



1 PRESENT:  
2 HEARING TAKEN BEFORE: ILLINOIS POLLUTION CONTROL  
BOARD 3 BY MR. JOHN C. KNITTLE 100 West Randolph Street  
4 Suite 11-500 Chicago, Illinois 60601  
5 (312) 814-3473  
6 MR. LIONEL TREPANIER  
7 MR. JOSEPH LORENZ MS. MAUREEN MINNICK  
8 appeared pro se;  
9  
10 ARNSTEIN & LEHR BY MR. NORMAN P. JEDDELOH  
11 120 South Riverside Plaza Suite 1200  
12 Chicago, Illinois 60606-3910 (312) 876-6928  
13  
14 appeared on behalf of the Respondent 14 The  
Board of Trustees of the University of Illinois; 15  
16 ADDUCCI, DORF, LEHNER, MITCHELL & BLANKENSHIP, P.C.  
17 BY MR. MARSHALL L. BLANKENSHIP 150 North Michigan Avenue  
18 Suite 2130 Chicago, Illinois 60601  
19 (312) 781-2800  
20 appeared on behalf of the Respondent  
Speedway Wrecking Company. 21  
ALSO PRESENT: 22  
23 Ms. Amy Muran-Felton 23 Mr. James Henderson  
24 Ms. Karen Kavanaugh 24 Mr. Larry Kolko  
L.A. REPORTING (312) 419-9292

I N D E X

1

----- 2

3 MAUREEN\_MINNICK PAGE \_\_\_\_\_

4 Direct Examination By Mr. Trepanier .... 634

Cross-Examination by Mr. Blankenship ... 655 5 Redirect Examination By Mr. Trepanier .. 663

6

7 IRV\_KOLKO PAGE \_\_\_\_\_

8 Direct Examination By Mr. Trepanier .... 664

Direct Examination By Mr. Joseph ..... 717 9

10 GUILLERMO\_HERNANDEZ PAGE \_\_\_\_\_

\_\_\_\_11

Direct Examination By Mr. Trepanier .... 730 12 Direct Examination By Mr. Joseph .....

748

13

14

15 EXHIBITS\_MARKED PAGE \_\_\_\_\_

16 Complainants' Exhibit No. 3 ..... 676

17

18

19

20

21

22

23

24

1 HEARING OFFICER KNITTLE: This is day three of  
2 the Lionel Trepanier, et al., versus Speedway  
3 Wrecking Company, the University of Illinois Board  
4 of Trustees, Pollution Control Board No. 97-50.  
5 Present today are Mr. Lionel Trepanier and Maureen  
6 Minnick of the complainants. The remainder of the  
7 complainants have failed to appear. The respondents  
8 are both present and represented by counsel.  
9 Mr. Trepanier, it is your witness.

10 MR. TREPANIER: Good morning.

11 HEARING OFFICER KNITTLE: We have to swear her  
12 in. Are you going to call Ms. Minnick?

13 MR. TREPANIER: Yes, I am.

14 HEARING OFFICER KNITTLE: Ms. Minnick, can you  
15 raise your right hand, please?

16 Swear her in.

17 (Oath offered.)

18 MS. MINNICK: I am going to make an exception to  
19 that oath; that I will do that to the best of my  
20 ability and that I realize that --

21 Will I be cross-examined in this testimony?

22 HEARING OFFICER KNITTLE: Yes. Chances are you  
23 will be cross-examined.

24 MS. MINNICK: All right, excellent. Because

L.A. REPORTING (312) 419-9292

1 that is where I want to make the exception, of  
2 course, that I will not be subjected to yes or no  
3 questions that are designed to entrap me in some  
4 way.

5 HEARING OFFICER KNITTLE: Let me --

6 Is that all you want to say about it,  
7 Ms. Minnick?

8 MS. MINNICK: No. I also want to make  
9 reservation to the fact that I am guaranteed under  
10 the Constitution not to have to incriminate myself.  
11 It seems like that is the job of these persons here  
12 is to trip me up some way, and they are already --  
13 they have already drawn their conclusions of who I  
14 am. They don't even know me; and it is pretty  
15 obvious in their attitudes and gestures, mannerisms  
16 that they think that we are quite the idiots here.

17 HEARING OFFICER KNITTLE: Let me -- I don't want  
18 any response right now. I am not going to let you  
19 testify unless you testify subject to  
20 cross-examination by these attorneys over here.

21 MS. MINNICK: I would not object to that as long  
22 as it remains --

23 HEARING OFFICER KNITTLE: I am not going to  
24 limit their cross-examination.

1 MS. MINNICK: Let me just say this: that, you  
2 know, we have just gotten out of, like, some  
3 horrible witch hunt with Ken Starr. I mean, no one  
4 had any kind of --

5 HEARING OFFICER KNITTLE: Hold on, Ms. Minnick.  
6 This isn't relevant.

7 MS. MINNICK: I'm just saying, you know, I don't  
8 know where they want to go with all this; but --

9 HEARING OFFICER KNITTLE: Excuse me --

10 MS. MINNICK: -- let it just remain to the --

11 HEARING OFFICER KNITTLE: Ma'am, are you going

12 to --

13 MS. MINNICK: -- subject.

14 HEARING OFFICER KNITTLE: -- excuse me a second?

15 MS. MINNICK: Certainly.

16 HEARING OFFICER KNITTLE: They can cross-examine  
17 you about any testimony that you make on direct  
18 examination.

19 MS. MINNICK: Okay. That is fair.

20 HEARING OFFICER KNITTLE: Now, I want you to  
21 take the oath, though, that you swear to tell the  
22 whole truth and nothing but the truth.

23 Let's do the oath again.

24 (Oath offered.)

L.A. REPORTING (312) 419-9292

1 MS. MINNICK: I do, to the best of my ability.

2 MR. JEDDELOH: I would object to the oath that  
3 she has taken. I believe that it leaves her rub  
4 room, and I do not believe that it is permitted  
5 under the law.

6 HEARING OFFICER KNITTLE: Ms. Minnick, will you  
7 just swear that you -- In the beginning of the oath,  
8 it says --

9 How does it go, again?

10 THE COURT REPORTER: Do you solemnly swear that  
11 the testimony you are about to give shall be the  
12 truth, the whole truth, and nothing but the truth,  
13 so help you God?

14 HEARING OFFICER KNITTLE: Are you saying that  
15 you are not going to say I do to that particular  
16 oath?

17 MS. MINNICK: All right. I do.

18 HEARING OFFICER KNITTLE: Let's do it all again  
19 one last time. Let's swear you in one last time.

20 MS. MINNICK: I'm not easy.

21 (Witness sworn.)

22 HEARING OFFICER KNITTLE: Thank you,  
23 Ms. Minnick.

24 Mr. Trepanier, your witness.

1 MR. JEDDELOH: Mr. Knittle, for the record, of  
2 course, the University has a continuing objection to  
3 any testimony provided by this witness; but our  
4 objections are of record.

5 HEARING OFFICER KNITTLE: That is noted.

6 MR. JEDDELOH: Thank you.

7 HEARING OFFICER KNITTLE: Mr. Trepanier?

8 MR. TREPANIER: Could the attorney make that  
9 clear, what his continuing objection is? Somehow it  
10 has gotten past me.

11 HEARING OFFICER KNITTLE: Do you want me to  
12 summarize; or do you want to make it clear,  
13 Mr. Jeddeloh?

14 MR. JEDDELOH: Well, I would be happy to say  
15 again on the record that this witness has not  
16 cooperated in the discovery process, and the  
17 University's motion is of record. We believe that  
18 the ruling from the Board is in error and we think  
19 it is inappropriate for this witness to provide  
20 testimony in light of the fact that she has not  
21 cooperated in discovery.

22 MR. TREPANIER: Thank you.

23 MS. MINNICK: I am glad that that was mentioned.  
24 May I say something?

1 MR. JEDDELOH: I am going to object. There is  
2 no question pending, Mr. Knittle.

3 HEARING OFFICER KNITTLE: Right.

4 You are a witness right now; and although  
5 you can offer argument as your own attorney, I would  
6 prefer that we do that afterwards.

7 MR. TREPANIER: Before we get started, I would  
8 like to check if Ms. Cole is interested to call  
9 herself as a witness before me.

10 HEARING OFFICER KNITTLE: That is fine, Ms. --  
11 Minnick or Cole?

12 MS. MINNICK: Minnick.

13 MR. TREPANIER: Sorry.

14 HEARING OFFICER KNITTLE: That's okay.

15 MS. MINNICK: No problem.

16 HEARING OFFICER KNITTLE: Ms. Minnick, do you  
17 want to call yourself as a witness first?

18 MR. JEDDELOH: Could I propose that I think it  
19 is going to make it go a lot easier if there is the  
20 question and answer process because it will help  
21 avoid narratives and help -- I think it will help  
22 keep the testimony focused on the relevant issues.  
23 I am impressed with Mr. Trepanier's ability to ask  
24 questions and elicit relevant information; and so

1 therefore, I think that would be a useful process,  
2 Mr. Knittle.

3 HEARING OFFICER KNITTLE: I agree, but  
4 Ms. Minnick does have the right to call herself as a  
5 witness, as well.

6 Perhaps you could do that after  
7 Mr. Trepanier examines you.

8 MS. MINNICK: All right.

9 HEARING OFFICER KNITTLE: Let's do it that way,  
10 then.

11 Mr. Trepanier, why don't you proceed?

12 MAUREEN MINNICK  
13 having been first duly sworn, was examined and  
14 testified as follows:

15 DIRECT EXAMINATION  
16 BY MR. TREPANIER:

17 Q Well, good morning. Thanks for taking your  
18 time to come in and help make this matter clear for  
19 the Pollution Control Board. I think they will have  
20 an opportunity to look at your testimony and, you  
21 know, weigh it for themselves.

22 Are you aware that there was a demolition  
23 that occurred at 1261 South Halsted?

24 A Yes.

1 Q In fact, you lived near that demolition  
2 didn't you?

3 A I worked nearby.

4 Q You worked nearby?

5 A Right, and stayed in the area.

6 Q How close were you staying to that  
7 demolition?

8 MR. BLANKENSHIP: Object to the witness looking  
9 at documents while she is testifying.

10 THE WITNESS: It is just a flier with a little  
11 bit of --

12 MR. BLANKENSHIP: I would ask that all documents  
13 be removed.

14 HEARING OFFICER KNITTLE: Ms. Minnick, could you  
15 push the documents aside, please?

16 I will sustain that objection.

17 THE WITNESS: Okay, documents removed.

18 A I would say approximately a block or less.

19 BY MR. TREPANIER:

20 Q And what was the address of the place where  
21 you were staying and working at the time?

22 A That would be 717 West Maxwell.

23 Q Now, was there any other locations that you  
24 were working at that --

1           A       Yes. Also I have done work at 716 and also  
2       Creative Reuse Warehouse on 13th Street and the  
3       Garden at 13th and Union.

4           Q       When you mention 716, is that 716 Maxwell?

5           A       Correct.

6           Q       Is that also approximately -- you say a  
7       block from the demolition site?

8           A       Correct.

9           Q       Creative Reuse Warehouse, is that the same

10       Creative Reuse Warehouse that persons were  
11       testifying to yesterday and is shown here on the  
12       Complainants' Exhibit 1?

13           A       Yes, it is. And also -- I also would visit  
14       and do a little work at the lumber yard adjacent to  
15       it.

16           Q       When you say the lumber yard --

17           A       Creative Reuse Warehouse.

18           Q       -- you are referring to the yard next to

19       Creative Reuse Warehouse shown on the exhibit --

20           A       Correct.

21           Q       -- labeled yard?

22           A       Okay. Now, you mentioned working at a  
23       community garden. There is not a garden marked  
24       currently on Exhibit 1. Can you point to the

1 spot -- would the Garden -- is there a spot on this  
2 exhibit where the Garden would be, approximately?

3 A Well, it would be right over here, right  
4 next to 716 and Union, bordered on Halsted and Union  
5 and 13th Street.

6 Q Could you look at the exhibit again and  
7 describe what the borders of the Garden are? I know  
8 the first time you described it, you said Halsted  
9 was one of the borders.

10 HEARING OFFICER KNITTLE: Mr. Trepanier,  
11 Mr. Blankenship wants to approach the witness and  
12 look at the exhibit that you are using.

13 MS. MINNICK: I said Halsted when I meant  
14 Maxwell Street. It is in error. Thank you.

15 BY MR. TREPANIER:

16 Q Could you again describe the borders of the  
17 Garden?

18 A Yes. The Garden is bordered on one side by  
19 Union and the other side --

20 Q I see the map doesn't say Union -- the  
21 exhibit doesn't say Union. Could you put the word  
22 Union where you are saying?

23 A Sure.

24 HEARING OFFICER KNITTLE: Let the record reflect  
L.A. REPORTING (312) 419-9292

1 that Ms. Minnick is marking on Complainants' Exhibit  
2 No. 1.

3 A Those are the three streets that it is  
4 bordered by.

5 BY MR. TREPANIER:

6 Q Now, on this exhibit there is a large open  
7 space along the top there. Is all of that the  
8 Garden, or could you approximate the Garden?

9 A Sure.

10 Q Remember, what we are doing, everything is  
11 relative to 1261.

12 A Right. So there is a big building right  
13 across --

14 Q If you would, just mark the Garden.

15 A Okay. Well, it would practically be off  
16 the page, then, actually.

17 Q So this exhibit -- what you are saying, it  
18 is a bit out of scale.

19 But from where you have marked Union and  
20 where the Creative Reuse Warehouse is, if you use  
21 those two landmarks and then mark where the Garden  
22 is relative to those two locations --

23 A Well, actually the Garden starts right at  
24 the end of Creative Reuse, so there is -- like I

1 said, Union really probably shouldn't be on there  
2 because it is incorrect. Union would have to be on  
3 the other side of the Garden, which is at the end of  
4 Creative Reuse.

5 Q So that exhibit isn't useful to you to show  
6 where the Garden is?

7 A No. Actually --

8 HEARING OFFICER KNITTLE: Has the exhibit been  
9 scratched out? Is that what just happened?

10 THE WITNESS: I just scratched out Union because  
11 it can't possibly be there.

12 HEARING OFFICER KNITTLE: I want the record to  
13 reflect, then, that the word Union was written on by  
14 Ms. Minnick and then scratched out. In fact, you  
15 can see that it is scratched out.

16 BY MR. TREPANIER:

17 Q Now, I appreciate your attempt here. I  
18 didn't realize this, that the map wouldn't allow you  
19 to mark the Garden on there.

20 Now, relative to the building at 1261 South  
21 Halsted, could you describe for us where the Garden  
22 is in some way?

23 A It would be on the other side of 13th and  
24 at the end of the block. It extends from the east

1 of 716 to the end of Union.

2 HEARING OFFICER KNITTLE: Ms. Minnick, when you  
3 say on the other side of 13th, can you give a  
4 direction so that we know what you are talking  
5 about?

6 THE WITNESS: I did. I said on the east side of  
7 716.

8 HEARING OFFICER KNITTLE: On what side of 13th  
9 Street does the Garden begin?

10 THE WITNESS: That side would be the south side.

11 HEARING OFFICER KNITTLE: Thank you.

12 BY MR. TREPANIER:

13 Q Then could you give an approximate distance  
14 from the east end of 1261 to the west end of the  
15 Garden that you lived in?

16 A Could you repeat the question?

17 Q Yes. I am just asking if you could give an  
18 approximate distance --

19 A Oh, distance.

20 Q -- from the east end of 1261 to the west  
21 end of the Garden that you were working in.

22 A I would say approximately maybe 20 feet;  
23 25 feet, perhaps.

24 Q Twenty-five feet, you say?

1           A       Oh, no, no, no, no. That would be way  
2    too --  
3           Q       Maybe if I asked you some more questions --  
4    Is it further than a block distance?  
5           MR. BLANKENSHIP: Object to the leading  
6    question.  
7           HEARING OFFICER KNITTLE: Overruled.  
8           A       It is a little short of a block. I would  
9    say it is a big building short of a block.  
10   BY MR. TREPANIER:  
11        Q        The big building short of the block, that  
12    would be to the east end of the Garden?  
13        A        Yes, that would be to the very end of it.  
14        Q        What about to the west end of the Garden?  
15        A        Then it would be less again, even shorter.  
16    So I would say that that might be a half a block.  
17        Q        A half block distance?  
18        A        Yes.  
19        Q        Did you work at these four locations:  
20    717 Maxwell; 716 Maxwell; Creative Reuse, including  
21    the lot; and the Garden at the time of the  
22    demolition of 1261 South Halsted?  
23        A        Yes. You mean the lot as the lumber yard?  
24        Q        The yard, yes.

1 A Yes, that's correct.

2 Q Did you have an opportunity to view the  
3 demolition site at 1261 while the job was in  
4 process?

5 A Yes. A couple times I saw it.

6 Q What brought you to -- when would you see  
7 that? When did you see the site?

8 A It has been a while, but I think it  
9 probably --Well, no. Let's see. It would be when I  
10 would be returning from work.

11 Q Okay. You were returning from work.

12 Was that some work that you had outside of  
13 this neighborhood?

14 A Yes.

15 Q Where was that?

16 A 1104 South Wabash.

17 Q How would you transport yourself from the  
18 South Wabash site to the Maxwell neighborhood?

19 A Generally I would go to -- I would walk  
20 down Maxwell to Union and Union up to Roosevelt and  
21 Roosevelt over to Wabash.

