

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

MATTESON WHP PARTNERSHIP,)

3 an Illinois general partnership,)

)

4 Complainant,)

)

5 vs) PCB 97-121

)

6 JAMES W. MARTIN AND EVA D. MARTIN,)

 individually and d/b/a Martin's of)

7 Matteson,)

)

8 Respondents.) Volume II

9

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11

12 The following is the transcript of a hearing

13 held in the above-entitled matter, taken

14 stenographically by GEANNA M. IAQUINTA, CSR, a

15 notary public within and for the County of Cook

16 and State of Illinois, before JOHN KNITTLE,

17 Hearing Officer, at 100 West Randolph Street, Room

18 11-512, Chicago, Illinois, on the 20th day of

19 October, 1999, A.D., scheduled to commence at 9:30

20 a.m., commencing at 9:50 a.m.

21

22

23

24

1 A P P E A R A N C E S :

2 ROSENTHAL AND SCHANFIELD,
3 55 East Monroe Street
4 46th Floor
5 Chicago, Illinois 60603
6 (312) 236-5622
7 BY: MR. JOSEPH R. PODLEWSKI, JR.

8
9 Appeared on behalf of the Complainant,

10
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13
14 ROSS & HARDIES,
15 150 North Michigan Avenue
16 Chicago, Illinois 60601
17 (312) 558-1000
18 BY: MR. DAVID L. RIESER

19
20 Appeared on behalf of the Respondents.

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14 ALSO PRESENT:

15 Ms. Marili McFawn

16 Mr. James D. Persino

17 Mr. C. Michael Perkins

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1 HEARING OFFICER KNITTLE: Hello. My name
2 is John Knittle, Hearing Officer with the Illinois
3 Pollution Control Board. This is the second day
4 of hearings in PCB 97-121, Matteson WHP
5 Partnership, an Illinois general partnership,
6 versus J. W. Martin and Eva D. Martin,
7 individually, and doing business as Martin's of
8 Matteson. It's about -- we're getting started a
9 little late today. It's 9:50 a.m., October 20th.

10 A couple of record keeping matters,
11 the stipulations to the admission of documents and
12 uncontested facts were filed yesterday, but we
13 didn't have the originals with the original
14 signatures. They've been provided today. Also on
15 Complainant's Exhibit E, we have now substituted
16 the correct -- Complainant's E, is that correct,

17 Mr. Podlewski?

18 MR. PODLEWSKI: That's correct. This
19 would be pursuant to our discussion yesterday.
20 This -- Complainant's Exhibit E -- the previous
21 Complainant's Exhibit E was missing some pages
22 apparently on the boring logs, and by agreement,
23 Mr. Rieser had a complete copy of Complainant's
24 Exhibit E that was previously filed with an

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1 earlier summary judgment motion.

2 So what I did is after the conclusion
3 of the hearing yesterday, I went back to the
4 office and had copies made of
5 that -- of his exhibit which we will now
6 substitute as the prior Complainant's Exhibit E.
7 So they should be a full and complete and correct
8 copy of Complainant's Exhibit E.

9 HEARING OFFICER KNITTLE: Mr. Rieser, I
10 understand there's no objection to this, correct?

11 MR. RIESER: None whatsoever.

12 HEARING OFFICER KNITTLE: So this will be
13 accepted as Complainant's E and admitted. I don't
14 know if I admitted Complainant's E yesterday, but

15 this is admitted into evidence.

16 MR. PODLEWSKI: I believe it was.

17 MR. RIESER: I believe it was because we
18 both stipulated to it.

19 MR. PODLEWSKI: Right.

20 HEARING OFFICER KNITTLE: Oh, yeah.

21 That's one of the stipulations. My error.

22 Regardless, it's into evidence, and you have
23 finished your case-in-chief --

24 MR. PODLEWSKI: That's correct.

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1 HEARING OFFICER KNITTLE: -- the
2 complainant has, and we are now starting with the
3 respondents' case-in-chief. I also recall that
4 you reserved the right to make an opening
5 argument. If you want to do so, you can do that
6 now.

