 MR. MARTINKUS: I tender.

8 HEARING OFFICER KNITTLE: Yes, I admitted it already.

9 MR. MARTINKUS: I am sorry.

10 HEARING OFFICER KNITTLE: That's okay.

11 MR. MORGAN: Do you have anymore questions?

12 MR. MARTINKUS: No, I tendered the witness subject to the  
13 admission of the exhibit.

14 MR. MORGAN: Oh, okay.

15 HEARING OFFICER KNITTLE: Oh, I am sorry. I didn't realize  
16 that you were finished with your direct examination.

17 Mr. Morgan, please go ahead, sir.

18 CROSS EXAMINATION

19 BY MR. MORGAN:

20 Q. Mr. Gilmer, can you tell me how many acres you consider  
21 to be within the landfill property?

22 A. Roughly I would say 45. I am not sure of that. Close  
23 to that.

24 Q. And just so we can be clear, is that the amount of

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1 acreage actually occupied by the landfill?

2 A. Yes, right.

3 Q. Do you own any acreage beyond the landfill?

4           A.    Yes -- well, actually 39 to 40 acres on the other side,  
5    which is south of the landfill.  My wife didn't realize what the  
6    question you were asking her.

7           Q.    Okay.  That's why I wanted this opportunity to clarify.  
8    Is any of that area south of the landfill currently used for  
9    agricultural production?

10          A.    Yes, about ten acres roughly.

11          Q.    Okay.  What do you use that for?  What crops?

12          A.    Corn or soybeans.

13          Q.    And is that for personal use or do you sell the corn or  
14    soybeans?

15          A.    No, it is to sell.

16          Q.    Okay.  Can you tell me in 1999, what your income from  
17    that property would have been?

18          A.    What was it?  About \$800.00, I guess.

19                MRS. GILMER:  Yes.

20                THE WITNESS:  I am not supposed to ask her.  I am sorry.  
21    Around \$800.00.

22          Q.    (By Mr. Morgan) In her testimony your wife stated that  
23    you have not had any involvement with the operation of the  
24    landfill since 1978; is that correct?

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1           A.    That's correct.

2           MR. MORGAN:  Okay.  May I have this marked as Exhibit C3,  
3    please.

4 HEARING OFFICER KNITTLE: Yes.

5 (Whereupon said document was duly marked for purposes of  
6 identification as Exhibit C3 as of this date.)

7 Q. (By Mr. Morgan) Mr. Gilmer, I am going to show you what  
8 has been marked as Exhibit C3. I would ask you to take a look at  
9 that and can you tell me if -- what that is?

10 A. Well, it is -- I really don't know. What it actually  
11 says, is it says that --

12 Q. Well, let me ask it this way.

13 A. It says that I am the chief operator of the landfill,  
14 quoting the way it reads briefly. That's not --

15 MR. MARTINKUS: It does not say --

16 MR. MORGAN: Let me ask a different question.

17 MR. MARTINKUS: Is does not say that.

18 Q. (By Mr. Morgan) Have you ever seen the original of that  
19 letter before?

20 A. I have no idea.

21 Q. Okay. The second page, would you take a look at that  
22 and tell me if you have ever seen that before?

23 A. Well, apparently so because that is my signature on  
24 there.

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1 Q. Okay. And then look at the third page?

2 A. Okay.



3 Q. Can you tell me if you ever seen that before or if you  
4 recognize any of the signatures?

5 A. That is not my signature there. I don't know who that  
6 is.

7 Q. Okay.

8 A. I don't know.

9 Q. Okay.

10 A. I don't recollect any of it.

11 Q. Do you recall filling out the application that is the  
12 second page of that exhibit?

13 A. No, I don't, sir. I am sorry. I don't remember it.

14 Q. And did you ever work for Multi-County Landfill as an  
15 operator of the landfill from 1989, to the present?

16 A. I never was the operator of the landfill.

17 Q. Did you --

18 A. I did work for the landfill.

19 Q. Okay. Can you tell me how long you worked for the  
20 landfill?

21 A. Let me think back and see. Probably a total of about  
22 four years, I am guessing. I am not sure right now.

23 Q. Certainly. Can you tell me what the time frame was?

24 A. No, I can't. It was two different times. It was -- I

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1 am sorry. I can't give you the dates. I don't know.