22 Q And how would you return?

23 A Generally the same direction. But  
24 sometimes I would get off at Halsted because they

1 wouldn't stop at Union. It wasn't a popular stop.  
2 So sometimes they would take me down to Halsted, and  
3 then I would just jump on the Halsted bus if it was  
4 right there and get off at Maxwell. So at least  
5 once I went by and saw they were working, tearing  
6 down the building.

7 Q Did you have any -- Were you given any  
8 notice that the building at 1261 Halsted was to be  
9 demolished?

10 A No.

11 Q Well, were you -- And you were present in  
12 the neighborhood at the time prior to the demolition  
13 of the building?

14 A Yes.

15 Q And do you receive mail there at one of the  
16 places that you stayed in the neighborhood?

17 A Yes.

18 Q And that was --

19 A 716.

20 Q 716, you received your mail?

21 A Yes.

22 Q Now, when you did have an opportunity to  
23 observe the work site, what do you recall that you  
24 did observe?

1           MR. BLANKENSHIP: Objection, lack of foundation.  
2           Could we have a little more foundation as to when  
3           this observation occurred?

4           HEARING OFFICER KNITTLE: Sustained.

5           Mr. Trepanier, try to lay some more  
6           foundation, please.

7           BY MR. TREPANIER:

8           Q           You testified that you had an opportunity  
9           to view the demolition from Halsted Street; is that  
10          right?

11          A           Yes, just riding by on the bus.

12          Q           And when you would ride by on the bus, did  
13          you have an opportunity to see the demolition site?

14          A           Yes.

15          Q           Do you recall -- do you recall what was  
16          occurring on the demolition site that you saw?

17          A           I honestly have to say that it looked like  
18          every other demolition site at different various  
19          stages, and I didn't see anything unusual from any  
20          of the other ones. They all look kind of the same,  
21          like a -- like maybe a bombed building.

22          Q           When you were in the yard at the Creative  
23          Reuse Warehouse, did you have an opportunity to view  
24          the building at 1261?

1 A When I was where, again?

2 Q In the yard.

3 A Oh, in the yard?

4 MR. JEDDELOH: Objection. Could we have a time  
5 frame? Was this during demolition, before  
6 demolition, when?

7 THE WITNESS: During -- Oh, I'm sorry. You are  
8 you are asking him.

9 MR. JEDDELOH: I was just raising an objection.

10 HEARING OFFICER KNITTLE: Overruled. But try to  
11 keep things a little more specific, Mr. Trepanier.

12 You can answer the question, Ms. Minnick.

13 A You are asking me how it looked in the  
14 yard?

15 BY MR. TREPANIER:

16 Q Okay. I will ask the question again.

17 Did you have an opportunity -- was there a  
18 time that you were in the Creative Reuse yard while  
19 the demolition was occurring at 1261?

20 A I don't think so.

21 Q Were you in the Garden while the demolition  
22 was -- occurred at 1261?

23 A I am not sure.

24 Q Let me clarify my question so that you

1 understand. When I ask you if you were at a  
2 location while the demolition occurred at  
3 1261 Halsted, I am talking about any time between  
4 the start of the demolition and the end of the  
5 demolition.

6 A It would have had to be a time that I was  
7 on my way to Creative Reuse Warehouse and possibly  
8 the yard, but I am thinking more that it was the  
9 Creative Reuse Warehouse that I was going to.

10 Q Okay.

11 A I didn't frequent that area.

12 Q So sometime during the demolition of  
13 1261 Halsted, did you visit the Create Reuse  
14 Warehouse?

15 MR. BLANKENSHIP: Objection --

16 A Yes.

17 MR. BLANKENSHIP: -- asked and answered.

18 BY MR. TREPANIER:

19 Q And where --

20 HEARING OFFICER KNITTLE: Excuse me. I am  
21 sorry. I couldn't hear the question with the door  
22 open.

23 Lionel, what was the question?

24 MR. TREPANIER: I asked, "If at a time during

1 the demolition of 1261 Halsted, did you visit the  
2 Creative Reuse Warehouse?"

3 HEARING OFFICER KNITTLE: Sustained. I think  
4 you have already asked that, Mr. Trepanier.

5 BY MR. TREPANIER:

6 Q And where --

7 HEARING OFFICER KNITTLE: Ms. Minnick, when  
8 there is an objection and it is sustained, you are  
9 not supposed to answer the question, okay?

10 THE WITNESS: I'm sorry. Excuse me.

11 BY MR. TREPANIER:

12 Q And did you -- How often did you visit that  
13 Creative Reuse Warehouse?

14 MR. BLANKENSHIP: Well, object. When he asked  
15 that question, her answer was no five minutes ago.

16 A I don't frequent that area. I did go over  
17 there maybe one time.

18 HEARING OFFICER KNITTLE: Mr. Blankenship, I am  
19 going to overrule your objection. I think the  
20 board --

21 A Or at least one time.

22 HEARING OFFICER KNITTLE: -- will be able to  
23 look at the transcript and note if there has been  
24 differing answers on the specific question.

1 BY MR. TREPANIER:

2 Q I have gotten a little bit confused, and I  
3 don't know if I have asked poor questions; and I  
4 suspect I did.

5 Now, did you visit the Creative Reuse  
6 Warehouse more than one time during the demolition  
7 of 1261 Halsted?

8 MR. JEDDELOH: Well, I am going to object  
9 insofar as she previously testified she didn't visit  
10 it at all. So therefore that would assume a fact  
11 that is not evidence.

12 HEARING OFFICER KNITTLE: I am going to  
13 overrule, just as I overruled Mr. Blankenship's  
14 objection. She has answered, to the best of my  
15 knowledge, both ways at this point.

16 You can answer that question.

17 A The question was?

18 BY MR. TREPANIER:

19 Q If you visited the Creative Reuse -- the  
20 question was, did you visit the Creative Reuse  
21 Warehouse more than once during the demolition at  
22 1261 Halsted?

23 A No, not to my knowledge. It has been a  
24 long time.

1 Q Did you ever have an -- was there ever a  
2 time that you felt that -- was there a time when  
3 debris from the demolition came onto your person?

4 MR. JEDDELOH: Well, I am going to object. That  
5 is exceedingly, exceedingly leading.

6 HEARING OFFICER KNITTLE: Overruled.

7 Ms. Minnick, you can answer the question.

8 A There were times the dusts were heavy  
9 enough that I think that that might be the case.

10 MR. JEDDELOH: I am going to ask that that  
11 response be stricken. She is clearly speculating.  
12 She is not testifying as to factual matter in  
13 response to his leading question.

14 MR. BLANKENSHIP: Object to lack of foundation,  
15 as well, to when this allegedly occurred.

16 HEARING OFFICER KNITTLE: I will not grant your  
17 motion to strike, but I would like -- I will sustain  
18 the objection as to when this allegedly occurred.

19 Ms. Minnick, try to keep your answers  
20 specific to the question and respond with as much  
21 detail as you can, please.

22 Mr. Trepanier, perhaps you could ask  
23 another question.

24 MR. TREPANIER: Yes.

1 BY MR. TREPANIER:

2 Q Did you observe substances leaving the  
3 demolition site at 1261 Halsted?

4 MR. JEDDELOH: I am going to object to that as  
5 leading, too.

6 HEARING OFFICER KNITTLE: Overruled.

7 A Yes.

8 BY MR. TREPANIER:

9 Q Would you describe what you saw?

10 MR. BLANKENSHIP: Objection, lack of foundation.  
11 When did this occur, where was she standing, et  
12 cetera?

13 HEARING OFFICER KNITTLE: Sustained.

14 BY MR. TREPANIER:

15 Q Do you recall when you observed that?

16 A Yesterday on the tape. Is that admissible?

17 MR. BLANKENSHIP: Objection to her testifying as  
18 to what was on the tape. It is hearsay.

19 HEARING OFFICER KNITTLE: Sustained.

20 MR. JEDDELOH: And I am also to going ask that  
21 her previous response as to her observing substances  
22 leaving 1261 be stricken because if she was  
23 testifying about what she saw on the tape and not  
24 what she saw from her own observation, that would

1 not be competent.

2 HEARING OFFICER KNITTLE: Ms. Minnick, were you  
3 testifying previously about your own recollection or  
4 as to what you saw on the tape yesterday?

5 THE WITNESS: Actually, I am not sure if I did  
6 see anything flying off of the building.

7 HEARING OFFICER KNITTLE: On your own, aside  
8 from the tape?

9 THE WITNESS: Yes, correct.

10 HEARING OFFICER KNITTLE: Then we don't want you  
11 to testify to things that you just saw on the  
12 videotape. We want your testimony to be strictly  
13 based on what you yourself --

14 THE WITNESS: I thought possibly that was  
15 admissible.

16 HEARING OFFICER KNITTLE: -- saw and heard.

17 THE WITNESS: But I will have to say, then, I  
18 think I may have. So I am going to say no, that I  
19 didn't because I am not sure.

20 HEARING OFFICER KNITTLE: Okay.

21 Mr. Trepanier, you can proceed. And to the  
22 extent that Ms. Minnick was testifying based on her  
23 knowledge of the videotape, I think that will be  
24 reflected in the record. That should be stricken.

1 It will be stricken.

2 Mr. Trepanier, you can proceed.

3 MR. TREPANIER: Yes.

4 BY MR. TREPANIER:

5 Q At the time of the demolition in September  
6 of '96, how long had you been staying in the  
7 neighborhood at 716 or 717 Maxwell?

8 A At least four years, maybe more.

9 Q Are you registered to vote at that address?

10 A Yes, I am.

11 Q During that four years, did you -- do you  
12 recall receiving a notice from the University that  
13 they intended to demolish a building?

14 MR. JEDDELOH: Objection, asked and answered.  
15 We have been through this, Mr. Knittle.

16 HEARING OFFICER KNITTLE: Sustained. I think  
17 that has previously been asked, Mr. Trepanier.

18 BY MR. TREPANIER:

19 Q Did you feel an injury in not being noticed  
20 that the demolition was to occur?

21 MR. JEDDELOH: Objection.

22 MR. BLANKENSHIP: Objection.

23 MR. JEDDELOH: I think he is -- he is not asking  
24 this witness for facts. He is asking the witness to

1 provide some sort of feeling or emotion, and I don't  
2 think that is appropriate or relevant.

3 MR. BLANKENSHIP: I object to the line of  
4 questioning as irrelevant.

5 HEARING OFFICER KNITTLE: Mr. Trepanier, can you  
6 please tell me why this is relevant?

7 MR. TREPANIER: Well, I feel that I needed to  
8 raise these issues because these were issues very  
9 important -- I know very important to the

10 complainant. So I am, you know, doing what I feel I  
11 needed to bring her issue into the case.

12 HEARING OFFICER KNITTLE: Understood. However,  
13 the lack of notice that she has testified to has  
14 already been put on the record -- the alleged lack  
15 of notice -- and I don't think anything further is  
16 relevant. So I am going to sustain the objections.

17 MR. TREPANIER: All right.

18 BY MR. TREPANIER:

19 Q During that time of the demolition, were  
20 you in the neighborhood on a daily basis?

21 A Yes.

22 Q When you were in the neighborhood, did you  
23 observe any signage during the time of the  
24 demolition that would have given warning that a

1 demolition was occurring?

2 MR. BLANKENSHIP: Let me just object to "the  
3 neighborhood." I don't know what means in this  
4 context. It could be a block; it could be ten  
5 blocks. I am not sure what he means by that.

6 MR. TREPANIER: Let me define that first. I  
7 will just reask the question and leave out the word  
8 neighborhood and put in a better description.

9 BY MR. TREPANIER:

10 Q During the time of the demolition, did you  
11 have -- Were you, on a daily basis, in the area of  
12 Maxwell Street, 13th Street, Halsted, Union,  
13 Roosevelt, the area -- Within that area, were you  
14 there on a daily basis?

15 A I was in the area of Union, Roosevelt, and  
16 Maxwell on a daily basis.

17 Q On those streets did you see any signage  
18 that would give warning that there was a demolition  
19 occurring?

20 A No. But I can also -- possibly have to be  
21 real careful and make an exception of Sundays.  
22 Maybe I wouldn't be there; but, you know, just a  
23 work-week daily basis.

24 MR. TREPANIER: I have no further questions.

1 THE WITNESS: The answer to that, did I give it  
2 as no?

3 HEARING OFFICER KNITTLE: Yes. I think you gave  
4 a sufficient answer, Ms. Minnick. Thank you. Do  
5 you want to call yourself as a witness?

6 MS. MINNICK: I am not prepared to do that.

7 HEARING OFFICER KNITTLE: Okay. Well, you have  
8 been given that opportunity, and now you are subject  
9 to cross-examination by Mr. Blankenship and  
10 Mr. Jeddelloh.

11 Are you going to go first?

12 MR. BLANKENSHIP: Yes.

13 CROSS-EXAMINATION

14 BY MR. BLANKENSHIP:

15 Q Ms. Minnick, how old are you?

16 A Fifty-six.

17 Q Are you presently employed?

18 A No, I'm not.

19 Q At the time of the demolition, you were

20 employed by the University of Illinois; is that

21 right?

22 A No.

23 Q Who were you employed by at the time of

24 demolition?

- 1           A       J.C. Whitney.  
2           Q       Did you work Monday through Friday?  
3           A       Yes.  
4           Q       What were your hours?  
5           A       8:30 until 5:00; with overtime, too.  
6           Q       So as I understand it, the only time you  
7 actually observed the demolition was when you were  
8 riding home on the bus down Halsted Street; is that  
9 right?  
10          A       Correct.  
11          Q       That would have been after 5:30, right?  
12          A       Let's see. Of course, yes.  
13          Q       The demolition -- There were no workers on  
14 the site at 5:30 at that time, were there?  
15          A       Most likely not.  
16          Q       What is your highest level of education?  
17          A       Let's see. Graduate, you mean? High  
18 school, I would say.  
19          Q       High school?  
20          A       Yes. I do have some credits in college.  
21          Q       At the time of the demolition, you lived at  
22 716 West Maxwell?  
23          A       717.  
24          Q       So that is a block down -- south of 13th

- 1 Street, right?  
2 A Correct.  
3 Q That is about a block east of Halsted?  
4 A It would be a block east of Halsted; not  
5 quite an entire block from 13th because it is --  
6 less than a block.  
7 Q That space between 717 West Maxwell and the  
8 demolition site is full of buildings, right?  
9 A Yes.  
10 Q The Garden you referred to, that is  
11 adjacent on its east side to Union Street, right?  
12 A Actually, it is to the west of Union.  
13 Q I'm sorry, yes. The east border of the  
14 Garden is on Union Street?  
15 A Correct.  
16 Q And Union Street itself is parallel, next  
17 to the Dan Ryan Expressway, right?  
18 A Yes.  
19 Q And the west side of the Garden, actually,  
20 is east of the end of the Creative Use [sic] Center?  
21 A That's correct.  
22 Q So that is a couple hundred feet from  
23 1261 Halsted, right?  
24 A A couple hundred?

- 1 Q At least.  
2 A I am not very good at this, but I would say  
3 that perhaps you are right.  
4 Q In fact, there is not a direct line of  
5 sight from the Garden to 1261 Halsted?  
6 A Yes. At certain points in the Garden, it  
7 is.  
8 Q But you are looking kitty-corner across  
9 13th Street from several hundred -- it is not even  
10 kitty-corner, right, because there is a gap of  
11 hundreds of feet?  
12 A Yes.  
13 Q And you have got buildings west of the  
14 Garden on 13th Street?  
15 A There is only one large building.  
16 Q Between the Garden and the site?  
17 A Yes.  
18 Q And you have got the Creative Use Center  
19 and its --  
20 A It would be on the south side.  
21 Q Right, south side of 13th Street  
22 A And then on the north side, you have  
23 Creative Reuse and the lumber yard.  
24 Q Right, okay. Now, do you believe there is

1 air pollution coming from the cars on the  
2 expressway?

3 A I am sure there is.

4 Q And they are driving on that expressway  
5 24 hours a day, right?

6 MR. TREPANIER: I am going to raise an objection  
7 that he is asking, apparently, for  
8 Ms. Minnick to clarify operations of automobiles  
9 that -- on an expressway; and he hasn't set a  
10 foundation that Ms. Minnick has observed the  
11 expressway 24 hours a day or has any special  
12 knowledge about the pollution that comes from  
13 automobiles.

14 HEARING OFFICER KNITTLE: Mr. Blankenship, do  
15 you have a response?

16 MR. BLANKENSHIP: Well, she lives in the  
17 neighborhood. I assume she knows what is happening  
18 on the expressway. I will ask her more questions  
19 for foundation, if he wants that.

20 HEARING OFFICER KNITTLE: Sustained. Please ask  
21 some more questions.

22 BY MR. BLANKENSHIP:

23 Q You live right near the expressway, right?

24 A Yes.

1 Q Have you had occasion to observe cars at  
2 different times of the day on that expressway?

3 A Yes.

4 Q Have you observed them in the early morning  
5 hours between 12:00 a.m. and 6:00 a.m.?

6 A 12:00 a.m. and 6:00 a.m.? On rare  
7 occasions.

8 Q Have you observed cars between 6:00 a.m.  
9 and 5:00 p.m.?

10 A Again, 6:00 --

11 Q 6:00 a.m., the workday. Have you observed  
12 cars on the expressway during the day?

13 A 6:00 a.m. is too early. I didn't leave  
14 until 7:30.

15 Q There are a lot of cars on that expressway,  
16 aren't there?

17 A Oh, yes, early in the morning and rush  
18 hour, of course.

19 Q And those cars are on there 365 days a  
20 year, aren't they?

21 A Yes. But it -- Like, if you are trying to  
22 say that it is nonstop, it isn't. There are times  
23 that it is very quiet.