7 MR. RIESER: Thank you very much,
8 Mr. Hearing Officer. I'll just give a brief
9 statement.

10 Yesterday, Mr. Persino presented a
11 straightforward case in support of the allegations

12 that were contained in the complaint. They allege
13 that there were violations of Sections 21(E),
14 21(F), and 12(A) of the Act arising from the
15 contamination of soil at the Vollmer Road
16 property. They allege that the Martins by the
17 operation of their dry cleaner illegally disposed
18 solid waste and hazardous waste and contaminated
19 the groundwater, and the contamination of the
20 groundwater was based on the sampling done by
21 Pioneer as was testified to by Mr. McClelland and
22 supported by Mr. Mr. Perkins, and all Mr. Persino
23 wants from the Board is for all of this
24 contamination to be abated.

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1 It's our contention that neither the
2 law nor the facts in this matter are quite that
3 simple. The first contention is that the mere
4 fact of contamination under a business is
5 insufficient to support a finding by the Pollution
6 Control Board that there's been a violation of
7 either Section 21(E) or 21(f) and that some not
8 only causal connection, but conduct involving the
9 handling of waste is necessary for the Board to

10 find that a violation of the Act has occurred.

11 Ms. Eva Martin and her colleague,
12 Claude Stevens, who worked in her dry cleaners for
13 many years will testify this morning as to how
14 they operated the dry cleaners, and they will
15 testify as to how they handled, how perc was
16 delivered to the dry cleaners, how it was handled
17 in the dry cleaning machine, how the perc filters
18 were disposed of which is, by the way, the only
19 handling of waste that is involved in this case,
20 and they will testify that during all the time
21 that the dry cleaners was operated there were
22 never any releases or spills of perc observed by
23 either of them, and that they were the only two
24 people involved in the operation who handled perc

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1 or operated the dry cleaning machine.

2 Ms. Martin will also testify as to
3 some of the work -- her relationship with the work
4 that was done by Pioneer, how it is that she came
5 to retain Pioneer, and what her dealings were with
6 Pioneer as Pioneer was doing the work that Mr.

7 McClelland discussed yesterday as well as her
8 efforts to try and resolve the issues, although
9 she did not believe at the time and does not
10 believe now that there were -- she violated any
11 laws by any of her conduct, she recognized that
12 she needed to work on resolving those issues and
13 she made efforts to make that resolution happen.

14 It's also our contention that the
15 sampling of the groundwater performed by Pioneer
16 is insufficient to support the allegations of
17 groundwater contamination included in the
18 complaint. After Ms. Martin and Mr. Perkins --
19 Mr. Stevens testify, Mr. David Pyles will testify
20 as an expert witness as to his opinion regarding
21 the sampling performed by Pioneer and his opinion
22 that those samples may, in fact, not be
23 representative of the groundwater conditions if
24 such groundwater conditions exist at the site.

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1 Finally, it's our contention that the
2 Board must know and must care regarding the cost
3 of remediation and the type of remediation that's
4 to be performed at the site. Mr. Fred Krikau will

5 testify and provide an expert opinion as to the
6 cost to Mr. Persino's proposed remedy and will
7 testify as to the lack of any technical
8 feasibility or economical reasonableness
9 associated with that remedy, and that will
10 conclude our case.

11 HEARING OFFICER KNITTLE: Thank you, sir.

12 You can call your first witness.

13 MR. RIESER: I call Ms. Eva Martin.

14 HEARING OFFICER KNITTLE: Geanna, could
15 you swear her in, please?

16 (Witness sworn.)

17 WHEREUPON:

18 E V A M A R T I N,

19 called as a witness herein, having been first duly
20 sworn, deposeth and saith as follows:

21 D I R E C T E X A M I N A T I O N

22 by Mr. Rieser

23 Q. Ms. Martin, would you state your name and
24 address, please?

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1 A. Good morning. My name is Eva Martin, 1625

2 Double Arrow Place, Las Vegas, Nevada.

3 Q. And how are you currently employed?

4 A. My husband and I own a McDonald's
5 franchise in Las Vegas.

6 Q. And what's your educational background?

7 A. I graduated Hyde Park High School,
8 attended Chicago Teachers College, and a junior
9 college for a year.

10 Q. Prior to operating the McDonald's
11 franchise, how were you employed or what was your
12 occupation?

13 A. My first job was at Aetna Insurance, and
14 from there Eastman Kodak, and Eastman Kodak, Jewel
15 Foods where I worked in a management position
16 there for ten years, and from the Jewel Foods we
17 opened our -- the business at 5603 West Vollmer
18 Road.