2 Q. Let me ask it a different way. Were either of the two

3 times you worked for the landfill after, say, 1988?

4 A. No.

5 Q. Okay. All the work you did for the landfill was prior  
6 to 1998?

7 A. Yes.

8 MR. MORGAN: That's all of the questions I have.

9 HEARING OFFICER KNITTLE: Mr. Martinkus, any redirect?

10 MR. MARTINKUS: No.

11 HEARING OFFICER KNITTLE: Thank you, sir.

12 THE WITNESS: I can't remember the dates.

13 (The witness left the stand.)

14 HEARING OFFICER KNITTLE: Mr. Martinkus, do you have any  
15 other witnesses?

16 MR. MARTINKUS: I do not.

17 HEARING OFFICER KNITTLE: Mr. Morgan, do you have any case  
18 in rebuttal?

19 MR. MORGAN: I have no case in rebuttal.

20 HEARING OFFICER KNITTLE: Mr. Morgan, are you planning on  
21 offering Exhibit C3 into evidence?

22 MR. MORGAN: I will offer it for purposes of --

23 MR. MARTINKUS: Of what?

24 MR. MORGAN: Well, I will offer it for the purpose of --

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1 let me start all over again. I will offer it and then we will

2 see what happens.

3 MR. MARTINKUS: I will object. Obviously, it is not  
4 relevant to anything. It has nothing to do with the issue before  
5 this Commission, namely whether or not the Gilmers are  
6 owners/operators for the purposes of Counts three and four. The  
7 allegation and the issues framed by the plaintiff here is that  
8 they became operators as the result of the abandonment in 1990.  
9 This is a letter prior to that time. I don't see how this could  
10 be relevant in any imaginable way.

11 HEARING OFFICER KNITTLE: Can someone pass me a copy of it,  
12 please.

13 MR. MORGAN: Yes.

14 HEARING OFFICER KNITTLE: It was a three-page document,  
15 right?

16 MR. MORGAN: Yes.

17 HEARING OFFICER KNITTLE: Mr. Morgan, do you have a  
18 response?

19 MR. MORGAN: Yes.

20 HEARING OFFICER KNITTLE: Do you need to see this as you  
21 are responding?

22 MR. MORGAN: No. I was just trying to seek an explanation  
23 for why that would have been in the Agency's file and appeared to  
24 indicate some active involvement by Mr. Gilmer in the landfill.

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1 He has responded, and that's the only reason I submit it.

2 HEARING OFFICER KNITTLE: Would you agree with Mr.  
3 Martinkus' statement that the complaint only alleges ownership by  
4 abandonment of the landfill by the operators after 19 -- whatever  
5 the date was.

6 MR. MORGAN: I would agree that their role as operator  
7 under counts -- their role as operators -- they became operators  
8 after the abandonment. They have owned the landfill throughout  
9 its operational history.

10 HEARING OFFICER KNITTLE: Okay. Well, based on that I am  
11 going to deny this exhibit. As you know, Mr. Morgan, and as you  
12 may not know, Mr. Martinkus, I am going to take this back with  
13 me. That way if Mr. Morgan wants to appeal my decision to the  
14 Pollution Control Board we will have it before us. I will  
15 instruct them not to consider this.

16 Mr. Morgan, I was correct in that you had no case in  
17 rebuttal?

18 MR. MORGAN: That's correct.

19 HEARING OFFICER KNITTLE: All right. Do you have a closing  
20 argument?

21 MR. MORGAN: Yes.

22 HEARING OFFICER KNITTLE: Before we get started, let's go  
23 off the record.

24 (Discussion off the record.)