24 Q Sometimes it is quieter, but a lot of times

1 there is a lot of traffic?

2 A Rush hour, always.

3 Q Okay. Just to make sure I understood your  
4 testimony, you are not sure if you ever saw any dust  
5 emanating from the 1261 property, right?

6 A Correct.

7 Q You have been involved in protests against  
8 the University; is that correct?

9 MR. TREPANIER: Object. She didn't testify on  
10 direct at all about protesting the University.

11 MR. BLANKENSHIP: It just goes to her  
12 credibility as a witness.

13 HEARING OFFICER KNITTLE: Overruled.

14 A I don't think so.

15 BY MR. BLANKENSHIP:

16 Q No?

17 A Is there anything specific that you are  
18 asking me about --

19 Q No.

20 A -- because I don't remember one.

21 Q Okay. Pollution aside, you have a concern  
22 about the University's demolitions in the area,  
23 don't you?

24 A A concern, yes.

1 Q You don't like how they are destroying your  
2 neighborhood, basically, right?

3 A I don't think of it necessarily as my  
4 neighborhood, but I guess that it is. I think more  
5 of us as a cooperative. The neighborhood was pretty  
6 gone before we even arrived.

7 Q Do you disagree with the further --  
8 pollution aside, do you disagree with the further  
9 demolitions in the area?

10 A May I clarify on what I think? It is not a  
11 yes or no. I think maybe some buildings need to go,  
12 and others I think are a shame to waste.

13 Q And when you filed your complaint in this  
14 action, your concern was to stop the University from  
15 demolishing other buildings in this area, wasn't it?

16 A On the basis that it was polluting.

17 Q Even though you hadn't seen any dust from  
18 the demolition at that time at 1261 Halsted?

19 MR. TREPANIER: Objection.

20 A Correct.

21 MR. TREPANIER: My objection is that the -- it  
22 hasn't been established that there was or was not  
23 pollution prior to the filing of this complaint.  
24 There has been no testimony to that.

1 HEARING OFFICER KNITTLE: Objection, overruled.  
2 I don't think that was what the question asked; and  
3 Ms. Minnick, I think, already answered the question.  
4 But maybe you could state it again. I don't know if  
5 the court reporter got it.

6 MR. BLANKENSHIP: Can you read it back, then,  
7 please?

8 (Question read.)

9 A Yes.

10 MR. BLANKENSHIP: That is all the questions I  
11 have.

12 MR. JEDDELOH: I don't have any questions.

13 HEARING OFFICER KNITTLE: Mr. Trepanier?

14 REDIRECT EXAMINATION

15 BY MR. TREPANIER:

16 Q When you testified that you believe that  
17 some buildings need to go, were you referring to  
18 1261 Halsted?

19 A I don't know. I don't know much about that  
20 building, why they wanted to demolish it, what their  
21 reasons were. It didn't look like a building to me  
22 that couldn't have been saved. A lot of them I see  
23 that way.

24 MR. TREPANIER: No other questions. Thank you.

1 HEARING OFFICER KNITTLE: Ms. Minnick, thank you  
2 very much.

3 Is there any further from this side?

4 MR. BLANKENSHIP: No.

5 MR. JEDDELOH: No.

6 HEARING OFFICER KNITTLE: Thank you very much  
7 for your testimony.

8 MR. BLANKENSHIP: Mr. Kolko should be here. If  
9 we can take a couple minutes, I will go find him.

10 HEARING OFFICER KNITTLE: Let's take a couple  
11 minutes' break.

12 (Brief recess taken.)

13 (Enter Mr. Joseph.)

14 HEARING OFFICER KNITTLE: Mr. Trepanier?

15 MR. TREPANIER: I would like to call Irv Kolko.

16 HEARING OFFICER KNITTLE: Would you swear the  
17 witness, please?

18 (Witness sworn.)

19 IRV KOLKO

20 having been first duly sworn, was examined and

21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. TREPANIER:

24 Q Good morning, Mr. Kolko. I appreciate your  
L.A. REPORTING (312) 419-9292

1 taking time to come in and answer my questions. I  
2 am going to ask some questions about your background  
3 with your business and then some questions about a  
4 certain demolition at 1261 Halsted. So you can just  
5 answer as you are able to recall.

6 How long have you -- What is your  
7 relationship with Speedway Wrecking Company?

8 A I am the president of Speedway Wrecking  
9 Company.

10 Q How long have you been in that position?

11 A Probably 15, 20 years.

12 Q Did you have an association with Speedway  
13 prior to being president?

14 A Yes.

15 Q What position was that?

16 A It is a family business.

17 Q How long has the business been in your  
18 family?

19 A In my particular family? The family  
20 business goes back to the 1920s.

21 Q How long have you been involved with  
22 Speedway?

23 A Approximately 40 years.

24 Q How many demolitions have you been on-site

1 with Speedway?  
2 A I have no idea. Many.  
3 Q Can you make an approximation?  
4 A No.  
5 Q In a year how many may occur?  
6 A It depends on the year. I have no idea. I  
7 don't have a running count of the jobs that we do.  
8 Q Is there any way that you could communicate  
9 to me and for the Board about how many demolitions  
10 that you have been involved in?  
11 A No. Many.  
12 Q I'm understanding what you are saying.  
13 A If you are asking me for an exact count, I  
14 have no idea of an exact count how many buildings.  
15 There have been hundreds of them.  
16 Q Would there be hundreds of buildings in one  
17 year?  
18 A No.  
19 Q Two years?  
20 A No.  
21 Q In five years?  
22 A Possibly.  
23 Q Is it possible that there were more than  
24 hundreds in five years?

1 MR. BLANKENSHIP: Objection, asked and answered.  
2 He is going around on this.

3 HEARING OFFICER KNITTLE: Sustained.

4 BY MR. TREPANIER:

5 Q Are you concerned with dust emanating from  
6 demolitions?

7 A Yes, I am.

8 Q Why are you concerned?

9 A Why am I concerned? Because it can be  
10 considered a health hazard, and there are laws that  
11 govern it.

12 Q Do you consider demolition dust to be a  
13 health hazard?

14 A No.

15 Q Why is that?

16 A Because our buildings are watered down. We  
17 control the dust. We cannot eliminate dust. We try  
18 to minimize to the best of our ability.

19 Q Is it a Speedway policy to leave a foreman  
20 in charge at a job site?

21 A Yes.

22 Q What instructions does the foreman receive  
23 when --

24 A What instructions?

1           MR. BLANKENSHIP: Objection to the lack of  
2 foundation; what job this is relating to and whether  
3 this witness had involvement in the management of  
4 this job.

5           HEARING OFFICER KNITTLE: Mr. Trepanier, perhaps  
6 you could give some more background questions before  
7 we get there.

8           BY MR. TREPANIER:

9           Q   Have you given instructions to your foremen  
10 in the past?

11           A   Yes.

12           MR. BLANKENSHIP: Objection. We have already  
13 had testimony that it was Larry Kolko who was in  
14 charge of this job; and if we are talking about  
15 other Speedway jobs, it is not relevant and there  
16 has been no foundation that Mr. Kolko was involved  
17 in giving instructions to the foreman on 1261.

18           We are getting real far afield, and this is  
19 a witness who has very limited knowledge of this  
20 particular demolition.

21           MR. TREPANIER: Well, the attorney is  
22 testifying.

23           HEARING OFFICER KNITTLE: I am going to  
24 overrule.

1                                    You can ask the question, Mr. Trepanier.

2           BY MR. TREPANIER:

3                   Q           Have you given instructions to your foremen  
4           in the past?

5                   A           In the past?

6                   Q           Yes.

7                   A           I am sure I have.

8                   Q           What instructions did you give them?

9                   A           It would strictly depend on the type of job

10           that we were doing.

11                   Q           Did you see the building at 1261 Halsted?

12                   A           Yes, I did see it.

13                   Q           In that instance what instructions did you  
14           give him?

15                   A           I did not give him instructions. I was not  
16           in charge of that job.

17                   Q           I am asking you to relate that to your  
18           response on it depends on what type of a building.

19                   MR. BLANKENSHIP: Well, objection. Now he says  
20           he is not involved with 1261. Now we are, in fact,  
21           far afield if we are not talking about 1261.

22                   HEARING OFFICER KNITTLE: Mr. Trepanier, how do  
23           you respond to that?

24                   MR. TREPANIER: I am responding because I am

1 interested in -- we do know that now they left the  
2 foreman in charge; and I am asking, you know, what  
3 instructions -- The man has been with the company  
4 40 years, and if somebody is going to know what  
5 instructions they give --

6 HEARING OFFICER KNITTLE: But he has testified  
7 that he wasn't in charge of the building at 1261.

8 MR. TREPANIER: I don't think he has. That was  
9 the attorney who testified.

10 MR. BLANKENSHIP: He just testified to that.

11 HEARING OFFICER KNITTLE: Mr. Trepanier, perhaps  
12 you could ask that question again. I think you have  
13 already asked it, but I will allow you to ask it  
14 again.

15 MR. TREPANIER: It is not the question that I am  
16 going to choose to ask.

17 HEARING OFFICER KNITTLE: Then I am going to ask  
18 you to move on from this line of questioning.

19 BY MR. TREPANIER:

20 Q Did you see the bid and plan for the  
21 demolition at 1261 Halsted?

22 A The bid and plan?

23 Q Yes.

24 A I believe I did.

- 1 Q Did that bid and plan call for a canopy to  
2 be installed?
- 3 A Yes, it did.
- 4 Q What is the purpose of that canopy?
- 5 A To protect the public from falling debris.
- 6 Q What if a brick hits that canopy? Would it  
7 fall to the street?
- 8 A I doubt it.
- 9 Q Why not?
- 10 A Because that is what the canopy is there  
11 for, to protect the brick from falling onto the  
12 sidewalk or into the street.
- 13 Q That canopy doesn't have any other  
14 purposes, does it?
- 15 A What do you mean by other purposes?
- 16 Q Other than to protect the pedestrians from  
17 falling objects.
- 18 A No.
- 19 Q Does the canopy have a piece that is a  
20 backslash?
- 21 A Where are you referring to?
- 22 Q On the canopy.
- 23 A Where on the canopy? On the top? On the  
24 bottom? Where are you referring to?

1 Q Is there more than one place there may be a  
2 backslash on a canopy?  
3 A There could be.  
4 Q Did you see the demolition site at 1261  
5 while the job was in process?  
6 A I believe I stopped by there.  
7 Q Did you see a canopy when you were there?  
8 A Yes.  
9 Q Was there a backslash on that canopy?  
10 A I believe there was.  
11 Q Was that above or below?  
12 A I believe we had a backslash on the  
13 bottom.  
14 Q That would be underneath the canopy?  
15 A That's correct.  
16 Q That canopy didn't -- that canopy didn't go  
17 all the way around the building, did it?  
18 A No. It was strictly on the Halsted Street  
19 side; and I believe there was a turn, but I am not  
20 quite certain if the canopy extended back on  
21 13th Street or not.  
22 Q This canopy didn't control dust at this  
23 demolition, did it?  
24 A No.

1 Q I understand that you believe that the  
2 Speedway demolition didn't create a health hazard  
3 because you controlled the dust; is that correct?

4 A Would you repeat that?

5 MR. BLANKENSHIP: I am going to object to the  
6 form of the question. What Mr. Trepanier  
7 understands is not a proper question.

8 HEARING OFFICER KNITTLE: Sustained. Rephrase  
9 the question, Mr. Trepanier.

10 BY MR. TREPANIER:

11 Q It is true, isn't it, if demolition dust  
12 left 1261 that it would be a health hazard?

13 A I can't answer that.

14 Q You did state that the demolition -- that  
15 you are concerned that demolition dust can be a  
16 health hazard.

17 A No. I think I stated that I think that  
18 was, if you check the record. I think you asked me  
19 if demolition dust was a health hazard, and I said I  
20 didn't think so.

21 Q Why is that, that you think it is not a  
22 health hazard?

23 A It is common dust.

24 Q You are concerned about demolition dust,

1 aren't you?

2 MR. BLANKENSHIP: Asked --

3 MR. JEDDELOH: Objection, relevancy.

4 HEARING OFFICER KNITTLE: Overruled, relevancy.

5 What was your objection?

6 MR. BLANKENSHIP: Asked and answered, I believe.

7 HEARING OFFICER KNITTLE: Sustained.

8 Mr. Trepanier, you have asked that question

9 before.

10 BY MR. TREPANIER:

11 Q When demolition dust generally concerns  
12 you, why are you not concerned about the demolition  
13 dust at 1261 Halsted?

14 MR. BLANKENSHIP: Objection, misstates his  
15 testimony, vague question.

16 HEARING OFFICER KNITTLE: Sustained.

17 MR. TREPANIER: On which grounds?

18 HEARING OFFICER KNITTLE: I am sustaining it  
19 because I think you are misstating his testimony.

20 BY MR. TREPANIER:

21 Q Do you have a concern about the -- did you  
22 have a concern about the demolition dust that could  
23 be created at 1261 Halsted?

24 A Did I have a concern? We use water to

1 control the dust. We do not eliminate dust. We try  
2 to minimize the dust on all our jobs.

3 Q Why do you attempt to minimize the dust?

4 A Because that is what the regulations state.

5 Q Which regulation is that?

6 A The EPA regulations, City of Chicago  
7 regulations.

8 Q Are those regulations cited on the  
9 application for this demolition?

10 A Well --

11 Q Maybe I can do some background.

12 Did you see -- did you review the  
13 application for demolition?

14 A No.

15 MR. TREPANIER: I am going to ask the witness to  
16 look at document UI-571 and ask him to identify the  
17 signature of the wrecking contractor.

18 HEARING OFFICER KNITTLE: Are you marking this  
19 as an exhibit?

20 MR. TREPANIER: I will mark it as an exhibit.

21 This is a series of documents, but just for  
22 clarity I will keep them together.

23 MR. JEDDELOH: Can we have the Bates range on  
24 that, please?

1 MR. TREPANIER: 571 to 576.

2 HEARING OFFICER KNITTLE: Do you want an exhibit  
3 marker?

4 MR. TREPANIER: Thank you. I will mark this  
5 Exhibit 3.

6 (Complainants' Exhibit  
7 No. 3 marked as requested.)

8 MR. TREPANIER: I am going to take it over to  
9 show the attorneys.

10 MR. BLANKENSHIP: I would just note for the  
11 record that this exhibit appears to be several  
12 different unrelated documents all stapled together.  
13 I don't want there to be any confusion about that.

14 MR. TREPANIER: For clarity, I will state that  
15 571 is titled "Application for Wrecking Permit."  
16 572, the title is unclear; various information about  
17 the building at 1261 Halsted on a computer printout.  
18 573 is a letter to Mr. Kolko from James Henderson  
19 regarding the demolition at 1261. 574 is titled  
20 "Wrecking Permit Addendum."

21 HEARING OFFICER KNITTLE: Which Mr. Kolko on the  
22 previous document?

23 MR. TREPANIER: Not specified.

24 MR. BLANKENSHIP: I guess I will object to

1 characterizing the document. Can you show them to  
2 the witness and see if the witness can identify  
3 them?

4 MR. TREPANIER: Well, I think the attorney  
5 claimed that these were unrelated documents. I just  
6 stated that 574 is "Wrecking Permit Addendum."

7 MR. BLANKENSHIP: I object to him reading what  
8 the documents are. I said they appear to be  
9 unrelated documents, and I didn't want there to be

10 confusion. I don't know that that calls for  
11 Mr. Trepanier to testify as to what the documents  
12 are. He can show them to the witness and see if the  
13 witness recognizes them.

14 HEARING OFFICER KNITTLE: Sustained. Why don't  
15 you give what you want to give to the witness,  
16 Mr. Trepanier? Tell me what you are giving to him,  
17 which specific document.

18 MR. TREPANIER: I am specifically giving him  
19 document 571, and I am asking him to identify the  
20 signature for wrecking contractor.

21 BY MR. TREPANIER:

22 Q Now, that is your signature, isn't it, sir?

23 A That's correct.

24 Q Thank you.

1           MR. TREPANIER: Again, I am going to hand it  
2 back to the witness.

3 BY MR. TREPANIER:

4           Q        Could you -- would you read that document  
5 at paragraph No. 9?

6           A        You want me to read it?

7           Q        Yes, if you would.

8           A        "We hereby certify that the statements in  
9 this application are true and correct and to the

10 best of our knowledge we believe it; and that all  
11 work under the proposed permit will conform to the  
12 Municipal Code of the City of Chicago. Removal of  
13 asbestos must be in conformance with the Asbestos  
14 National Emissions Standard."

15 BY MR. TREPANIER:

16           Q        So there is no mention here of any state  
17 requirements for your demolition activity; isn't  
18 that correct?

19           A        Would you repeat that question?

20           MR. BLANKENSHIP: Objection. The document  
21 speaks for itself. If this is impeachment, I don't  
22 know what he is trying to impeach.

23           MR. JEDDELOH: I would add the relevancy  
24 objection. Why is that relevant?

1 HEARING OFFICER KNITTLE: Mr. Trepanier?

2 MR. TREPANIER: I want to establish that there  
3 are no state requirements, no specific regulations  
4 that Mr. Kolko had to rely on.

5 MR. BLANKENSHIP: Well, that is not the way to  
6 do it. That is ridiculous, to show him his  
7 application, allegedly in support of an argument  
8 there are no requirements for a demolition. That  
9 doesn't make any sense.

10 HEARING OFFICER KNITTLE: Can I see the  
11 document?

12 Mr. Trepanier, I am still not entirely sure  
13 how you are intending to accomplish what you are  
14 seeking to prove. What exactly are you trying to do  
15 with that?