19 Q. The dry cleaning operation --

20 A. The dry cleaners, the dry cleaners.

21 Q. -- that we're talking about?

22 A. Yes.

23 Q. So you were the owner of the dry cleaning
24 known as Martin's of Matteson located on Vollmer

1 Road --

2 A. Yes, I was.

3 Q. -- in Matteson, Illinois?

4 A. Yes.

5 Q. For how long did you own Martin's?

6 A. From 1981 through -- we were there 17
7 years. We opened the store in '81. It was a
8 brand new store.

9 Q. And you closed it in?

10 A. In '96.

11 Q. '96. '96, '97?

12 A. I'm sorry. '97.

13 Q. Did you operate at any other locations
14 other than Vollmer Road?

15 A. Yes. At one time I had a location in
16 Country Club Hills, and I had one location in
17 Richton Park, both as drop stores.

18 Q. So those were not dry cleaning facilities?

19 A. No, they were not.

20 Q. They were just a place where people
21 dropped off their clothes?

22 A. That is correct.

23 Q. And all the dry cleaning was done at the
24 Vollmer Road --

1 A. At the Vollmer road store, yes.

2 Q. Why did you close the business in 1987 --
3 1997?

4 A. Why did I close my -- the store was
5 closed. My husband had moved to Las Vegas in '95,
6 and I was trying to sell the business to move
7 there with him, and I eventually moved there
8 completely at the closing of the store.

9 Q. Were you able to sell the business?

10 A. No, I was not able to sell the business.

11 Q. Were you responsible for every aspect of
12 the operation at Martin's?

13 A. Yes, I was.

14 Q. What did that include?

15 A. That included everything from the opening
16 of the store in the morning, taking in the
17 clothes, the cleaning of the clothes, keeping the
18 equipment in check, and delivering the clothes
19 back to the customers.

20 Q. And it also would involve operating the
21 dry cleaning?

22 A. And dry cleaning as well, yes, cleaning
23 the clothes.

24 Q. How often were you at the Martin's store

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1 on Vollmer Road?

2 A. I was there every day that I was not --
3 well, I was on the South Suburban Dry Cleaners
4 Association, and the only time that I was gone is
5 if we had a convention, which would be every two
6 years. Sometimes they were in Chicago, so I was
7 not away except for that.

8 Q. Okay. Had you previously operated dry
9 cleaning establishments prior to opening Martin's
10 in 1981?

11 A. No.

12 Q. How did you learn about running a dry
13 cleaner?

14 A. I opened Martin's originally as a One Hour
15 Martinizing franchise, and under the franchise
16 package, they trained you, and I trained at the
17 store on the north side on Belmont with the
18 representative from Martinizing. I worked there
19 for about a month with them, and Mr. Stevens was
20 working at that location at that time.

21 Q. Mr. Claude Stevens?

22 A. Mr. Claude Stevens, right. And he was
23 working with Martinizing. I worked and was
24 trained with them, and when I opened my store,

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1 they came out and worked with me additionally.

2 Q. Did you always run Martin's as a franchise
3 with Martinizing, One Hour Martinizing?

4 A. No, five years. We kept the franchise for
5 five years. We sent a letter and went into it as
6 our own.

7 Q. Your own business?

8 A. Uh-huh, yes.

9 Q. After your initial training, did you have
10 any other training from Martinizing during the
11 time you were operating as a franchise?

12 A. They were readily available by phone.
13 They were out of Ohio, not out of Illinois. So
14 after that initial month, they were back in Ohio.
15 We had a manual that I had to study to learn, and
16 also Mr. Stevens was at that Belmont location, and
17 I observed him work as well.

18 Q. How does dry cleaning work?

19 A. Dry cleaning is very much like your own
20 washing machine, except that we use
21 perchloroethylene known as perc, and it's in a big
22 -- a 35-pound machine that agitates. The perc
23 comes into the machine through a pipe that is
24 pumped into the machine and the soap comes in. It

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1 is then cleaned. It's in a closed-loop system
2 that you put the clothes in dry, it goes through
3 the entire system from clean from the beginning
4 from when you put them in clean, they come out
5 clean, and it's -- like I say, it works very much
6 like your own washing machine, but a bigger scale.

7 Q. At Martin's, did you purchase the dry
8 cleaning equipment?

9 A. Yes, I did.

10 Q. From whom?

11 A. John Vasollitis & Company.

12 Q. Who was responsible for installing it?

13 A. They were.

14 Q. Could you describe the actual dry cleaning
15 equipment that was used at Martin's?

16 A. Just the dry cleaning or all of the

17 pieces?