1 HEARING OFFICER KNITTLE: Mr. Morgan, your closing  
2 argument, if you please.

3 MR. MORGAN: Thank you. Based on the evidence that has  
4 been presented today, both through testimony and through  
5 stipulations, there is no real issue about the facts in this  
6 case. The only issue is what is the effect of those facts. It  
7 is clear that Multi-County Landfill, Inc., did not close the  
8 landfill and abandoned the site. It is the State's contention  
9 that at that point, as owners of the landfill site, Mr. & Mrs.  
10 Gilmer became responsible for compliance with the Act and the  
11 regulations with regard to the closure of the landfill. The  
12 Agency has, in the interim, undertaken certain closure activities  
13 at the site and in the future additional work will be necessary  
14 in order to maintain the integrity of the work that has been  
15 done.

16 The State in this case is seeking an order finding the  
17 Gilmers to have violated the Environmental Protection Act and  
18 certain regulations and requiring them to cease and desist from  
19 further violations. In this instance the cease and desist  
20 portion of the order would be the basis for requiring the Gilmers  
21 to undertake what are, in essence, post-closure activities. The  
22 groundwater monitoring, the maintenance of the cap, the measures  
23 to control the gas being generated and the leachate that is  
24 currently being produced, the mowing, the periodic mowing of the

1 site, and so on. These are all obligations of a landfill  
2 operator at the time that a landfill is closed and maintained  
3 thereafter.

4         The Pollution Control Boards has previously ruled in a  
5 similar circumstance that under the definition of owner in the  
6 regulations when the former operator leaves the site the owner  
7 then steps into the role of operator and is required to comply  
8 with the regulations at that point. In this case that has  
9 occurred. Multi-County Landfill ceased acceptance of waste at  
10 the site. At that point Mr. & Mrs. Gilmer, by virtue of their  
11 being owner of the property, became responsible as the operator  
12 of the site.

13         The second component of this case is the water pollution,  
14 both the groundwater pollution and the threatened surface water  
15 pollution that has resulted from the failure to close the  
16 landfill properly. In this instance this situation is analogous  
17 to that presented the Board in the cases of Meadowlark Farms and  
18 Freeman Coal. In both of those cases the landowner of the -- of  
19 both sites assumed ownership after the conditions contributing to  
20 the pollution had occurred and the Appellate Court in the Fifth  
21 District in the Meadowlark Farms case and in the Freeman Coal  
22 case both held that in that instance the landowner could be held  
23 responsible for preventing the further discharge of contaminates  
24 in violation of the Act and the regulations.

1           That is the situation we are facing under Count two of the  
2 complaint with regard to groundwater and with regard to Count  
3 four, the leachate. The Gilmers were left with a mess. Under  
4 the Act and the regulations as landowners of the site they are  
5 responsible for preventing that mess from threatening public  
6 health or the environment. Accordingly, they can be ordered to  
7 cease and desist from further future violations of the Act and to  
8 take measures necessary to halt the discharge of contaminants  
9 into the environment.

10           Under the fourth Count the RCRA violations, again, the  
11 obligation is on both the owner and the operator of the landfill.  
12 The regulations specifically impose that obligation. So, again,  
13 we are asking for the Gilmers to be required to fulfill their  
14 responsibilities under the regulations. The State acknowledges  
15 that the acceptance of hazardous waste at the site was done  
16 without the knowledge of the Gilmers and certainly would have  
17 been done over their protest, I am sure. Nonetheless, it  
18 occurred and we are required to deal with the results of that  
19 event. That requires compliance with applicable provisions of  
20 the hazardous waste regulations. Again, the violations have been  
21 demonstrated. We are asking for an order directing the Gilmers  
22 to cease and desist from future violations.

23           We are also asking for a penalty in this case because the  
24 Gilmers' obligations, at a minimum, kicked in, in June of 1995,

1 when the summary judgment was imposed against Multi-County  
2 Landfill, and perhaps could have been triggered even earlier in  
3 1990, when Multi-County stopped accepting waste. The potential  
4 penalties under each Count are significant because of the length  
5 of time that has been involved and the nature of the violations.  
6 These are serious violations. They did pose a threat to the  
7 environment because of the nature of the violations involved, the  
8 costs incurred by the State if they had been incurred by the  
9 Gilmers would have been significant, so there is a potential  
10 economic benefit to the Gilmers from the State having to step in  
11 and close this landfill in the absence of their performance of  
12 those activities.