16 MR. TREPANIER: Well, one, I have established  
17 that Irv Kolko applied for the wrecking permit for  
18 this job. So that is other than was earlier claimed  
19 that, you know, he wasn't in charge of this job.  
20 He, in fact, applied for the permit.

21 MR. BLANKENSHIP: Objection. That is not what  
22 that shows. He applied for a wrecking permit.  
23 We'll stipulate to that.

24 MR. TREPANIER: Beyond that, I want to go into

1 that area which -- when Speedway relies on that they  
2 followed the rules of the State in doing their  
3 demolition, I am wanting to establish that that is a  
4 misplaced reliance because there are no rules from  
5 the State.

6 MR. JEDDELOH: Then this case should be  
7 dismissed.

8 MR. BLANKENSHIP: I would object to that whole  
9 line of questioning. The foundation that has been

10 laid so far is that Mr. Kolko drove by the site and  
11 observed that he was not in charge of the site and  
12 that, although he applied for the wrecking permit,  
13 this was not his job. So why we are asking him  
14 questions about the conduct of the demolition is  
15 totally irrelevant from this witness; no foundation  
16 at all.

17 MR. TREPANIER: I can respond to what --

18 HEARING OFFICER KNITTLE: Please respond.

19 MR. TREPANIER: -- Marshall is bringing in with  
20 a couple of questions to the witness, if I might.

21 HEARING OFFICER KNITTLE: I will let you ask the  
22 question; but if I don't think it is going to clear  
23 things up, I am going to not allow him to answer it.

24

1 BY MR. TREPANIER:

2 Q When this demolition -- You are aware that  
3 this demolition caused damage to the neighboring  
4 property, aren't you?

5 MR. JEDDELOH: Objection --

6 MR. BLANKENSHIP: Objection, relevance.

7 MR. JEDDELOH: -- foundation.

8 MR. TREPANIER: This is going to go into his  
9 knowledge of what occurred at this demolition.

10 MR. JEDDELOH: Well, we haven't established his  
11 knowledge base.

12 HEARING OFFICER KNITTLE: I am going to sustain  
13 the objection.

14 You can try to rephrase that,  
15 Mr. Trepanier.

16 BY MR. TREPANIER:

17 Q You do know that the demolition resulting  
18 from your application here -- the demolition that  
19 followed your application damaged the adjacent  
20 property, are you not?

21 MR. JEDDELOH: Same objection. There is no  
22 foundation for that. He testified he was at the  
23 site perhaps once. That is not sufficient.

24 HEARING OFFICER KNITTLE: I am going to

1 overrule, allow him to answer if he knows that.

2 A Would you ask me the question again?

3 BY MR. TREPANIER:

4 Q You are aware that the demolition at  
5 1261 Halsted resulted in damage to the adjacent  
6 property, are you not?

7 A No, I am not aware of that.

8 Q You did write a letter to Mr. Henderson  
9 regarding that damage to the property, did you not?

10 A No, not regarding the damage to the  
11 property.

12 MR. JEDDELOH: Well, let me interpose with an  
13 objection. I'm sorry. I thought we were talking  
14 about a different kind of damage. If he is talking  
15 about some purported damage to another building next  
16 door by some equipment, then that is not relevant to  
17 this proceeding; and we have already established  
18 that, Mr. Knittle.

19 HEARING OFFICER KNITTLE: I am going to sustain  
20 that. He answered that he wasn't aware of any  
21 damage.

22 Let's move on, Mr. Trepanier.

23 MR. TREPANIER: I'm just a little bit flustered  
24 because I had a letter from Mr. Kolko where he

1 addressed this very damage, and I have misplaced it.

2 MR. BLANKENSHIP: Objection to him making --  
3 sharing his thought process with us on the record,  
4 as if it is some kind of testimony.

5 HEARING OFFICER KNITTLE: Sustained.

6 MR. TREPANIER: If I might have a few minutes to  
7 gather my thoughts together.

8 MR. BLANKENSHIP: I am going to object. This is  
9 what we were concerned about when he listed

10 15 Speedway employees as witnesses, and Mr. Kolko  
11 wasn't even one of those 15. He is bringing in  
12 people he has no idea what their knowledge is. He  
13 is asking them questions out of the blue. This is  
14 an entire fishing expedition. It is ridiculous.

15 And now we are five minutes into the exam, and he  
16 needs a break to compose his thoughts. This case  
17 has dragged on for two and a half days, and we are  
18 not going to finish today. This is ridiculous.

19 HEARING OFFICER KNITTLE: I agree. Let's move  
20 on, Mr. Trepanier.

21 MR. TREPANIER: I would like to respond to what  
22 he is saying, is the fact that although Irv applied  
23 for the wrecking permit and was involved in this,  
24 Irv's name was not mentioned in discovery at all in

1 the 15 names. They didn't even turn over Irv  
2 Kolko's name, so his claim that I didn't know --  
3 that I am surprised by some testimony; well, that  
4 can be brought -- responsibility for Speedway for  
5 not even disclosing this person during discovery.

6 MR. JEDDELOH: Let me join in the objection of  
7 Speedway and just mention in doing so that  
8 Mr. Trepanier received a copy of a document he is  
9 using in December of 1997 and had plenty of time to  
10 figure out that the current witness signed the  
11 application. He has no basis to argue surprise.

12 HEARING OFFICER KNITTLE: Did you have a  
13 response?

14 MR. BLANKENSHIP: The testimony is he was not  
15 involved in this demolition. This was Larry Kolko's  
16 responsibility. He signed a wrecking permit  
17 application because it is an administrative act of  
18 the company. This is -- He has now established that  
19 he has no knowledge of this except for the time he  
20 visited the job.

21 HEARING OFFICER KNITTLE: I am going to ask you  
22 to move on, Mr. Trepanier.

23 BY MR. TREPANIER:

24 Q Did you visit this job site only once? You

1 vis- -- Let me scratch that question.

2 You visited this job site more than once,  
3 didn't you?

4 A I believe so.

5 Q How many times?

6 A I have no idea.

7 Q How long did the demolition proceed?

8 A I don't have the dates in front of me. I  
9 can't give you an answer right now.

10 Q Do you recall approximately when the job --

11 A If you got the sheets, you could tell me.

12 I don't remember. I mean, I believe you have the  
13 sheets. I don't remember.

14 HEARING OFFICER KNITTLE: Mr. Kolko, please  
15 answer if you can; and if you don't remember, say  
16 you don't remember.

17 A I don't remember.

18 BY MR. TREPANIER:

19 Q When you did visit the site, what was your  
20 business there?

21 A What was my business there? It was our  
22 wrecking job. I stopped by to see the progress of  
23 the job. It was short visits.

24 Q What were you looking at when you were

1 present?

2 A At the demolition.

3 Q If demolition is surrounded by -- Scratch

4 that.

5 Prior to applying for a permit to rent

6 1261 Halsted, did you look at the building?

7 A I don't recall.

8 Q The permit does describe the building, does

9 it not?

10 A Yes.

11 Q When you signed this, you swore that

12 information was correct, did you not?

13 A Yes.

14 Q Is it possible, then, that you signed --

15 you swore the information was correct without

16 knowing if it was correct?

17 MR. JEDDELOH: I am going to object as to what

18 is possible.

19 HEARING OFFICER KNITTLE: I will sustain that.

20 BY MR. TREPANIER:

21 Q Do you know if you signed this permit,

22 swearing the information was correct, without

23 knowing it was correct?

24 A No. That was signed -- I sign most of the

1 applications. I don't always visit all of the jobs.  
2 I sign as an officer of a corporation.  
3 Q Did you read the document before you signed  
4 it?  
5 A I try to read all documents.  
6 Q So you would have read the paragraph 9  
7 certification?  
8 A Yes. That is a standard application.  
9 Q But you wouldn't necessarily answer that  
10 truthfully?  
11 A I would what?  
12 Q You wouldn't necessarily answer that  
13 truthfully.  
14 A I wouldn't necessarily answer it  
15 truthfully, or I would necessarily answer it  
16 truthfully?  
17 Q My question is, you wouldn't necessarily  
18 answer that truthfully, would you?  
19 A My answer is, I would answer that  
20 truthfully, yes.  
21 Q How could you answer it truthfully if you  
22 don't visit the sites before you sign the  
23 applications?  
24 A Because you don't have to, because I have

L.A. REPORTING (312) 419-9292

1 an estimator that does -- there are plot plans.

2 That is all it requires.

3 Q What information is on the plot plan?

4 MR. BLANKENSHIP: I am going to object to the  
5 relevancy. This has nothing to do with whether

6 there was dust, whether the dust was pollution,

7 whether there was an effect of the dust.

8 HEARING OFFICER KNITTLE: I will sustain that.

9 I don't see how this is relevant, Mr. Trepanier.

10 MR. TREPANIER: Well, it was relevant in the way

11 that I was attempting to impeach the witness that he

12 hadn't visited the site before the demolition

13 started.

14 HEARING OFFICER KNITTLE: But he has explained

15 why he signed the document and the steps he took.

16 MR. TREPANIER: Well, he has relied on a plot

17 plan. He said plot plan, but I should have some

18 opportunity to inquire into what information is in a

19 plot plan.

20 HEARING OFFICER KNITTLE: I don't see how this

21 is relevant to the case before us, Mr. Trepanier.

22 MR. TREPANIER: It is springing from my

23 impeachment.

24 MR. BLANKENSHIP: I would object to impeachment

1 on a collateral issue. This is ridiculous now. Can  
2 we get to the substantive issue?

3 HEARING OFFICER KNITTLE: This has been going on  
4 for a while. I want to you move on to a more  
5 substantive issue.

6 MR. TREPANIER: Okay.

7 BY MR. TREPANIER:

8 Q When you visited the demolition site, did  
9 you exit your vehicle?

10 A On occasion; once or twice, maybe. I don't  
11 remember.

12 Q When you visited the site, did you have  
13 opportunity to travel on Halsted Street?

14 A I am sure I did.

15 Q Now, you figure demolitions differently,  
16 don't you, if they are surrounded by people and  
17 buildings?

18 A Yes.

19 Q How are they figured differently when  
20 surrounded by people and --

21 MR. BLANKENSHIP: Objection to the relevance.

22 There is no testimony this witness figured this job.

23 That was Mr. Mergener yesterday. We went through

24 all this. This witness stopped by the site on a

1 couple of occasions.

2 HEARING OFFICER KNITTLE: Overruled.

3 Mr. Trepanier, you can ask.

4 And you can answer to the extent of your  
5 knowledge.

6 A Would you repeat the question?

7 BY MR. TREPANIER:

8 Q How is the demolition planned differently  
9 if it is surrounded by people and buildings?

10 A Every job is different. Every job is  
11 different, depending on the means that you use to  
12 wreck the structure.

13 Q Now, if the structure is surrounded by  
14 people and buildings, how is it different?

15 A I don't know what you mean by "surrounded  
16 by."

17 Q That was something that Mr. Mergener  
18 described, a situation.

19 A I can't speak for his testimony. I don't  
20 know what he told you.

21 Q Did you have an opportunity to see Halsted,  
22 the front of this building at 1261?

23 A Yes.

24 Q Did you recognize that as a commercial

1 district?

2 A A commercial district?

3 Q Yes.

4 A If that is what you want to call it, yes.

5 Q Did you see people on the street when you

6 were there?

7 A On the street? No. I saw them on the

8 sidewalk.

9 Q Then given that there is traffic on the

10 sidewalk and in a commercial district, how do you

11 figure that demolition differently?

12 A You have already stated there was a canopy

13 on Halsted Street. The top was removed by hand for

14 public safety.

15 Q When you say that the top was removed by

16 hand, how many floors is that?

17 A I don't recall; possibly two.

18 Q When it is -- when you say removing by

19 hand, that doesn't include a bobcat, does it?

20 MR. BLANKENSHIP: Well, I am going to object

21 again. Now, if we are asking for testimony about

22 this particular job, I would like some foundation

23 with respect to that.

24 HEARING OFFICER KNITTLE: Sustained.

1 MR. TREPANIER: My question is going to hand  
2 wrecking.

3 HEARING OFFICER KNITTLE: Re-ask the question.  
4 Rephrase it, Mr. Trepanier.

5 BY MR. TREPANIER:

6 Q Hand wrecking doesn't mean wrecking with a  
7 bobcat, does it?

8 A Yes, it does, in conjunction with hand  
9 wrecking. It is like a wheelbarrow.

10 Q Could you describe how it is like a  
11 wheelbarrow?

12 A It has a bucket in the front and it moves.

13 Q And how is that bucket and the movement  
14 used?

15 A By a man sitting in the bobcat.

16 Q What does he do with that?

17 A What does he do with it?

18 Q Yes.

19 A He picks up loose debris with it, and  
20 sometimes he will knock over a small wall with it.

21 Q That is not hand wrecking, is it?

22 A Yes, it is.

23 Q Which -- is there any -- Knocking over a  
24 wall with a bobcat creates a lot of dust, doesn't

1 it?

2 A No, not if there is water on it.

3 Q How long does the water stay on the wall?

4 A How long does the water stay on the wall?

5 Q Yes.

6 A I have no idea what the man on the job --

7 the hose is running.

8 Q So when knocking down walls with bobcats --

9 HEARING OFFICER KNITTLE: Mr. Kolko, I have to

10 advise you to keep your answers succinct and try to

11 contain yourself on the stand.

12 THE WITNESS: Okay. I have a plane to catch

13 later this afternoon.

14 HEARING OFFICER KNITTLE: I understand.

15 I don't think we are going to be too much

16 longer, are we, Mr. Trepanier?

17 MR. TREPANIER: It is taking a little bit longer

18 than I thought.

19 MR. BLANKENSHIP: Then I would suggest we ask

20 some relevant questions; again, about the demolition

21 itself, for which there is no foundation, or

22 something that has to do with this particular site,

23 of which this witness has knowledge.

24 HEARING OFFICER KNITTLE: Mr. Trepanier, I would

1 advise you to try to ask relevant questions; and I  
2 do think that the use of the bobcat, I don't see how  
3 that is clearly relevant to this case.

4 MR. TREPANIER: Well, we did have testimony  
5 yesterday that a bobcat was used in this demolition.

6 HEARING OFFICER KNITTLE: Right. But how is  
7 that relevant to the alleged violation at this site?  
8 I want you to try to tie this together and get  
9 moving on this.

10 MR. TREPANIER: Okay.

11 BY MR. TREPANIER:

12 Q When knocking down walls with a bobcat,  
13 those walls need to be wetted, don't they?

14 A Yes.

15 Q And those walls need to be constantly  
16 wetted, don't they?

17 A I don't know what you mean by constantly  
18 wetted. Sometimes you will put enough water on a  
19 wall and you will have no dust whatsoever. You  
20 don't have to wet it down anymore, depending on the  
21 condition of the mortar.

22 Q This was an old building, wasn't it?

23 A I don't remember the date.

24 Q You wouldn't be surprised if this building

1 was 80 years old, would you?

2 MR. BLANKENSHIP: Objection. The relevance of  
3 that, this is --

4 HEARING OFFICER KNITTLE: Sustained. He has  
5 testified that he doesn't know how old the building  
6 was, Mr. Trepanier.

7 BY MR. TREPANIER:

8 Q Now, the mortar on an old building requires  
9 more watering, doesn't it?

10 A I have no idea.

11 Q Then how could you say that it depends on  
12 the condition of the mortar?

13 A Because it could have been tuck pointed.

14 Q Is it your testimony that a tuck pointed  
15 wall needs less watering?

16 A It could.

17 Q It is also true, isn't it, that a wall in  
18 poor repair needs more watering?

19 A I can't say that.

20 Q When you reviewed the plan for the  
21 demolition at 1261 Halsted, was there anything there  
22 that you saw that was figured differently for the  
23 people and the commercial district beyond what you  
24 have testified to; the canopy?

1 MR. JEDDELOH: Object as to form.

2 HEARING OFFICER KNITTLE: Overruled.

3 A Would you repeat your question, please.

4 BY MR. TREPANIER:

5 Q Yes. When you reviewed the plan for  
6 demolition at 1261 Halsted, was anything figured  
7 differently considering the -- for the persons and  
8 the commercial district, other than the canopy that  
9 you testified to earlier?

10 A I think I stated that we took a story or  
11 maybe two stories down by hand.

12 Q When you say they took them down by hand,  
13 you mean they may have used a mechanical bobcat,  
14 don't you?

15 MR. BLANKENSHIP: Objection, asked and answered.

16 HEARING OFFICER KNITTLE: Sustained.

17 BY MR. TREPANIER:

18 Q Speedway has used a building's interior  
19 stairwell as a chute to carry demolition debris,  
20 haven't they?

21 A On occasion, yes.

22 Q Speedway didn't do that on this occasion,  
23 did they?

24 A I believe we used an inside stairwell and

1 we used the outside.

2 Q Which was used during the hand wrecking  
3 stage?

4 A I wasn't there that often.

5 Q Did you observe the interior stairwell  
6 being used as a chute?

7 A I don't remember that.

8 Q Were you inside this building at all during  
9 the demolition?

10 A I don't believe I was.

11 Q So you would have no information on whether  
12 an interior stairwell was used as a chute?

13 A I believe it was because it was filled when  
14 I saw it from the outside.

15 Q I have an exhibit, Complainant's Exhibit 1.  
16 On this exhibit, this square is to represent the  
17 building. This is to be Halsted Street; and this,  
18 13th.

19 Could you show me on the exhibit where you  
20 observed the interior stairwell from the outside of  
21 the building?