18 Q. All of the pieces of it, yeah.

19 A. There was a dry cleaning machine. There
20 were filters. There was pressing machines,
21 boiler.

22 MR. PODLEWSKI: Was that boiler or
23 oiler?

24 THE WITNESS: Boiler, a boiler.

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1 BY THE WITNESS:

2 A. Because the presses were -- the presses
3 worked from the steam from the boiler. There were
4 puffers, which were also steam for pressing the
5 clothes. Let me think.

6 BY MR. RIESER:

7 Q. Let's take each piece.

8 There was an automatic dry cleaner,
9 and that was a self-contained unit?

10 A. That's correct, a 35-pound Ajax dry to dry
11 unit.

12 Q. And what was in that dry cleaner itself?

13 A. That was the actual basket, the drum for

14 cleaning, and underneath that was the base tank
15 that held the solvent for cleaning the clothes.

16 Q. Okay. And about how big was this machine?

17 A. Maybe ten-by-ten. It was, you know --

18 Q. It was a big machine?

19 A. Yes. It was big. It was big, and the
20 machine sat on top of the base tank.

21 Q. Okay.

22 A. But they were one and the same.

23 Q. They were one unit?

24 A. Right.

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1 Q. Was there also another tank that was used
2 to hold perchloroethylene besides the base tank?

3 A. Yes. There was a storage tank, a holding
4 tank, that was in the back of the dry cleaning
5 machine.

6 Q. And I think you also said that there was a
7 filter assembly?

8 A. Yes.

9 Q. What was the filter assembly?

10 A. The filter assembly was actually to clear
11 the perc at the end of the dry cleaning cycle.

12 There were pipes that ran from the dry cleaning
13 machine. The perc would then run into the filter
14 system, go through the filter system where it was
15 cleaned, and the perc would come back into the
16 base tank.

17 Q. And was there also something called -- how
18 many filters were there?

19 A. There were five cylinders and they were
20 stacked two deep, so ten.

21 Q. Okay. And was there also something called
22 a sniffer?

23 A. Yes. There was a sniffer unit that was
24 used at the location to reclaim perc in the dry

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1 cleaning machine when it was in the refresh cycle,
2 excuse me, and also just in the air. If there was
3 perc in the air, this system was used -- it was a
4 charcoal system that would absorb the perc. There
5 was a pipe from there that would put that back
6 into the base tank either -- also.

7 HEARING OFFICER KNITTLE: Mr. Rieser, do
8 want to wait a sec until this is --

9 MR. RIESER: No. It doesn't bother me.
10 HEARING OFFICER KNITTLE: Okay.
11 MR. RIESER: Eva, does it bother you?
12 THE WITNESS: No.
13 HEARING OFFICER KNITTLE: I'm just
14 making --
15 THE WITNESS: As long as he doesn't fall.
16 HEARING OFFICER KNITTLE: We're having our
17 windows washed for the benefit of the record.
18 MR. RIESER: Off the record.
19 HEARING OFFICER KNITTLE: Let's go
20 off.
21 (Discussion had
22 off the record.)
23 HEARING OFFICER KNITTLE: Let's proceed
24 then.

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1 BY MR. RIESER:
2 Q. The equipment that you just described, the
3 automatic dry cleaner, the filter assembly, the
4 sniffer, the perc storage tank, that was all
5 equipment that you purchased from the man you
6 described in 1981, correct?

7 A. Yes.

8 Q. Did you get new equipment or change that
9 equipment during the time that you operated
10 Martin's?

11 A. No, I did not. It was purchased new, and
12 it was the original equipment.

13 Q. Did you move any of the equipment from the
14 locations where they were first installed during
15 the time you operated Martin's?

16 A. No.

17 Q. Did you have any piping connecting the
18 equipment under the floor at Martin's?

19 A. No. Everything connecting was above the
20 floor.

21 Q. Okay. Now, you used perc as the dry
22 cleaning solvent; is that correct?

23 A. Yes. That is the only solvent that we
24 used.

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1 Q. Did you have any understandings as to any
2 hazards associated with perc?

3 A. Yes. We know that perc is a hazardous

4 material. It's to be handled in a closed-loop
5 system, not to be outside. Everything that we
6 used it for was self-contained. At no time did we
7 have it outside.

8 Q. This dry cleaning board that you served
9 on, did they have meetings regarding --

10 A. The South Suburban Dry Cleaners, we had
11 monthly meetings on Wednesday night. We had
12 speakers that would come in, and we also had some
13 classes at the Illinois State Fabric Care in
14 Joliet with regards to handling perc and the
15 safety features and what to do.