13 We believe that a penalty is appropriate in this case to  
14 deter future violations as well. We acknowledge that neither  
15 Mr. Gilmer or Mrs. Gilmer have any prior adjudications of the  
16 Environmental Protection Act. We would note that a \$350,000.00  
17 penalty was imposed against Multi-County Landfill in the Circuit  
18 Court case. This reflects the significant role that landfill --  
19 excuse me -- that entity had in those violations, but we believe  
20 that a penalty is appropriate against the Gilmers, as well.

21 Accordingly, we would ask that a penalty of \$10,000.00 be  
22 imposed for each Count of the complaint, for a total of  
23 \$40,000.00. We also ask for attorney's fees to be imposed in  
24 this case, and I have a statement of costs that I can present at



1 the conclusion of the hearing. Based on the Act and the  
2 regulations, violations of the Act have been proven. The  
3 responsibility of the respondents for those violations has been  
4 demonstrated and accordingly we ask for an order from the Board  
5 imposing a penalty ordering the respondents to cease and desist  
6 from further violations of the Act and to fulfill their  
7 responsibilities under the Act and the regulations. Thank you.

8 HEARING OFFICER KNITTLE: All right. Thank you, Mr.  
9 Morgan.

10 Mr. Martinkus.

11 MR. MARTINKUS: Thank you. Count one and Count two seek  
12 imposition of these penalties based upon a finding that the  
13 Gilmers were operators by the default interpretation of Section  
14 807.104. Even if you were to accept, which we don't, the  
15 interpretation being offered, the problem with their position is  
16 the stipulation of facts entered into by the parties jointly  
17 specifically states that the earliest date upon which the Gilmers  
18 under this theory and definition could have become operators was  
19 July 1 of 1990. That is when Multi-County Landfill, Inc., ceased  
20 accepting wastes.

21 Paragraph four of the stipulation unequivocally sets forth  
22 that the alleged violations occurred between June 8 of 1989, and  
23 October of 1989. The facts, the stipulation, and the particular  
24 statements of Counsel clearly show that there is no basis at all

1 to impose penalties upon Mr. & Mrs. Gilmer for violating the Act  
2 as operators when clearly and unequivocally those actions all  
3 took place prior to the time when they could have been deemed  
4 operators. So there is no basis, in my view, for one or two at  
5 all. I don't believe, as I mentioned to you in the opening  
6 statement, that there is any attempt to seek remedial action in  
7 either of those counts.

8         Again, with respect to the interpretation that they are  
9 arguing, if you look at the language in there I don't believe  
10 that this is a case where that language should be broadened and  
11 interpreted more broadly than is written where we are trying now  
12 by default to make them the operators. That, in my view, would  
13 be inconsistent with the Act that was passed in July of 1996,  
14 Section 58.9, where the Legislature clearly passed a law that  
15 contracted the responsibilities of landowners, such as Mr. & Mrs.  
16 Gilmer. This interpretation would go the opposite direction and  
17 expand it.

18         With respect to Counts three and four, first let me comment  
19 on the two cases provided by Counsel. Both the Meadowlark Farms  
20 case and the Freeman Coal Mine case were decided in 1974. Well,  
21 22 years later we have the passage of Section 58.9. The State  
22 has not attempted to even make an argument that 58.9 does not  
23 preclude the remedial action which they seek in their complaint.  
24 Section 58.9 clearly states that a landlord is not subject to the

1 remedial action for which the State of Illinois or any agency  
2 seeks if, in fact, the landlord did not know of the acts or  
3 commissions.

4         The evidence is uncontroverted that they did not know about  
5 the acts or commissions. Mr. Morgan candidly, to his credit,  
6 admits that they would not have known and if they had they  
7 probably would have opposed it. So there is no basis,  
8 whatsoever, for the Commission to find that the remedial actions  
9 requested by the complainant has any basis in the law. The  
10 Section 58.9 clearly exempts them from liability and clearly  
11 makes the remedial actions which are sought not appropriate  
12 remedies with respect to these particular respondents as  
13 landlords.