22 A If you are asking me on 13th Street, I  
23 believe the stairwell was in the front. There was a  
24 stairwell right here (indicating).

1 HEARING OFFICER KNITTLE: Let's let the record  
2 reflect that the witness is pointing to the  
3 intersection of 13th and what is labeled as alley,  
4 it looks like.

5 A Areaway, alley, whatever he wants to call  
6 it. You can't get through, so I don't know what it  
7 is.

8 HEARING OFFICER KNITTLE: Right.

9 MR. TREPANIER: Thank you.

10 BY MR. TREPANIER:

11 Q How much debris did you see in that  
12 stairwell?

13 A How much debris?

14 Q Yes.

15 A I have no idea what you mean by how much.

16 I can't quantify the amount of debris in the  
17 stairwell.

18 Q Was the stairwell full?

19 A From what I saw from the street, it  
20 appeared to be full.

21 Q You didn't see anybody put debris into that  
22 stairwell, did you?

23 A No.

24 Q You don't know if anybody put debris in

1 that stairwell on purpose, do you?

2 A No.

3 Q It doesn't cost Speedway anything to put  
4 debris in -- to use the stairwell as a chute, does  
5 it?

6 A What do you mean by cost?

7 Q You don't have to pay anyone to use the  
8 stairwell?

9 A No, no. That's correct.

10 Q The exhibit that I showed you earlier that  
11 you read the paragraph 9 certification, that  
12 required compliance with Part 61 of the federal  
13 regulations, did it not?

14 A Yes, it did.

15 MR. JEDDELOH: Objection. The document can  
16 speak for itself.

17 HEARING OFFICER KNITTLE: Overruled. He has  
18 already answered.

19 BY MR. TREPANIER:

20 Q I have a video that we created, of which I  
21 would like you to observe a few minutes of that; and  
22 I have a couple of questions I would like to ask  
23 you.

24 MR. BLANKENSHIP: As a preliminary matter, I am  
L.A. REPORTING (312) 419-9292

1 going to object to any questions asking this witness  
2 to render opinions on what is on the video if there  
3 is no foundation established that he was there on  
4 that day. He should not be allowed to turn the  
5 respondent into his expert witness, having failed to  
6 designate an expert witness. I think that would be  
7 totally unfair. This is not a person who was  
8 involved in the demolition.

9 MR. TREPANIER: Well, I disagree. This is in  
10 fact the person who has applied for the permits for  
11 this demolition. It is somebody who saw the  
12 demolition. And it is somebody with 40-plus years  
13 of experience with Speedway demolitions.

14 MR. BLANKENSHIP: It sounds to me like he is  
15 trying to get an expert opinion, and I don't think  
16 that is proper. They did not designate an expert  
17 witness. If he is just asking him to characterize  
18 what is on the tape, the tape speaks for itself.  
19 Those are not proper questions of this witness.

20 HEARING OFFICER KNITTLE: I am going to  
21 overrule. I am going to see what the questions are  
22 that Mr. Trepanier may or may not ask. If they  
23 appear to be improper, I will disallow them.

24 And I would ask you, Mr. Blankenship, if  
L.A. REPORTING (312) 419-9292

1 you have an objection to a specific question to  
2 raise it at that point.

3 MR. BLANKENSHIP: I will.

4 HEARING OFFICER KNITTLE: Mr. Kolko, can you see  
5 the TV?

6 THE WITNESS: Yes, I can see.

7 (Discussion off the record.)

8 HEARING OFFICER KNITTLE: We are back on the  
9 record, looking at the videotape which is  
10 complainants' Exhibit No. 2.

11 Do you want to start the tape?

12 MR. TREPANIER: Yes. Okay. Just let the tape  
13 run now.

14 (Whereupon, a videotape was presented to  
15 the attendees of the hearing, and no  
16 proceedings we had during presentation.)

17 BY MR. TREPANIER:

18 Q Do you recognize that building?

19 A Not yet.

20 Q Do you recognize the activity that is  
21 occurring?

22 A It looks like the building is getting  
23 wrecked.

24 Q That dust that -- that wheelbarrow dumping,

1 that dust is not being controlled, is it?

2 MR. BLANKENSHIP: Objection now. He has  
3 testified that he doesn't recognize the building, so  
4 there is no foundation he knows anything at all  
5 about what is going on on the tape. So I object to  
6 him asking him about what is going on on the tape  
7 without the witness having the context of where this  
8 is, what has been done, et cetera.

9 MR. JEDDELOH: I will also join in the objection  
10 and further state that I think he is asking for  
11 commentary on a tape that anyone can look at.

12 HEARING OFFICER KNITTLE: Sustained.

13 BY MR. TREPANIER:

14 Q I would like to -- Now, do you see the  
15 space between the two buildings on this video?

16 MR. TREPANIER: Could you hit the pause, please?

17 BY MR. TREPANIER:

18 Q Do you see tallest building in the video,  
19 near the center?

20 A Yes.

21 Q And another building to the left of that?

22 A Yes.

23 Q And there is a space in between those two,  
24 isn't there?

1           A       It appears to be, yes.  
2           Q       Now, that is 13th Street?  
3           A       Yes.  
4           Q       Now, that is the building you applied for a  
5 demolition permit for, isn't it?  
6           A       If that is 13th Street and if that is  
7 1261 Halsted, yes, that is the building.  
8           Q       And what we see going on here is hand  
9 wrecking activity, is it not?  
10          A       I can't see right now.  
11          MR. TREPANIER: Go ahead and let that video run,  
12 please.  
13                    (Whereupon, a videotape was presented to  
14 the attendees of the hearing, and no  
15 proceedings we had during presentation.)  
16 BY MR. TREPANIER:  
17          Q       Now, somebody is dumping a wheelbarrow off  
18 the roof there, aren't they?  
19          A       It appears to be.  
20          Q       And the dust is flying away, isn't it?  
21          A       I can't --  
22          MR. BLANKENSHIP: Objection to his  
23 characterization of the videotape. It speaks for  
24 itself.

1 HEARING OFFICER KNITTLE: Sustained.

2 BY MR. TREPANIER:

3 Q That dust is not being controlled, is it?

4 MR. JEDDELOH: Same question, same objection.

5 MR. BLANKENSHIP: And foundation as well.

6 HEARING OFFICER KNITTLE: I will sustain it.

7 Mr. Trepanier, you have asked that question

8 before. This witness has testified that he

9 doesn't -- wasn't available and he wasn't at this

10 demolition site on more than one or two occasions

11 and didn't participate in any meaningful way in any

12 dust control that would have occurred.

13 MR. TREPANIER: I am asking him if there is a

14 dust control measure being practiced.

15 MR. BLANKENSHIP: I will object. How can he

16 know what was done on this job, if water was applied

17 or whatever. We don't know. He wasn't there.

18 There is no foundation for him to give that

19 testimony.

20 HEARING OFFICER KNITTLE: I am going to overrule

21 it.

22 If you know how the dust was controlled at

23 the site, Mr. Kolko, you can answer.

24 A I will state that water is on all our

1 sites. This particular site, there was water the  
2 few times I was there. That is all I can state.

3 MR. TREPANIER: Would you hold the video for a  
4 moment?

5 BY MR. TREPANIER:

6 Q When you were on-site and you saw the  
7 water, where was that water?

8 A Where was the water?

9 Q Yes.

10 A There is a hydrant on the corner of 13th  
11 and Halsted, on the southeast side.

12 Q Was the water at any other location than  
13 the hydrant?

14 A Not that I am aware of. We had a hose  
15 hooked up to it.

16 Q Where was that hose when -- Did you observe  
17 a hose?

18 A Yes.

19 Q Where was that hose?

20 A I believe the hose was running, upstairs.

21 Q What time of day did you observe that?

22 A I have no idea. I have no recollection of  
23 that. I don't keep a log.

24 Q Did you observe a hose more than once?

1           A        I was only there on a couple occasions.  
2       The two occasions I was there, I observed a water  
3       hose.

4           Q        On the occasion that you didn't testify to,  
5       where did you see the water hose?

6           A        Would you repeat that?

7           Q        On the occasion that you didn't describe  
8       already, where did you see the water hose?

9           A        On the occasion I --

10          Q        Didn't describe.  
11                    You had described one occasion. I believe  
12       you said you saw the water hose go into the  
13       building?

14          A        Right.

15          Q        Now, on the second occasion that you saw  
16       the water hose --

17          A        When we were wrecking with a crane, we had  
18       it on the ground.

19          Q        Is it Speedway's practice to have the hose  
20       upstairs when you are doing the hand wrecking?

21          A        If we can control the water better, that is  
22       the way we try to do it.

23          Q        We saw these wheelbarrows dumping dry  
24       debris, didn't we?

1 MR. BLANKENSHIP: Objection. There is no  
2 foundation that he knows what was in the contents of  
3 those wheelbarrows.

4 MR. JEDDELOH: Again, he is asking the witness  
5 to comment on a piece of evidence that anyone can  
6 view.

7 HEARING OFFICER KNITTLE: I will allow this  
8 question.

9 A Did I see what?

10 MR. BLANKENSHIP: Can we read the question back?  
11 (Question read.)

12 A I have no idea that it was dry debris or  
13 wet debris.

14 (Whereupon, a videotape was presented to  
15 the attendees of the hearing, and no  
16 proceedings we had during presentation.)

17 BY MR. TREPANIER:

18 Q Now we see the video now at 12:42 p.m.  
19 What is that that is there between us on -- in front  
20 of that building on this video?

21 MR. BLANKENSHIP: Objection, lack --

22 MR. JEDDELOH: Objection as to foundation.

23 HEARING OFFICER KNITTLE: I will sustain it.

24 That is a pretty vague question, too, Mr. Trepanier.

1 BY MR. TREPANIER:

2 Q Does wet debris act differently than dry  
3 debris when dumped?

4 A I am sure it does.

5 Q How is it that it acts differently?

6 A How is it?

7 Q In what way?

8 A It probably falls straight down.

9 Q So --

10 A Most of it would fall straight down.

11 Q So if a wheelbarrow is dumped and most of  
12 the -- and the debris doesn't fall down, that debris  
13 is not wet, is it?

14 A That doesn't necessarily mean that at all.

15 Q Well, how is that since you testified that  
16 wet debris would fall down?

17 A Because you cannot saturate every particle  
18 of debris when you are wetting it. The entire -- is  
19 not saturated. There will be some that is not  
20 saturated.

21 Q So Speedway didn't wet -- Speedway doesn't  
22 wet the debris before they dump it off, do they?

23 A That is incorrect. We do wet the debris  
24 before we dump it off.

1 Q But if the debris was wet, it would fall  
2 straight down, wouldn't it?

3 A I just stated --

4 MR. BLANKENSHIP: Objection, asked and answered  
5 and also foundation as to this job.

6 HEARING OFFICER KNITTLE: Sustained.

7 MR. TREPANIER: Would you run the video some  
8 more?

9 THE WITNESS: Excuse me. May I ask a question?

10 HEARING OFFICER KNITTLE: Yes, sir.

11 THE WITNESS: Do you have any idea how much  
12 longer this is going to go on? I have to catch a  
13 plane, and I have to do some things before I get on  
14 the plane.

15 MR. BLANKENSHIP: He did represent we were going  
16 to be about 45 minutes yesterday, and we have now  
17 gone an hour.

18 HEARING OFFICER KNITTLE: How much longer do you  
19 have, Mr. Trepanier?

20 MR. TREPANIER: I think 15 minutes, on the  
21 outside.

22 HEARING OFFICER KNITTLE: Let's go off for a  
23 second.

24 (Discussion off the record.)

1 HEARING OFFICER KNITTLE: Mr. Trepanier, I am  
2 going to ask you to proceed, and I am going to let  
3 you proceed; but you are going to have to proceed --  
4 We have a time constraint with this witness, and I  
5 am going to ask you to take that into consideration.

6 MR. TREPANIER: Thank you.

7 MR. BLANKENSHIP: We have another witness  
8 waiting, too.

9 HEARING OFFICER KNITTLE: We do have another  
10 witness waiting, and we don't have too much longer  
11 for the day here.

12 In light of that, Mr. Trepanier, I would  
13 expect you to ask some questions.

14 MR. TREPANIER: Yes.

15 HEARING OFFICER KNITTLE: Now.

16 MR. TREPANIER: Can you go ahead and run that  
17 video to the spot that I asked for?

18 (Whereupon, a videotape was presented to  
19 the attendees of the hearing, and no  
20 proceedings we had during presentation.)

21 BY MR. TREPANIER:

22 Q Are you familiar with the use of chutes to  
23 carry demolition debris to the ground?

24 A Am I familiar with it? Yes.

1 Q Can a chute be installed on a four-story  
2 building?

3 A Yes.

4 Q Is there anything that prevented the  
5 installation of a chute at 12- -- there is noth- --  
6 Excuse me.

7 There was nothing that prevented the  
8 installation of a chute at 1261 Halsted, was there?

9 A Extreme cost.

10 Q What was that?

11 A What you could put in the chute. You can't  
12 put all the building material in a chute. There are  
13 still beams -- there were still beams in that  
14 building, there was concrete in that building, and  
15 there were long wooden joists in that building.  
16 They do not go into a chute.

17 Q All that material was handled on the  
18 interior of the building, wasn't it?

19 A What was that?

20 Q Those materials you talked about were  
21 handled on the interior of the building, weren't  
22 they?

23 A I am not sure how they did it there.

24 Q You don't throw large beams off the side of

1 a building, do you?

2 A Yes.

3 Q When do you do that?

4 A When it is safe.

5 Q Was it safe to throw large beams off on

6 1261 Halsted?

7 A I believe so.

8 Q Do you know, were beams thrown off at

9 1261 Halsted?

10 MR. BLANKENSHIP: Objection, asked and answered.

11 HEARING OFFICER KNITTLE: Sustained.

12 BY MR. TREPANIER:

13 Q Now, you referred to an extreme cost. What

14 was that cost?

15 A I never figured it.

16 Q Why is that?

17 A The building didn't require a chute.

18 Q Why did the building not require a chute?

19 A Because the chute would only control the

20 debris to where you wanted it to go. We did not

21 need control of debris on that job site. We used

22 13th Street.

23 Q 13th Street was used for what?

24 A We blocked it off.

1 Q How was --

2 A At times.

3 Q For what --

4 A For safety purposes.

5 Q What was occurring at the time that the  
6 street was blocked off for safety purposes?

7 A I wasn't there that often. I don't know --

8 How many times do I have to tell you this? I was

9 there a few times. You are asking me questions

10 about every single aspect of that job. I am not

11 familiar with it.

12 Q You did testify that the street was blocked  
13 off for safety purposes?

14 A Yes.

15 Q What was that? What activity was occurring  
16 that required a safety precaution?

17 A Demolition.

18 Q But the demolition proceeded for five  
19 weeks, didn't it? Why was there only certain times  
20 that a safety precaution was needed?

21 A I am assuming it wasn't safe -- it wasn't  
22 safe to drop things down, if that is what they were  
23 doing, and leave the street open. I believe they  
24 kept the street open only when it was safe for

1 people and cars to go by.

2 MR. BLANKENSHIP: Again, I am going to object to  
3 these questions about asking Mr. Kolko to speculate.  
4 He was there a couple times. He has testified to  
5 that.

6 HEARING OFFICER KNITTLE: I will sustain the  
7 objection.

8 Mr. Trepanier?

9 MR. TREPANIER: I am looking for a certain piece  
10 on this video that would come up about 117. Have  
11 you gotten to that spot?

12 MR. JOSEPH: Oh, 117? Okay.

13 HEARING OFFICER KNITTLE: Anything else aside  
14 from that question, Mr. Trepanier?

15 MR. TREPANIER: Yes.

16 BY MR. TREPANIER:

17 Q Did you review the Speedway Wrecking  
18 Company's answers to petitioners' interrogatories?

19 A I might have. I don't remember.

20 Q But your name doesn't appear anywhere in  
21 the interrogatories.

22 MR. BLANKENSHIP: Objection. He doesn't even  
23 remember looking at the documents.

24 HEARING OFFICER KNITTLE: Sustained.

1 BY MR. TREPANIER:

2 Q You did consult on the demolition plan for  
3 the demolition of 1261 Halsted, didn't you?

4 A Consult with whom?

5 Q With Speedway.

6 A Consult with whom?

7 Q You didn't create that plan yourself, did  
8 you?

9 A Create what plan?

10 Q The demolition plan.

11 MR. BLANKENSHIP: Objection. There is no  
12 testimony he created the plan.

13 HEARING OFFICER KNITTLE: Sustained.

14 BY MR. TREPANIER:

15 Q Did you consult on the demolition plan bid  
16 for health or safety concerns for the demolition of  
17 1261 Halsted?

18 A I believe my brother Larry had control of  
19 that job.

20 Q Did you consult with him about that?

21 A I might have. I don't remember.

22 MR. TREPANIER: I just have the one question  
23 remaining when we get to that spot on the video.  
24 Maybe I can put that there myself.

1 MR. BLANKENSHIP: May I ask if any of the other  
2 petitioners have questions that they be allowed to  
3 ask them now to expedite things?

4 HEARING OFFICER KNITTLE: On the video?

5 MR. BLANKENSHIP: Well, on anything, while he is  
6 searching for that.

7 HEARING OFFICER KNITTLE: He is at the video.  
8 They are at 1- -- Well, they were at 117. Now they  
9 are at --

10 Ms. Minnick -- I will allow that in light  
11 of the time constraints -- do you have any questions  
12 for Mr. Kolko?