16 Q. How was perc delivered to Martin's?

17 A. Delivered by truck, a tanker truck, that
18 would come to the facility with a hose very much
19 like a gasoline truck, and the hose would be put
20 into the base tank, and
21 the -- it would be set -- we would normally order
22 200 gallons, and it would set the meter for that,
23 and that would be pumped into our tank.

24 Q. It would be in the base tank or the

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1 storage tank?

2 A. We would put some in the base tank, and
3 usually we'd put 50 gallons in the base tank, and
4 then we would put the rest in the storage, and the
5 storage tank had a pipe that would run from it
6 down into the base of the machine.

7 Q. Okay. How much perc was typically
8 delivered at any time?

9 A. Two hundred gallons.

10 Q. Who would order the perc?

11 A. I would or Claude.

12 Q. Claude Stevens?

13 A. Mr. Stevens. I'm sorry.

14 Q. And how do you know when to order it?

15 A. The gauge on the base tank let's you know
16 where the -- from the gauge, it tells you how much
17 you have in your base tank. It goes from full to
18 medium to low very much like a gasoline -- very
19 much like your car.

20 Q. About how often would you order perc?

21 A. We would usually order it every six to
22 seven months.

23 Q. Did you obtain perc from the same supplier
24 in each delivery?

1 A. We used Goodman, Kintex. So there were --
2 no. There was more than one, yes. There was more
3 than one.

4 Q. Was the delivery driver usually the same
5 person or were there different people?

6 A. Usually, there were a couple of guys.
7 They were usually the same couple of guys.

8 Q. Was someone from Martin's
9 present -- was someone from Martin's always
10 present during the delivery?

11 A. Either myself or Claude Stevens would be
12 there for the delivery, and once Claude came to
13 the location, it was mostly Claude because he was
14 there. He was there all the time.

15 Q. How was perc moved from the storage tank
16 to the dry cleaner? I think you said there was a
17 pipe that --

18 A. There's a pipe above ground that comes
19 from the storage tank directly into the base tank
20 of the dry cleaning machine.

21 Q. Where was the perc tank, which was
22 attached to the dry cleaner that I think you've
23 identified as the base tank?

24 A. Where was the tank?

1 Q. Yeah.

2 A. Directly under the dry cleaning machine.

3 Q. Could you see the tank from the outside?

4 A. Yes. It sat directly on the floor,
5 directly on the floor.

6 Q. How did perc get from the base tank into
7 the dry cleaning process?

8 A. There was a pump motor that pumped the
9 perc into the basket of the dry cleaning machine.

10 Q. Could you describe the flow of perc during
11 the dry cleaning process, how it went from one
12 thing to the next?

13 A. How -- I don't understand what you're
14 asking.

15 Q. Could you describe how perc moved from,
16 say, the base tank to the dry cleaning basket and
17 then through the filters?

18 A. Okay. From the -- there was a card that
19 went into the dry cleaning machine. As I stated
20 before, when you put the clothes into the dry
21 cleaning machine, you close the door. There's a
22 seal on that door that locks the door.

23 Then you have a card in your dry

24 cleaning machine that you press for start which

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1 then starts the pump, and the solvent is then put
2 into the dry cleaning machine, and the dry
3 cleaning machine goes into a wash cycle, and from
4 the wash cycle, which is depending on the clothes,
5 some you clean longer than others, I would say
6 maybe ten minutes for the cleaning cycle.

7 They are cleaned. That card then
8 automatically goes from the clean cycle into the
9 drying cycle, and from the drying cycle, it goes
10 into the refresh cycle. So it automatically does
11 all of this, and at the end of the refresh cycle,
12 which is where it's drying and the -- it's
13 refreshing the clothes, and it gets to the end of
14 the cycle and a buzzer goes off, and you open it
15 back up and the clothes are dry, but now when that
16 perc leaves the machine at the end of the cleaning
17 cycle, it is then pumped into those filters that
18 are in the back, and it goes through those filters
19 and it's cleaned and it comes back through the
20 pipes into the base tank.

21 Q. So the purpose of the filters was to clean
22 lints and other --

23 A. Actually for cleaning the lint and
24 whatever, buttons, or whatever would be in those

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1 clothes that would be caught in those filters that
2 were back there.