14         Now, if, in fact, the Board were to conclude that my  
15 argument is not correct, then I think you have to address the  
16 issue of what is an appropriate penalty. To that extent, I  
17 believe that -- first of all, with respect to the request for  
18 fees, evidence is closed. There is no evidence before the court  
19 or the Commission as to what a reasonable fee would be, the  
20 amount of work or anything. So that is gone, in my view.  
21 Second, under Hazlewood versus Illinois Central Gulf Railroad, it  
22 is a Fourth District case, cited at 114 ILAP 3rd, 703, 450  
23 Northeast Second, 11-99, I believe as Judge Steinmann in his  
24 opinion, it may not have been completely the Fourth District

1 Court, stated that the second factor that any commission would  
2 consider is the financial status of the defendant.

3 The Court goes on to state that although an award so small  
4 that it would be only an ordinary item of expense does not serve  
5 the purposes of retribution and deterrence, an award which  
6 bankrupts the defendant is excessive. Simply stated, the amount  
7 of the award should send a message loud enough to be heard but  
8 not so loud as to deafen the listener.

9 In this instance if you are talking about a \$40,000.00  
10 fine, it is 100 percent inconsistent with the abilities of Mr. &  
11 Mrs. Gilmer to pay those types of fines. Their only realistic  
12 asset is an exempt IRA and their home. I don't think that,  
13 consistent with that case, it would be an appropriate finding and  
14 ruling to impose this type of obligation and force them to sell  
15 their house. Additionally, even if we talk about the remedial  
16 acts, if you don't listen to any of my argument here and we look  
17 at the cost that they are going to have to incur on this remedial  
18 action of millions of dollars, well, if they have that type of  
19 obligation imposed upon them, once again, I don't find it leaves  
20 much room, if any, for the type of fines that the complainant has  
21 asked for.

22 Furthermore, I believe that the request is an excessive  
23 fine under the U.S. Supreme Court cases of Austin and Bajakajian.  
24 It is clearly a violation of the constitutional Eighth Amendment,

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1 and I am going to provide as part of my argument -- it is like a  
2 case. This is an Illinois Bar Journal article. I have one for  
3 Counsel, too. It goes through -- with your permission, I would  
4 like to tender this. It does, in fact, refer specifically to  
5 those two cases.

6 In each of those cases the U.S. Supreme Court has said that  
7 the Eighth Amendment -- the excessive fine clause in the Eighth  
8 Amendment is, in fact, appropriately applied to administrative  
9 civil proceedings to prevent the type of forfeiture that results  
10 in those cases in which the government seeks unwarranted and  
11 excessive fines. Without going through the analysis, because it  
12 is before the Commission in the form of this article, clearly,  
13 that would apply here. In my view the type of requests of the  
14 complainant of a \$40,000.00 fine would be excessive under the  
15 concepts of the Eighth Amendment and as applied in this case.

16 In summary, I don't believe that the complainant has proved  
17 its case. I don't believe that it has offered any argument in  
18 opposition or in explanation of the Site Redemption Program under  
19 Title 17, 58.9, where clearly there is a preemption, a clear  
20 manifestation of the People in the State of Illinois to remove  
21 the State of from going after innocent landlords. That is  
22 clearly the law as of July of 1996. These people fit squarely  
23 within that concept.

24 Moreover, the Counts one and two, they were clearly not

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1 operators. They were clearly not in violation of any of the  
2 particular Acts as a matter of law, because they were not deemed  
3 operators until after the time period in which these violations  
4 occurred. I am not making this stuff up. This is the  
5 allegations clearly set forth within the complaint. It is  
6 framed -- those are the issues framed by the complaint. The  
7 joint stipulation of facts and the evidence before this  
8 Commission clearly and unequivocally show that the complainant's  
9 four-count complaint should fail in its entirety.

10 HEARING OFFICER KNITTLE: Is that it, sir?

11 MR. MARTINKUS: That's it.

12 HEARING OFFICER KNITTLE: Mr. Morgan, do you have any  
13 objection to this as a supporting document to the closing  
14 argument?