13 MS. MINNICK: No. Actually, I don't.

14 HEARING OFFICER KNITTLE: Thank you very much,  
15 Ms. Minnick.

16 HEARING OFFICER KNITTLE: I think Mr. Joseph is  
17 involved with the videotaping.

18 Mr. Joseph, do you have any questions --

19 MR. JOSEPH: Yes, I do.

20 HEARING OFFICER KNITTLE: -- for Mr. Kolko?

21 Let's ask those now while Mr. Trepanier is  
22 trying to find the right spot on the videotape.

23 MR. JOSEPH: All right. Okay.  
24

## DIRECT EXAMINATION

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

BY MR. JOSEPH:

Q Mr. Kolko, how are you today?

A Fine.

Q Mr. Kolko, do you remember on a couple occasions where I met you; in fact, on that very same street, 13th Street?

A No, I don't. I don't remember you.

Q Okay.

A I believe you might have been somebody that talked to me at the car. If that was you, I don't remember.

Q That is me, right. My name is Lorenz.

Do you remember I mentioned my name?

MR. BLANKENSHIP: Objection, relevance. That is a personal encounter.

HEARING OFFICER KNITTLE: I will sustain because -- I will sustain that. I don't see how that is relevant, Mr. Joseph.

BY MR. JOSEPH:

Q Do you recall a discussion we had about asbestos?

MR. BLANKENSHIP: Objection, relevance.

HEARING OFFICER KNITTLE: Overruled.

1                    Could you answer?

2                    A        No, I do not.

3        BY MR. JOSEPH:

4                    Q        You mentioned earlier that -- something  
5        about common dust earlier in your testimony today.

6                    A        If that is what I said, yes.

7                    Q        Yes, you did. And I was wondering, what is  
8        common dust?

9                    A        What is common dust?

10                  Q        Right.

11                  A        I guess common dust is anything that  
12        will -- if the wind blows, will blow up from the  
13        street, from a playground, what will be blown from a  
14        building. I consider that common dust.

15                  Q        What you see blowing when the wheelbarrow  
16        is dumping, do you consider that common dust?

17                  A        Yes.

18                  Q        Why is that common dust?

19                  MR. BLANKENSHIP: Well, objection. He considers  
20        it common dust. That is what he said.

21                  HEARING OFFICER KNITTLE: Overruled. If you can  
22        answer, answer.

23                  A        I just consider that common dust, no more  
24        different than what you are going to get blowing up

1 from a ball field.

2 BY MR. JOSEPH:

3 Q Could there be plaster?

4 MR. BLANKENSHIP: Objection, no foundation --  
5 this gentleman -- for knowing what is in the dust.

6 BY MR. JOSEPH:

7 Q In common dust, could there be plaster in  
8 common dust?

9 MR. JEDDELOH: I will object as to relevancy,  
10 foundation, and what could be.

11 MR. JOSEPH: Okay. We are talking about the  
12 dust that is leaving the building. He talked about  
13 common dust and --

14 HEARING OFFICER KNITTLE: I will sustain the  
15 objections.

16 Ask another question, Mr. Joseph.

17 BY MR. JOSEPH:

18 Q Could there be lead paint in common dust?

19 MR. BLANKENSHIP: Objection.

20 MR. JEDDELOH: Same objection.

21 HEARING OFFICER KNITTLE: Sustained.

22 Any further questions, Mr. Joseph?

23 MR. JOSEPH: Yes. I have just another one. I  
24 am trying to figure out how to phrase it here.

1 BY MR. JOSEPH:

2 Q Do you remember, were they using a hose the  
3 day that I met you?

4 A I don't remember. I am sure they were  
5 because I am quite certain they had it on every day.

6 Q You are sure they were. Was 13th Street  
7 blocked off?

8 MR. BLANKENSHIP: Objection. He doesn't recall  
9 even meeting this man.

10 MR. JOSEPH: No, he did. He said he remembered  
11 meeting me by the car.

12 THE WITNESS: I remember meeting somebody by the  
13 car -- if that was you -- and I don't remember you.

14 HEARING OFFICER KNITTLE: Overruled.

15 MR. JOSEPH: I don't mean remember my face. I  
16 mean remember a discussion.

17 HEARING OFFICER KNITTLE: Hold on, hold on.  
18 Overruled if you can answer that last question about  
19 the street being blocked off on the day you met that  
20 person.

21 A I do not recall.

22 BY MR. JOSEPH:

23 Q Do you remember the discussion about  
24 asbestos?

1 MR. BLANKENSHIP: Objection, asked and answered.

2 HEARING OFFICER KNITTLE: Sustained.

3 BY MR. JOSEPH:

4 Q Do you remember that you said that the  
5 University had taken care of that?

6 HEARING OFFICER KNITTLE: Mr. Joseph, he has  
7 already stated that he doesn't remember that.

8 MR. JOSEPH: I am trying to remind him. Maybe  
9 he can recollect.

10 MR. BLANKENSHIP: I object to that. He says he  
11 doesn't recall.

12 HEARING OFFICER KNITTLE: Sustained.

13 MR. JOSEPH: You are not even letting me ask the  
14 question.

15 BY MR. JOSEPH:

16 Q I am saying that I met you. You remember  
17 that, correct?

18 HEARING OFFICER KNITTLE: Mr. Joseph, they have  
19 objected to this question.

20 Is that an objection to this question?

21 MR. BLANKENSHIP: Yes. It is an objection to  
22 this question.

23 HEARING OFFICER KNITTLE: And I have sustained  
24 that objection.

1 MR. JOSEPH: Which question are you objecting  
2 to?

3 MR. BLANKENSHIP: A series of questions  
4 regarding the conversation with you that he doesn't  
5 remember.

6 MR. JOSEPH: But he said he remembered having a  
7 conversation with me.

8 MR. BLANKENSHIP: He remembered a conversation  
9 with a man. And you said the man was you, but he  
10 doesn't even remember you. So he can't remember a  
11 conversation with you. That is my objection. You  
12 asked him about a conversation. He says he doesn't  
13 remember.

14 MR. JOSEPH: He just remembered having a  
15 discussion with a man.

16 HEARING OFFICER KNITTLE: I don't think he said  
17 he said that he --

18 BY MR. JOSEPH:

19 Q Do you remember saying --

20 HEARING OFFICER KNITTLE: Hold on, Mr. Joseph.

21 MR. JOSEPH: Okay.

22 HEARING OFFICER KNITTLE: I don't think he said  
23 that he remembered the conversation.

24 Sir, did you remember the conversation?

1 THE WITNESS: No.

2 HEARING OFFICER KNITTLE: I think you have  
3 testified to that; and in light of that testimony, I  
4 am sustaining the objections made by  
5 Mr. Blankenship. I am asking you to move on to a  
6 different question, please.

7 MR. JOSEPH: Okay. But my point is --

8 HEARING OFFICER KNITTLE: I am not going to let  
9 you ask that question, Mr. Joseph.

10 MR. JOSEPH: But I think that if you go into the  
11 record, he says that he remembers having a  
12 discussion with somebody.

13 HEARING OFFICER KNITTLE: Right. But he has  
14 stated that he does not remember the content of that  
15 discussion, and you are asking questions about the  
16 content of that discussion.

17 MR. JOSEPH: Okay.

18 BY MR. JOSEPH:

19 Q Then let me refresh your memory --

20 HEARING OFFICER KNITTLE: I am not going to  
21 allow that line of questions. If you have anything  
22 else, I would be happy to --

23 MR. JOSEPH: I can't refresh his memory about  
24 what specifically was said?

1 HEARING OFFICER KNITTLE: They have objected to  
2 that.

3 MR. JOSEPH: I am trying to clarify that we had  
4 a discussion pertaining to the specific demolition.  
5 We were discussing -- in fact, we discussed the fact  
6 that there was --

7 MR. BLANKENSHIP: Objection to him going on and  
8 on.

9 HEARING OFFICER KNITTLE: Mr. Joseph, I am  
10 sustaining this objection. Please do not continue  
11 any further. If you have other questions, I will  
12 allow them.

13 MR. JOSEPH: Okay. I am looking here, trying to  
14 phrase the question. And I am frustrated because I  
15 think that this is pertinent to --

16 HEARING OFFICER KNITTLE: I understand that you  
17 are frustrated.

18 MR. JOSEPH: He has admitted that there was a  
19 discussion, and I can recollect --

20 HEARING OFFICER KNITTLE: Mr. Joseph, we have  
21 just gone over this. I don't want you to discuss  
22 this any further.

23 MR. JOSEPH: Okay. Here is a question.  
24

1 BY MR. JOSEPH:

2 Q How do you know if the asbestos has been  
3 removed from a site?

4 MR. BLANKENSHIP: Objection to foundation  
5 again. If he wants to ask about 1261, he can ask  
6 about it; but I think it is ridiculous to be asking  
7 these vague general questions.

8 HEARING OFFICER KNITTLE: I will sustain that.  
9 That is not relevant to this case, Mr. Joseph.

10 MR. JOSEPH: Well, it is relevant because if the  
11 asbestos wasn't really removed and he relied on the  
12 University just saying it was and they demolished a  
13 building with asbestos in it, then asbestos could be  
14 airborne into the Garden, into the little children  
15 down the street.

16 MR. BLANKENSHIP: That wasn't his question to  
17 this witness.

18 BY MR. JOSEPH:

19 Q No. My question was how do you know if the  
20 asbestos has been removed?

21 MR. JEDDELOH: I am going to object because it  
22 is clear that this witness wouldn't have the  
23 knowledge base necessary to answer that question  
24 since he only visited the site on a couple of

1 occasions. And the testimony is that his brother  
2 was in charge of the demolition.

3 And I might add, with interest, that these  
4 questions were not asked of the person with greatest  
5 knowledge and information. Rather, the complainants  
6 are selecting another witness who doesn't have this  
7 knowledge. I don't know why. I think it is  
8 harassment. And I think that it is time to --

9 MR. JOSEPH: Well, how about in general?

10 MR. JEDDELOH: I think it is time to move on.  
11 The University is objecting to the continuance of  
12 this proceeding on this basis. It is clearly  
13 harassing, and that is the only purpose for which it  
14 is being now offered.

15 HEARING OFFICER KNITTLE: I am going to object.  
16 I am going to sustain it -- I can't object. I am  
17 going to sustain the objection.

18 Mr. Joseph, I do want you to move on from  
19 this line of questioning, so if you have anything  
20 else -- No?

21 MR. JOSEPH: No, I can't. I'm sorry.

22 HEARING OFFICER KNITTLE: Thank you, Mr. Joseph.

23 Mr. Trepanier, you found the spot on the  
24 videotape --

1 MR. TREPANIER: Yes.

2 HEARING OFFICER KNITTLE: -- you want to ask  
3 your last question about?

4 (Whereupon, a videotape was presented to  
5 the attendees of the hearing, and no  
6 proceedings we had during presentation.)

7 BY MR. TREPANIER:

8 Q I am going to show the video; and I am  
9 going to direct your attention to these next two

10 minutes on the video to the activities of this  
11 Speedway employee here (indicating); particularly,  
12 the activities dealing with that wheelbarrow.

13 That dust is not wet, is it?

14 MR. JEDDELOH: Objection. We have been through  
15 this already, Mr. Knittle.

16 HEARING OFFICER KNITTLE: I will sustain that.  
17 Mr. Trepanier, we have gone over this, and I am  
18 going to sustain that objection for the reasons that  
19 I have previously stated; mainly that the witness  
20 has already testified he doesn't know whether the  
21 dust was not wet or not. And I am not going to make  
22 him testify to something that he has no knowledge  
23 of.

24

1 BY MR. TREPANIER:

2 Q The shot that we had just watched prior to  
3 my turning that off, that material wasn't -- that  
4 was moving sideways in the air, was it not?

5 MR. BLANKENSHIP: Objection. It speaks for  
6 itself.

7 HEARING OFFICER KNITTLE: We have gone over this  
8 line of questions before. I will sustain that  
9 objection.

10 MR. TREPANIER: Could I try once again?

11 HEARING OFFICER KNITTLE: I will allow you one  
12 question, but bear in mind we have gone over this  
13 more than once.

14 BY MR. TREPANIER:

15 Q Was that material coming out of the  
16 wheelbarrow falling as you would expect wet debris  
17 do fall?

18 MR. BLANKENSHIP: Same objection.

19 HEARING OFFICER KNITTLE: I will overrule that.  
20 If you can answer that, go ahead.

21 A Yes.

22 BY MR. TREPANIER:

23 Q So it is your testimony that that looked  
24 like wet debris?

1 MR. JEDDELOH: No, that is not his testimony. I  
2 am going to object to that.

3 HEARING OFFICER KNITTLE: Sustained.

4 BY MR. TREPANIER:

5 Q The material dumped out of that  
6 wheelbarrow, it didn't look wet, did it?

7 MR. BLANKENSHIP: Objection.

8 HEARING OFFICER KNITTLE: Sustained.

9 He has already answered that,

10 Mr. Trepanier.

11 MR. TREPANIER: I have no further questions.

12 HEARING OFFICER KNITTLE: Thank you very much.

13 Do we have any clarification?

14 MR. BLANKENSHIP: No.

15 MR. JEDDELOH: None on the University's part.

16 HEARING OFFICER KNITTLE: Thank you for your  
17 time, Mr. Kolko.

18 THE WITNESS: Thank you.

19 HEARING OFFICER KNITTLE: Who is the next  
20 witness, Mr. Trepanier?

21 MR. BLANKENSHIP: Mr. Hernandez is here, I  
22 believe.

23 HEARING OFFICER KNITTLE: Is he capable of  
24 testifying? Did we decide that?

1 MR. BLANKENSHIP: Yes. We have determined that  
2 he was.

3 HEARING OFFICER KNITTLE: Let's call  
4 Mr. Hernandez, then.

5 This is the last witness I think we have  
6 today.

7 MR. JEDDELOH: I would presume.

8 HEARING OFFICER KNITTLE: Will you swear this  
9 witness in, please?

(Witness sworn.)

10 HEARING OFFICER KNITTLE: Mr. Trepanier?

11 GUILLERMO HERNANDEZ

12 having been first duly sworn, was examined and  
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. TREPANIER:

16 Q Hello.

17 A Hi.

18 Q My name is Lionel Trepanier. I am going to  
19 just ask you some questions about a demolition over  
20 at Halsted Street.

21 A Okay.

22 Q Could you say your name for the record?

23 A My name is Guillermo Hernandez, and I was

24 L.A. REPORTING (312) 419-9292

1 working on that building.

2 Q Did you -- What did you -- what was your  
3 part in that demolition --

4 A Running the bobcat.

5 MR. BLANKENSHIP: You have to let him finish the  
6 question before you answer.

7 THE WITNESS: Okay.

8 MR. TREPANIER: Thanks.

9 BY MR. TREPANIER:

10 Q Who else operated the Bobcat?

11 A Artemio.

12 Q What was that?

13 A Artemio, the other guy. You know,  
14 sometimes when I go down and do something and we  
15 have to do -- you know, wrecking team. And then he  
16 can jump up on the bobcat and do it.

17 Q Were you there on every day of this  
18 demolition?

19 A Yes.

20 Q What floor did you start on with the  
21 bobcat?

22 A On the floor of the third floor.

23 Q On the third floor?

24 A Yes. We had to take the roof out before we

1 put the bobcat in. We took all the roof, and then  
2 we put the bobcat.

3 Q Was the bobcat -- Now, on the first day you  
4 operated the bobcat, did you see the bobcat placed  
5 up on the roof?

6 A No, no.

7 Q So then the first time you saw the bobcat  
8 was in the morning when you arrived at work?

9 A No. We put the bobcat, me and my  
10 brother -- he is the foreman, you know. We put the  
11 bobcat.

12 Q How did you get the bobcat up there?

13 MR. JEDDELOH: I am going to object to this,  
14 Mr. Knittle, at this point. What possible relevance  
15 does all this have? Again, except to kill trees  
16 through creating long transcripts, I don't think we  
17 are accomplishing anything.

18 MR. BLANKENSHIP: I will join in the objection.  
19 Bobcat or sledge hammer, the issue here is whether  
20 there was dust and the effect the dust had.

21 MR. TREPANIER: You know, we are talking about  
22 the methods. I think that the objections aren't  
23 well placed, being that I have just started to  
24 talk -- just started to ask questions of the

1 witness. I think they are just trying to put the  
2 witness on edge here.

3 HEARING OFFICER KNITTLE: I am going to sustain  
4 the objections and ask you, Mr. Trepanier, to move  
5 on to some relevant questions.

6 MR. TREPANIER: All right. I will ask a  
7 different question now.

8 BY MR. TREPANIER:

9 Q How was the bobcat used?

10 A Just push the brick.

11 Q Was the bobcat used for any other ways?

12 A No, not much; just to move heavy stuff like  
13 the big pieces of concrete out of the way.

14 Q You used the bobcat to break walls, didn't  
15 you?

16 A No, not much. No, not much. I don't  
17 remember, you know, to break the walls. Most of the  
18 building we do by hand.

19 MR. BLANKENSHIP: Same relevance objection. I  
20 think we are still on this same topic.

21 HEARING OFFICER KNITTLE: Yes. I thought I had  
22 told you to move on to a different subject,

23 Mr. Trepanier, at least something that was relevant.

24 And if this is relevant, I don't know how it is.

1 You could explain it to me.

2 MR. TREPANIER: Well, just looking into the  
3 different methods of demolition, which were used at  
4 which times.

5 HEARING OFFICER KNITTLE: I don't see how that  
6 is relevant.

7 MR. TREPANIER: I understand they have different  
8 control needs. There are different control needs,  
9 depending on --

10 HEARING OFFICER KNITTLE: I don't see how these  
11 questions that you are asking about the bobcat are  
12 relevant, so I am going to ask you to move on.

13 BY MR. TREPANIER:

14 Q When you operated the bobcat on the third  
15 floor, was there anybody else on the third floor?

16 A What do you mean? Yes. More guys are  
17 breaking the front walls by hand, you know, with  
18 sledge hammer.

19 Q How many guys were breaking the front  
20 walls?

21 MR. JEDDELOH: I am going to object again,  
22 Mr. --

23 A I don't remember; two, three. I don't  
24 remember.

1 MR. JEDDELOH: I am going to object again. We  
2 are all in this technique thing, and I just don't  
3 see how this is relevant.

4 HEARING OFFICER KNITTLE: I am going to overrule  
5 that and let him ask who was present when he was  
6 working on that day.

7 BY MR. TREPANIER:

8 Q So other than the couple of guys that were  
9 up in front breaking a wall, was there anybody else  
10 on the third floor?

11 A I only remember my brother, the foreman;  
12 and Artemio, and another two guys. But I don't  
13 remember. Most of the time, you know, I pushing the  
14 bricks in. I don't pay much attention.

15 Q You pushed the bricks where?

16 A To the truck.

17 Q To the truck?

18 A Yes.

19 Q How did the bricks get from the third floor  
20 to the truck?

21 A We pushed it with the bobcat.

22 Q You pushed it out a window, didn't you?

23 A Windows?

24 Q Windows.

1           A       No.  
2           Q       How did the bricks get out of the building?  
3           A       We knocked down the walls; and then, you  
4 know, everything is free, just the floor. And then  
5 we loaded like that.  
6           Q       You pushed them out the back of the  
7 building?  
8           A       No, on one side.  
9           Q       On one side?  
10          A       Yes, because no room on the other. Not  
11 much room.  
12          Q       So you were pushing -- you say you were  
13 pushing things out the side of the building, not in  
14 the alley?  
15          A       No, not in the alley.  
16          Q       Was there anybody -- Are you aware of who  
17 was down below when you were pushing stuff out?  
18          A       Yes. There was somebody with a water hose.  
19          Q       With a hose?  
20          A       Yes.  
21          Q       That hose had been upstairs earlier, hadn't  
22 it?  
23          A       No. When we loading the trucks, we use the  
24 water downstairs, you know. And sometimes when we

1 make piles, we put the water hose upstairs and we  
2 put some water on it; and then we start loading the  
3 truck. But when we started loading the truck, there  
4 was somebody downstairs with water.

5 Q Now, that was -- that is the same hose,  
6 isn't it? You brought it from upstairs, and then it  
7 is taken downstairs?

8 A Yes, because when we make the piles, we put  
9 the water upstairs and -- the water hose, and we  
10 started to put some water on the bricks and the  
11 piles. And then we bring the water hose down and --  
12 like, I have to be downstairs and watch the people  
13 who are walking on the street; and I also put water  
14 on the truck.

15 Q Were you involved in the hand wrecking of  
16 this property?

17 A Not much. When we are finished with the  
18 bobcat, then I started working with the other guys.

19 Q How soon into the job did you start with  
20 the bobcat?

21 A I don't remember. There was two floors  
22 with brick floors, and then the first floor was a  
23 wood floor, so there is no way to put the bobcat  
24 there. There is too much weight.

1 Q So how was that handled, then?

2 A By hand.

3 Q There wasn't a hose on the roof at that  
4 time, was there?

5 A No. We put it from the ground. There is  
6 no way to be upstairs, then. You know, there is too  
7 much water upstairs. Sometimes when you push too  
8 much water, you know, all the floors -- there is a  
9 lot of water in there. You cannot do nothing like  
10 that. So when we are making the dust, then we put  
11 water.

12 Q So the water was sprayed from down below  
13 because up on top, spraying water created --

14 A On the first floor.

15 Q On the first floor?

16 A Yes. When we almost finished, then we have  
17 to lift the water from the ground; you know, push  
18 it.

19 Q During the hand wrecking, right at the  
20 beginning of the job, water up on the roof created a  
21 problem, didn't it?

22 MR. JEDDELOH: Object as to the form of the  
23 vagueness of the question.

24 MR. BLANKENSHIP: I will object to the leading

1 question. This is his witness.

2 MR. TREPANIER: It is an agent from the other  
3 side. I saw -- The rule provides that I can elicit  
4 testimony as if on cross-examination.

5 HEARING OFFICER KNITTLE: If you qualify him as  
6 an adverse witness, you can.

7 MR. TREPANIER: No. I think any witness --

8 MR. BLANKENSHIP: I don't think a laborer --

9 MR. TREPANIER: Any agent.

10 MR. BLANKENSHIP: -- on the job qualifies as an  
11 adverse witness.

12 HEARING OFFICER KNITTLE: Show me your  
13 regulation, Mr. Trepanier.

14 MR. TREPANIER: I am looking into the provisions  
15 right now.

16 MR. BLANKENSHIP: I would add that it is  
17 particularly objectionable when we have the slight  
18 language issues here, for leading questions to be  
19 allowed of their own witness.

20 MR. TREPANIER: I think that what I am looking  
21 at is 103.29.

22 HEARING OFFICER KNITTLE: 209?

23 MR. TREPANIER: Yes, sub A.

24 MR. BLANKENSHIP: I believe he is not an

1 officer, director, managing agent, or foreman of the  
2 party.

3 HEARING OFFICER KNITTLE: I agree.

4 Mr. Trepanier, unless I determine that this  
5 witness is hostile or unwilling, you can't examine  
6 him as an adverse witness with leading questions.  
7 And I do not think that this witness has been  
8 hostile or unwilling to this point, so I would ask  
9 you to ask nonleading questions, please.

10 MR. TREPANIER: Thank you.

11 I would like to show the witness a couple  
12 of moments -- in fact, that same piece that we just  
13 looked at on the video, so it should be cued up.

14 BY MR. TREPANIER:

15 Q I am going to turn the video on here of  
16 the -- a videotape that we have of the demolition  
17 hand wrecking. And then after you look at it, I am  
18 going to ask you a couple of questions about it.

19 MR. TREPANIER: You might have to hit that video  
20 monitor switch.

21 (Whereupon, a videotape was presented to  
22 the attendees of the hearing, and no  
23 proceedings we had during presentation.)

24 HEARING OFFICER KNITTLE: Just note for the

1 record, the tape is playing now.

2 BY MR. TREPANIER:

3 Q This is September 9, '96. This would be  
4 the fourth day of the demolition activity.

5 I appreciate your patience. It looks like  
6 I cued it up a little bit early. It should be  
7 coming up here momentarily.

8 That is particularly the segment that I  
9 wanted you to be able to see. That is at 11:49.

10 You were on the demolition site on that day  
11 of September 9, '96, weren't you?

12 A Yes.

13 Q Were you on the roof at that time?

14 A Yes.

15 Q Did you operate that wheelbarrow?

16 A No. Sometimes, you know, we turn -- we do  
17 a little bit of anything. Whatever the boss says,  
18 we have to do it.

19 Q That would be your brother?

20 A Yes. He is the foreman, yes.

21 Q Did you operate the wheelbarrow at all that  
22 day?

23 A I don't remember.

24 Q Who else was up there on the roof with you?

1           A       When we first started working on it, we  
2       had, like, three or four people -- I don't  
3       remember -- because we can do nothing like this.  
4       After we do something and then we start hiring  
5       people.

6           Q       Was the water creating a problem on the  
7       roof at that time?

8           A       No.

9           Q       Why is that?

10          A       Because we make a pile on the roof and then  
11       we put the water all the way upstairs and then we  
12       spray some water on the pile and then we start  
13       carrying it with wheelbarrows to the truck.

14          Q       Did you bring that hose upstairs?

15          A       Sometimes.

16          Q       What about on the 9th, on that day that we  
17       were reviewing?

18          A       I don't remember.

19          Q       Would the hose -- would you keep the hose  
20       up on the roof there with you all day?

21          A       Yes. We kept it running all day.

22          Q       Was the hose on the roof all day?

23          A       I think so, yes, because we leave the water  
24       upstairs. We just take the hose coming from the

1 pump on the street and then leave the rest hanging  
2 down from the third floor.

3 Q Didn't you put the hose down into the alley  
4 sometimes during that day?

5 MR. JEDDELOH: Objection, leading.

6 A I don't know.

7 HEARING OFFICER KNITTLE: Sustained.

8 BY MR. TREPANIER:

9 Q Was the hose brought to the alley on --

10 A That day?

11 Q Yes.

12 A I don't remember. I do not remember that.

13 Q Would there be any reason to bring the hose  
14 down to the alley?

15 A The truck was parking on the side, so there  
16 is no way to put -- we have to put the water hose on  
17 the street, and the cars passing by. So we put our  
18 heavy-duty hose just across the street. We cannot  
19 put it, you know, by the street, on the street. We  
20 have to put it across the street.

21 Q While the activity was going on when you  
22 guys were using those wheelbarrows, was there  
23 anybody down below?

24 A Yes. We have to put a guy downstairs to

1 watch the people, you know, walking by so they  
2 doesn't get too close from the truck.

3 Q Was that person doing anything else other  
4 than watching for people?

5 A Like after we put the bobcat there, you  
6 know, also put water on the truck.

7 Q So you had the -- the water was in the  
8 alley when the bobcat was there?

9 A Yes.

10 Q How about when the --

11 A Not in the alley; on the street.

12 Q On the street?

13 A Yes, by the truck.

14 Q How about during that time when you were  
15 using the wheelbarrow up on the roof, was there a  
16 hose in the alley at that time?

17 A No. We put the hose on the roof. We kept  
18 it on the roof to spray the piles.

19 Q How come when the wheelbarrows are dumped,  
20 the material didn't fall directly to the ground?

21 MR. BLANKENSHIP: Objection. He is not an  
22 expert on physics here.

23 HEARING OFFICER KNITTLE: I will sustain the --  
24 Could you rephrase that, Mr. Trepanier?

1 BY MR. TREPANIER:

2 Q Did you see on the video when the  
3 wheelbarrows were dumping over?

4 A Yes, I saw.

5 Q Did you see that dust was going off into  
6 the air?

7 MR. BLANKENSHIP: Objection as to the  
8 characterization of what the videos shows. The  
9 video speaks for itself.

10 HEARING OFFICER KNITTLE: Sustained.

11 BY MR. TREPANIER:

12 Q Why would that dust have been going into  
13 the air when the wheelbarrows were dumping --

14 MR. BLANKENSHIP: Same objection. The video  
15 speaks for itself, and he is just characterizing it  
16 in a different form.

17 HEARING OFFICER KNITTLE: I will overrule.

18 If you can answer that.

19 A It happens all the time. You put water;  
20 and always on the ground, on the bottom there is --  
21 you know, it makes some dust. You cannot put -- you  
22 have to put a lot of water in it. Then we put  
23 water -- you know, there is a little bit of dust on  
24 the ground, sitting on the ground. I think the last

1 wheelbarrows we put on the trailer. We put water --  
2 we keep the water upstairs. That is for sure.

3 BY MR. TREPANIER:

4 Q So you think maybe those were the last  
5 wheelbarrow loads off the pile?

6 A Like I say, there is always something on  
7 the ground; and the last one, you know, there is  
8 some dust.

9 Q The hose wasn't on at that time, was it?

10 A Yes. We have to put the water hose -- the  
11 first thing in the morning is to put the water  
12 hose -- you know, connect everything. We have to  
13 put the water first thing in the morning.

14 Q There is a shutoff valve on the nozzle,  
15 isn't there?

16 A The nozzle? We had a wrench to close the  
17 pump.

18 Q Then on the end of the hose, on the spring  
19 end of the hose, was there a shutoff?

20 A We use a nozzle. You can shut it off and  
21 turn it on.

22 Q Would you turn it off?

23 A We would spray the water; and then if there  
24 is a lot of water, we turn it off.

1 Q Would it create a problem if you didn't  
2 turn it off?

3 MR. JEDDELOH: Object as to the form of the  
4 vagueness of the question and use of the word  
5 problem.

6 HEARING OFFICER KNITTLE: Overruled. But I  
7 don't know that --

8 Answer the question, sir, if you can.

9 A If we leave the water on, we got a mess up  
10 on the roof, you know. All the water -- you get  
11 your feet wet up, and it makes a lot of problems if  
12 we leave it all day.

13 BY MR. TREPANIER:

14 Q Who would decide when to turn on the hose?

15 A Any guy can do it. The foreman say turn  
16 off the water or turn it on. He is the foreman. He  
17 put anybody.

18 Q Did you see the foreman ask anyone to turn  
19 on the water that day?

20 A No. I don't put too much attention. I  
21 just keep working.

22 MR. TREPANIER: No further questions.

23 HEARING OFFICER KNITTLE: Mr. Joseph, do you  
24 have any questions for this witness?

1 MR. JOSEPH: Yes, I do.

2 DIRECT EXAMINATION

3 BY MR. JOSEPH:

4 Q Sir, did you see any asbestos on this job?

5 MR. BLANKENSHIP: Objection, lack of foundation.

6 MR. JEDDELOH: Join.

7 HEARING OFFICER KNITTLE: I will sustain, but

8 you can ask some foundation questions.

9 BY MR. JOSEPH:

10 Q Do you know what asbestos is?

11 A Yes, I do.

12 Q Did you see any on this job?

13 A No, I don't see no asbestos.

14 Q How would you be assured that there wasn't

15 any?

16 A I believe on the -- the building was burned

17 up, I think, on the second floor. And the rest

18 there was no more pipes left. We don't take too

19 much iron pipes.

20 Q Excuse me. What did you say about the

21 second floor?

22 A I think it was burned up.

23 Q Burned?

24 A Yes.

1 Q Which part was burned on the building?

2 A On the front, the second floor.

3 Q The second floor front?

4 A Yes.

5 Q I don't recall that. I wonder if you could

6 be confusing that with a different building

7 because --

8 MR. BLANKENSHIP: Objection. He gave his

9 testimony.

10 HEARING OFFICER KNITTLE: Sustained. He has

11 testified to the condition of the building as he

12 remembers it, Mr. Joseph.

13 BY MR. JOSEPH:

14 Q So did you use the -- which days did you

15 use the hose?

16 MR. BLANKENSHIP: Objection. We have gone

17 through this in incredible detail now.

18 BY MR. JOSEPH:

19 Q I mean, every day?

20 HEARING OFFICER KNITTLE: Sustained.

21 BY MR. JOSEPH:

22 Q Do you think if you used more water it

23 would have been less dust?

24 MR. BLANKENSHIP: Objection, speculation and no

1 foundation that he is an expert on dust.

2 HEARING OFFICER KNITTLE: I will overrule. You  
3 can answer if you can.

4 A I am not sure. You know, the foreman -- I  
5 have to keep working on the bobcat sometimes. When  
6 there is nothing left for the bobcat, then I jump  
7 out. I never put too much attention. I focus on  
8 the things I do.

9 BY MR. JOSEPH:

10 Q Do you remember where the fire hydrant was?

11 A The hydrant?

12 Q Right.

13 A On the south side of Halsted.

14 Q Okay, south side. Do you mean 13th Street?

15 Halsted runs north and south.

16 A I think it was on the corner of 13th and

17 Halsted; like 4 feet, 2 feet south.

18 Q So how would you have routed the hose?

19 A What do you mean?

20 Q I mean, how did you -- where did the hose

21 go, then, just across the -- that would have been

22 across the street, then?

23 MR. BLANKENSHIP: Asked and answered. He went  
24 into great detail about the hose and the road, the

1 heavy-duty hose.

2 HEARING OFFICER KNITTLE: Do you have any  
3 specific --

4 BY MR. JOSEPH:

5 Q So was the hose going across the road?

6 HEARING OFFICER KNITTLE: I am going to let him  
7 answer that.

8 A Yes. We put the heavy-duty hose across the  
9 street.

10 BY MR. JOSEPH:

11 Q So was the street blocked off?

12 A No. We left the hose like that. Nothing  
13 happened with the hose when the cars passed by.

14 MR. JOSEPH: Okay. I have no further questions.

15 HEARING OFFICER KNITTLE: Ms. Minnick, do you  
16 have any questions of this witness?

17 MS. MINNICK: Actually, no; but may I interject  
18 something here?

19 HEARING OFFICER KNITTLE: Let's get rid of the  
20 witness first, and then I will let you speak when we  
21 let him step down.

22 MS. MINNICK: Sure.

23 HEARING OFFICER KNITTLE: Are there any  
24 questions on this side?

1 MR. JEDDELOH: None from the University.  
2 HEARING OFFICER KNITTLE: None from Speedway?  
3 MR. BLANKENSHIP: No.  
4 HEARING OFFICER KNITTLE: Thank you, sir. You  
5 are excused.

6 Ms. Minnick, you wanted to interject  
7 something?

8 MS. MINNICK: Yes.

9 HEARING OFFICER KNITTLE: What would that be?

10 MS. MINNICK: Based on the objections that the  
11 witness is not an expert on physics, William James  
12 Brighting, 1875 to 1899:

13 "The conversational style of these essays  
14 reflect their origin in public lectures, as well as  
15 James' conviction that truth can be discovered as  
16 much in the course of everyday life as the  
17 activities of science or the philosophical  
18 speculation" --

19 MR. BLANKENSHIP: I am going to object to the  
20 whole speech here.

21 MS. MINNICK: Oh, I'm sorry. No, it is not a  
22 speech. It is not my speech.

23 HEARING OFFICER KNITTLE: Well, I understand  
24 what you are trying to say.

1 MS. MINNICK: I am just saying that, you know --

2 HEARING OFFICER KNITTLE: A person can --

3 MS. MINNICK: Yes.

4 HEARING OFFICER KNITTLE: I think I overruled  
5 that objection, actually, and let him answer to the  
6 best of his abilities, as I recall.