15 MR. MORGAN: No, no objection.

16 HEARING OFFICER KNITTLE: All right. Then I will accept  
17 that.

18 MR. MORGAN: I have one request for clarification. You had  
19 mentioned earlier that your closing argument would include your  
20 argument on the motion for a directed verdict.

21 MR. MARTINKUS: Yes. That is all a part of it.

22 MR. MORGAN: Okay.

23 HEARING OFFICER KNITTLE: Mr. Morgan, do you have any  
24 rebuttal argument?

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1           MR. MORGAN: Yes, a short one, I believe. The assertion of  
2 the applicability of Section 58.9 is certainly a novel question  
3 for the Board. It requires the Board to determine that an order  
4 requiring the respondents to cease and desist from further  
5 violations of the Act is the equivalent of performance of a  
6 remedial action as defined under Section 58.2 of the Act. The  
7 definition of remedial action in that instance is remedial action  
8 means activities associated with compliance with the provisions  
9 of Section 58.6 and 58.7. That is not what the State has  
10 requested in this instance.

11           We have asked for an order directing the respondents to  
12 cease and desist from further violations of the Act. That may  
13 entail proactive measures on their part in order to meet those  
14 obligations, but the legislature has spoken and it has limited  
15 remedial action under Section 58.9 to the definition in 58.2. It  
16 excludes requiring someone to comply with the Act, which is what  
17 we are asking for here.

18           The second part is Section 58.9 (2) (b) focuses on a  
19 release of regulated substances. The liability in this case  
20 flows from the failure to perform closure, the violation of the  
21 groundwater standards, the failure to comply with RCRA standards.  
22 Admittedly, under the latter, the disposal of hazardous wastes at  
23 the landfill occurred prior to the Gilmers becoming operators by  
24 default, but it certainly occurred while they were owners of the

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1 site. The regulations under RCRA specifically apply to both the  
2 owners and the operators of the landfill.

3 Accordingly, we are seeking an order requiring compliance  
4 with the Act against the people who are required to comply with  
5 the Act in this instance. Admittedly, if Multi-County Landfill  
6 had fulfilled its responsibilities, we wouldn't be here. They  
7 didn't. We have to look to the next party in line to fulfill  
8 those responsibilities. As for the penalty, the suggestion that  
9 \$40,000.00 would be an excessive fine, may be in the eye of the  
10 beholder.

11 A quick calculation of what the potential fine could have  
12 been, if we were going to apply the statutory maximum for the  
13 first day of violation and then the statutory maximum for each  
14 succeeding day of violation under Section 42 (a) that would be  
15 \$50,000.00 for the first violation and \$10,000.00 a day for the  
16 subsequent violations. If we use June of 1995, to today's date  
17 as the period involved, that would be 1,815 days. That would be  
18 potentially a penalty of \$50,000.00 for the first day of  
19 violation and then \$18,140,000.00 for the next 1,814 days.  
20 Clearly, we are not asking for that penalty.

21 We are asking for something -- I can't do the math. It is  
22 well below one percent of what could be the statutory maximum for  
23 just one Count in the complaint, one period of violation of the



24 Act or the regulations.

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1 Admittedly, the State believes a penalty is appropriate.  
2 It has proposed what it believes to be an appropriate penalty  
3 based on these circumstances and understandably the respondents  
4 are going to differ about that amount. We believe the amount in  
5 this case is appropriate in light of the duration of the  
6 violations, the gravity of the violations, and the potential  
7 economic benefit. We have also tried to take into account the  
8 potential burden on the Gilmers for future compliance that may be  
9 an expensive -- excuse me -- not may be, it will be an expensive  
10 proposition. Accordingly, we have sought a lower penalty because  
11 of that obligation.

12 In this instance we are seeking an order to direct the  
13 Gilmers to comply with the Act and the regulations in the future  
14 and an appropriate penalty to assure compliance on their part and  
15 on others in the future. The violations in this case were  
16 ongoing from the date, in essence, the Gilmers stepped into the  
17 operator's shoes under Counts one, two and three, and it has been  
18 an obligation that has been on the Gilmers ever since hazardous  
19 waste was accepted at the landfill. We are asking for  
20 appropriate relief to address these violations.