7 MR. JOSEPH: Can she finish that?

8 HEARING OFFICER KNITTLE: No. I don't think  
9 that is relevant to the case.

10 MS. MINNICK: I think that you let me get to the  
11 crux of what my point was.

12 HEARING OFFICER KNITTLE: I was trying to let  
13 you read that.

14 MS. MINNICK: Thank you.

15 HEARING OFFICER KNITTLE: We have no more  
16 witnesses scheduled for today.

17 Mr. Trepanier, are you done with your case?

18 MR. TREPANIER: No, I am not. I anticipate to  
19 call --

20 HEARING OFFICER KNITTLE: I want to know who it  
21 is you want to call.

22 MR. TREPANIER: I want to call Mr. Ortiz, who is  
23 an employee of Speedway.

24 HEARING OFFICER KNITTLE: What is Mr. Ortiz's

1 first name?

2 MR. TREPANIER: I think that is Artemio.

3 MR. BLANKENSHIP: Artemio Ortiz?

4 MR. TREPANIER: Right.

5 MR. BLANKENSHIP: They need to get a translator.

6 HEARING OFFICER KNITTLE: He is the witness --

7 just for the record -- that was here this morning

8 but does not speak English well enough to testify.

9 We need a translator for him. So, Mr. Trepanier,

10 you would have to find a translator for him.

11 Who else do you plan on calling?

12 MR. TREPANIER: And I am going to -- I haven't

13 made a contact, but I am intending to contact two

14 former employees of Speedway and bring those two

15 people in.

16 HEARING OFFICER KNITTLE: And who might they be?

17 MR. BLANKENSHIP: I thought he said yesterday he

18 was done with the two witnesses we heard today.

19 This is, again, the concern we raised with our

20 motion. We have now had six adverse witnesses

21 called, all of whom testified there was water going

22 on, none of whom have advanced their case. If we

23 are going to go through all 15 employees one at a

24 time and have them come in here, I think at this

1 point the burden is on Mr. Trepanier to show that  
2 these adverse witnesses or these Speedway witnesses  
3 have some relevant knowledge of probative value  
4 here.

5 This is becoming extremely cumulative at  
6 this point. We had six people testify as to the  
7 watering practices at this site: the foreman and a  
8 laborer specifically right on the job. How many  
9 more do we have to hear to prove our case? You

10 know, we are not even talking about proving the  
11 claimants' case at this point. They are proving our  
12 case for us. This is an incredible waste of time at  
13 this point.

14 MR. JEDDELOH: And I might add that it is even  
15 more incredible considering the fact that the  
16 testimony has been remarkably consistent and leaves  
17 us with virtually no question nor no lack of  
18 knowledge on the issue of what happened at 1261.

19 MR. TREPANIER: I think that the attorneys may  
20 not have realized, as I was listening to the  
21 testimony, that yesterday's testimony was that  
22 the -- while that dumping of the wheelbarrows was  
23 going on, the hose nearly always was in the alley  
24 and downstairs, that somebody was holding that hose

1 and spraying it up at the falling debris.

2 HEARING OFFICER KNITTLE: I am going to stop  
3 this now. I understand your objections, and I  
4 understand you have differing views of what the  
5 testimony is showing. I don't want to get into that  
6 right now.

7 First I want to hear who you are planning  
8 on calling for the rest of your case in chief.

9 I will note any objections you have to any  
10 further witnesses and may actually make a decision  
11 on that, but I do want to hear who he is going to  
12 call and who he wants to call. We are obviously not  
13 going to get this hearing done; but I do want to  
14 limit it, if I can, in the future. I don't want it  
15 to be cumulative, and I don't want it to be --

16 I don't want to be calling witnesses that  
17 have nothing further to offer, Mr. Trepanier.

18 MR. TREPANIER: Mr. Sandoval, Enrique --

19 MR. JEDDELOH: The University would request,  
20 therefore, that at least Mr. Trepanier be asked to  
21 give two or three sentences about what these people  
22 expect -- he expects these people to say.

23 MR. TREPANIER: -- and Mr. Guzman, Manuel  
24 Guzman. These are former employees, people I intend

1 to interview before calling them as witnesses. If  
2 they have nothing to contribute, I can determine  
3 that before --

4 HEARING OFFICER KNITTLE: These are Mr. Sandoval  
5 and Mr. Guzman?

6 MR. TREPANIER: Yes.

7 HEARING OFFICER KNITTLE: Are these people who  
8 are on the list provided yesterday, or --

9 MR. BLANKENSHIP: Well, they were on the list --  
10 they have always been identified as Speedway  
11 employees. They have been on all the lists.

12 HEARING OFFICER KNITTLE: These were on the --  
13 were these people on the job site of September 9th,  
14 I guess, the job records that were provided  
15 yesterday?

16 MR. BLANKENSHIP: Is that right, Lionel? I  
17 don't have that in front of me.

18 MR. TREPANIER: Yes, that's correct.

19 Also I am going to talk with Mr. Ortiz's  
20 brother, who is not an employee, Gustano Ortiz; and  
21 he is on here also. And it may be that, you know,  
22 in talking with Gustano Ortiz, I may see that  
23 talking to his brother won't be necessary or  
24 possible.

1 MR. LARRY KOLKO: What is the initial name on  
2 Sandoval and Guzman?

3 MR. TREPANIER: Sandoval is Enrique, and the  
4 other is J. Manuel Guzman.

5 HEARING OFFICER KNITTLE: Who else,  
6 Mr. Trepanier, do you think is necessary for you to  
7 make your case?

8 MR. TREPANIER: That will be all from Speedway,  
9 and then from the University I have just one.

10 HEARING OFFICER KNITTLE: Is that Mr. Gimpel?

11 MR. TREPANIER: Mr. Gimpel. And then from the  
12 complainants: myself, who has yet to testify;  
13 Mr. Wager, Mr. Pandya; and anticipating testimony  
14 from Mr. McFarland.

15 HEARING OFFICER KNITTLE: Is that it?

16 MR. TREPANIER: That is all the witnesses.

17 HEARING OFFICER KNITTLE: From the respondents,  
18 do you still anticipate a half day for your response  
19 here for your case in chief?

20 MR. BLANKENSHIP: I think at the most.

21 HEARING OFFICER KNITTLE: For both? This is not  
22 just a half day for Speedway and a half day for the  
23 University?

24 MR. BLANKENSHIP: Right. I think Speedway will

1 have one witness that should be -- possibly. We may  
2 not even call another witness -- half an hour to an  
3 hour. And then the University will have -- one or  
4 two witnesses?

5 MR. JEDDELOH: We would have two witnesses. We  
6 wouldn't expect that direct examination would take  
7 more than an hour and a half, and I am trying to be  
8 liberal in saying that would be on the outside. Of  
9 course, we can't assure what kind of

10 cross-examination we might have, which would extend  
11 the time that would be necessary.

12 MR. BLANKENSHIP: It is not our intent to  
13 duplicate any of the testimony, so we are truncating  
14 what we were otherwise going to present because the  
15 evidence is already in the record.

16 HEARING OFFICER KNITTLE: Okay. Well, I have  
17 got two outstanding motions to continue; one by the  
18 University and one by Mr. Trepanier, which I had  
19 denied, granting him leave to reinstate that if, in  
20 fact, it came to it. It looks like we didn't get as  
21 far as we thought we would. So I am going to  
22 revisit that motion to continue.

23 I will note, Mr. Trepanier, that you have  
24 to serve these things on the respondents and the

1 remainder of the complainants; and you have to let  
2 the Pollution Control Board -- especially the  
3 Clerk's Office -- know that you are doing that. We  
4 don't have certificate of service for that or a  
5 notice of filing. So unless that comes into the  
6 office today or tomorrow, we are not -- I am going  
7 to have to ask you to refile it and serve it on  
8 everybody.

9 MR. TREPANIER: Okay.

10 HEARING OFFICER KNITTLE: I am not going to rule  
11 on the motions to continue now. We are going to  
12 continue. I want to go off the record. The reason  
13 I am not going to rule on it, I want to look at  
14 these witnesses that Mr. Trepanier wants to call;  
15 and I may limit the number of witness that I allow  
16 him to call and any continuance. I don't want to do  
17 that now. I want to think about it a little bit.

18 You have a half day you need. I would like  
19 to get it done in a day and just continue it for one  
20 more day; and if that is possible, I am going to try  
21 to do that.

22 MR. JEDDELOH: I would suggest, considering the  
23 laborious process we have gone through, that unless  
24 you severely limit the number of witnesses that we

1 are going to need to schedule two days. And I am  
2 just saying that --

3 HEARING OFFICER KNITTLE: I understand; and I  
4 agree with you, Mr. Jeddelloh. And that is why I am  
5 not making the decision now. If we have to do it  
6 for two days, we will. We will talk about dates off  
7 the record. We are going to notice it up again.

8 MR. BLANKENSHIP: I will just renew what I  
9 stated a few minutes ago. Now it looks like he

10 wants five more or four more former Speedway  
11 employees, and he hasn't given us any reason why he  
12 wants those four. I cannot imagine how that would  
13 not be cumulative to the six witnesses that have  
14 already gone by. So I think he should be required  
15 to, as Mr. Jeddelloh said, give us in a couple  
16 sentences why he thinks he needs each of these  
17 people because we are going to spend a day on five  
18 more Speedway witnesses, all who are going to say  
19 there was watering. That is ridiculous.

20 HEARING OFFICER KNITTLE: I understand that. If  
21 Mr. Trepanier is willing, I would be happy to have  
22 him give some idea on the record as to why he thinks  
23 he needs each one of those witnesses. I will state  
24 that as to Mr. Gimpel, who was not available, and

1 the three Speedway employees who were contained on  
2 the records that were provided yesterday, those  
3 records should have been provided during discovery.

4 I am not suggesting that it was anything  
5 but inadvertent; but in light of the fact that it  
6 wasn't provided during discovery, I have some  
7 sympathy for Mr. Trepanier interviewing -- excuse  
8 me -- getting testimony from those three witnesses,  
9 whether it is cumulative or not.

10 MR. BLANKENSHIP: Just to make a record on that  
11 point, he did have all of those names a year ago  
12 and --

13 HEARING OFFICER KNITTLE: No. I understand, and  
14 I am not suggesting that he didn't have the names.  
15 I am suggesting he didn't have the documents, and we  
16 have talked about that already.

17 Mr. Trepanier, why don't you go down each  
18 one of these witnesses and tell us what you expect  
19 to get from them in terms of testimony?

20 MR. TREPANIER: Well, I anticipate that these --

21 HEARING OFFICER KNITTLE: Let's start with  
22 Ortiz, A. Ortiz.

23 MR. TREPANIER: A. Ortiz. I expect to learn  
24 from Mr. Ortiz what was occurring on the third

1 floor. When our witness today, who really just  
2 concentrated on his work and wasn't able to observe  
3 what was going on -- Mr. Ortiz was in a position to  
4 be observing what is going on because, as the  
5 witness said today, Mr. Ortiz would get up onto the  
6 bobcat when today's witness would get off.

7 So unlike Mr. Hernandez, Mr. Ortiz was very  
8 aware of what is going on on the third floor. So  
9 that is going to be an important place because

10 apparently the -- although there has been  
11 conflicting testimony, some testimony is that  
12 pollution controls were being conducted on the  
13 interior of the building.

14 HEARING OFFICER KNITTLE: What about  
15 Mr. Sandoval?

16 MR. TREPANIER: Mr. Sandoval, I just learned  
17 yesterday that he was on the job site on that date,  
18 being September 9th. Now, Mr. Sandoval is not  
19 currently an employee of Speedway, and I intend to  
20 interview Mr. Sandoval to learn what information  
21 that he does have. I do see from the record that I  
22 received yesterday that Mr. Sandoval was present on  
23 the 9th of September at the demolition, and I  
24 believe that he is going to be able to give us some

1 information as to what if any pollution controls  
2 were being used on that date.

3 HEARING OFFICER KNITTLE: Mr. Guzman?

4 MR. TREPANIER: A similar response -- well,  
5 Mr. Guzman -- maybe I can just skip down and say it  
6 is a similar response to Mr. Ortiz. As for Mr. --

7 HEARING OFFICER KNITTLE: Mr. Trepanier, let me  
8 stop you. It is true, though, you had the names of  
9 Mr. Sandoval and Mr. Ortiz, G. Ortiz since discovery

10 began, right? You just did not have the document  
11 that put them on September 9th at the job site?

12 MR. TREPANIER: Right. What I had was --

13 HEARING OFFICER KNITTLE: Did you have their  
14 names?

15 MR. TREPANIER: I had a list of 15 names.

16 HEARING OFFICER KNITTLE: The names were --

17 MR. TREPANIER: And their names were on the  
18 list, and I was specifically instructed not to

19 contact them by Mr. Blankenship.

20 HEARING OFFICER KNITTLE: I just wanted to make  
21 sure you had those names in discovery.

22 MR. TREPANIER: Yes.

23 MR. BLANKENSHIP: And he also knew they were not  
24 employees back in February or January, I think,

1 whenever I told him -- whenever I sent him the  
2 letter.

3 HEARING OFFICER KNITTLE: Right. Whatever --  
4 the week before that last --

5 MR. BLANKENSHIP: It was right after he  
6 submitted the notice requiring us to produce, I sent  
7 him a letter the next day saying we didn't have them  
8 as employees anymore.

9 MR. TREPANIER: Now, Mr. Guzman had a different  
10 responsibility on the job. I want to -- The  
11 responsibility that he has is not one that has been  
12 inquired into. And I am just looking right now for  
13 my document that disclosed what his task was. No.  
14 I see that Mr. Guzman, similar to Mr. Sandoval and  
15 Mr. Ortiz, is listed as a laborer, although I have  
16 got some concerns that in fact Mr. Guzman had tasks  
17 other than the laborer, as his home location is not  
18 in Chicago. It is in Romeoville, Illinois. So  
19 unlike all the other persons reported as laborers  
20 who lived in and around the downtown area,  
21 Mr. Guzman was coming in from a long ways away.

22 HEARING OFFICER KNITTLE: Nonetheless, he is  
23 listed as a laborer?

24 MR. TREPANIER: Yes.

1 HEARING OFFICER KNITTLE: The same, pretty much,  
2 as Mr. Sandoval and Mr. G. Ortiz?

3 MR. TREPANIER: As was the foreman of the job --  
4 was listed as a laborer.

5 HEARING OFFICER KNITTLE: Well, hold on. I  
6 don't want to get into any of that right now.

7 From Mr. Gimpel, what do you expect to  
8 learn?

9 MR. TREPANIER: From Mr. Gimpel, we expect to  
10 learn if the University has any plan for  
11 1261 Halsted.

12 HEARING OFFICER KNITTLE: And the complainants?

13 MR. TREPANIER: The complainants, they will  
14 testify variously to their observations of the  
15 demolition at the times that they saw it and  
16 injuries that they may have suffered. That is what  
17 I would call the complainants for.

18 HEARING OFFICER KNITTLE: Thank you,  
19 Mr. Trepanier, for going through that.

20 MR. JEDDELOH: If it would be useful, if  
21 Mr. Gimpel is only going to be called for the  
22 purpose of testifying as to a plan for 1261 Halsted,  
23 the University would be happy, if it would be  
24 needed, to file a motion to quash the notice to the

1 University for his attendance because any plans the  
2 University has for that property are simply not  
3 relevant to whether or not there was a 9A or 21B  
4 violation.

5 If that is what we are going to have him be  
6 hauled in here for, then I think that it is  
7 inappropriate. If a motion is necessary, we will be  
8 glad to file one.

9 MR. TREPANIER: Well, I have a different opinion  
10 than the attorney because I believe that the Board  
11 must consider the purpose of the demolition when  
12 they are to make the determination under the  
13 criteria, talking about the highest use of the  
14 property. If a demolition happens for no cause and  
15 causes some pollution, that would be deemed  
16 unreasonable, even where another demolition was --  
17 caused some pollution for a purpose.

18 HEARING OFFICER KNITTLE: Right. I understand  
19 your argument. If he makes his motion to quash, you  
20 know, you can make your arguments at that point in  
21 time; although, once again, this was a properly  
22 noticed witness who wasn't available for this  
23 hearing. So I would not be entirely sympathetic to  
24 his not being present at the next hearing.

1 MR. JEDDELOH: It is not a question of his  
2 availability. It would be a question --

3 HEARING OFFICER KNITTLE: It would be a question  
4 of relevance. I understand that. But there are  
5 various issues in there, Mr. Jeddelloh.

6 All right. Let's go off the record.

7 (Hearing concluded sine die.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

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

3  
4 GABRIELLE PUDLO, being first duly sworn,  
5 on oath says that she is a Certified Shorthand  
6 Reporter doing business in the City of Chicago,  
7 County of Cook and the State of Illinois; that she  
8 reported in shorthand the proceedings had at the  
9 foregoing hearing; and that the foregoing is a true  
10 and correct transcript of her shorthand notes so  
11 taken as aforesaid and contains all the proceedings  
12 had at the said hearing.  
13  
14  
15

16  
GABRIELLE PUDLO, CSR, RPR17 \_\_\_\_\_ C.S.R. No. 084-004173

18  
19 SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day  
20 of \_\_\_\_\_, 1999.

21 \_\_\_\_\_  
NOTARY PUBLIC22