21 One point of order, on the issue of attorney's fees, past  
22 Board practice has required submission of an interim -- excuse  
23 me -- a submission of an accounting of those hours after it has

24 been determined that attorney's fees are available. That was my

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1 intent in proposing that number now and what it was going to be  
2 based on was solely the cost of preparing for and participating  
3 in this hearing. I won't know what those costs are until the  
4 hearing is concluded and then I will know how much time we have  
5 spent here today. I was also going to propose the hourly rate  
6 for attorneys for the State that the Board has previously  
7 approved, \$120.00 an hour. That has been approved in several  
8 cases. With that, the State will conclude.

9 HEARING OFFICER KNITTLE: Thank you, Mr. Morgan. I note  
10 for the record, and I have talked about this before, that you can  
11 provide public comment if you want. Does anyone here now want to  
12 provide public comment? Seeing everyone shaking their head no, I  
13 note no for the record.

14 I am required to make a credibility determination. Based  
15 on my legal experience and judgment here at hearing, I do not  
16 find any credibility issue with either of the three witnesses who  
17 testified today. I want to go over the exhibits real quick and  
18 make sure that we have them all.

19 MR. MARTINKUS: There are a couple over here.

20 HEARING OFFICER KNITTLE: I have four exhibits that were  
21 offered here today. C1 was a survey of site prior to --

22 MR. MORGAN: Prior to the work being performed.

23 HEARING OFFICER KNITTLE: I have a survey of the site prior  
24 to the to the aforementioned activity. That was admitted subject

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1 to the limitations on the record. C2 was a final report of the  
2 consultants detailing the remedial action. That was admitted  
3 subject to the limitations included on the transcript as well.  
4 R1 was the financial affidavit. That was admitted. C3 was three  
5 separate pages from the agency files that was denied. I also  
6 have a joint stipulation of facts which was accepted and U.S.  
7 Supreme Court cases from the Illinois Bar Journal which was  
8 submitted in support of Respondent's closing argument. That was  
9 accepted, as well.

10 All right. Is there anything that I am missing?

11 MR. MARTINKUS: You did mention R1, I take it, right?

12 HEARING OFFICER KNITTLE: Yes.

13 MR. MARTINKUS: All right. Thank you.

14 HEARING OFFICER KNITTLE: The financial affidavit?

15 MR. MARTINKUS: Yes.

16 HEARING OFFICER KNITTLE: Yes.

17 MR. MARTINKUS: I don't think I have anything else.

18 HEARING OFFICER KNITTLE: All right. Well, thank you all  
19 very much.

20 MR. MARTINKUS: Thank you.

21 MR. MORGAN: Thank you.

22 HEARING OFFICER KNITTLE: I just want it on the record. We

23 did this off the record. Both parties indicated that they did  
24 not wish to file post hearing briefs. Is that still correct, Mr.

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1 Morgan?

2 MR. MORGAN: That is correct.

3 MR. MARTINKUS: Correct.

4 HEARING OFFICER KNITTLE: All right. Thank you, sirs.

5 (Hearing exhibits were retained by Hearing Officer John  
6 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

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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 67 pages comprise a true, complete and correct  
8 transcript of the proceedings held on the 31st of May A.D., 2000,  
9 at Villa Grove City Hall, Villa Grove, Illinois, in the case of  
10 People of the State of Illinois v. James and Carol Gilmer, in  
11 proceedings held before the Honorable John C. Knittle, Chief  
12 Hearing Officer, and recorded in machine shorthand by me.

13 IN WITNESS WHEREOF I have hereunto set my hand and affixed  
14 my Notarial Seal this 8th day of June A.D., 2000.

15

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17

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Notary Public and  
Certified Shorthand Reporter and  
Registered Professional Reporter

19

20

CSR License No. 084-003677  
21 My Commission Expires: 03-02-2003

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