3 Q. Did the filters have to be changed?

4 A. Yes, they did have to be changed.

5 Q. How would you know when to change the
6 filters?

7 A. Actually, well, a couple of ways. We kept
8 a chart as far as our poundage cleaning. That was
9 -- when that was about 10,000 pounds, then we
10 would clean. We could also tell, just like when
11 you're washing clothes, if your whites are not
12 bright, you know that it's time to change those
13 filters.

14 Q. Okay. How were filters changed?

15 A. Changed -- we would at the close of
16 business on Saturday -- first, let me say I would
17 call the people to have them pick it up, which
18 would be Safety Kleen. I'd call them on Friday.

19 Saturday we would drain the filters all for
20 Sunday, and then when we come in on Monday and the
21 filters would have drained through Sunday, and
22 they would then be removed from the casing,
23 they're in a casing, and you would put them into
24 steel drums that were provided by Safety Kleen.

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1 Q. And you'd let them drain on Saturday night
2 because you weren't open on Sunday?

3 A. No, we were not. We were open six days a
4 week.

5 Q. Were these filters, when you took them
6 out, were they wet or dripping with perc?

7 A. No, they were not. The
8 filters -- the filter part was actually on the
9 inside, and the filters were metal -- they were in
10 metal containers, metal cylinders.

11 Q. Right.

12 A. So no, they were not.

13 Q. Where were the drums in which the filter
14 is placed kept?

15 A. The drums were at the back -- outside of

16 the cleaners at the back door.

17 Q. Okay. Were there lids for those drums?

18 A. Always. The lids were sealed with a
19 clamp, I guess a springboard clamp, that was very
20 difficult really to open. So when you put them in
21 there, you closed that clamp and it sealed them in
22 there, and when the Safety Kleen truck came, they
23 took the drums and replaced them with new drums.

24 Q. Were the drum always kept closed?

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1 A. Always.

2 Q. How long would the filters be in the drums
3 before they were picked up by Safety Kleen?

4 A. When I called them on Friday, they were
5 there Monday, no later than Tuesday.

6 Q. Who was -- was it you or Claude that was
7 -- Mr. Stevens that was responsible for placing
8 the drums for delivery?

9 A. Who was --

10 Q. Responsible. Who would call Safety Kleen?

11 A. I would call them or Claude would call
12 them. Actually, he knew the number. Either one
13 of us.

14 Q. What purpose does the sniffer serve?

15 A. The purpose of the sniffer is really to
16 clean the air. The vapors, perc vapors, it's
17 absorbed into that sniffer, and it goes through
18 the charcoal, and then whatever it reclaims
19 through that charcoal, it comes back into your
20 base tank.

21 Q. Okay. Did the charcoal filter ever need
22 or have to be changed?

23 A. No.

24 Q. Did you ever have to clean out the base

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1 tank of the dry cleaner?

2 A. Yes. Usually, once a year.

3 Q. Once a year.

4 How did you do that?

5 A. That was done when the perc was usually
6 very low. When the perc got too low right before
7 we would call for some other shipment, we would
8 pump it into a drum, and what we were doing was
9 not actually cleaning the perc, the perc was not
10 dirty, it was at the base tank where there would

11 be lint, buttons, and that would build up. It
12 would build up.

13 So then you would -- when I would do
14 it, I would put towels or plastic on the floor,
15 and I used a mop to -- because you had to reach
16 all the way to the base tank and clean that out,
17 just wipe around the sides, and clean the bottom,
18 and it's very much like cleaning the base of
19 something, you know, and what you were pulling out
20 would be lint. It would be lint.

21 Q. What did you do with the stuff that you
22 took out of the base tank?

23 A. That was put into the same container as
24 the filters.

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1 Q. Okay. Did you observe this process every
2 time it was done?

3 A. If Claude did it, I did not observe every
4 time, no, I did not.

5 Q. Did only -- who would do this?

6 A. Well, after Claude started working for me,
7 Claude did this.

8 Q. Okay.

9 A. Before he started working, I did it. It
10 wasn't that pleasant.

11 Q. During the time you operated Martin's, did
12 you ever observe any perc leaked on the floor of
13 the store?

14 A. No.

15 Q. Did you ever observe any perc leaked on
16 the ground outside?

17 A. No.

18 Q. Did you ever see any perc released or
19 spilled during a delivery?

20 A. No, I did not.

21 Q. Did you ever see any perc released or
22 spilled from the perc storage tank?

23 A. No.

24 Q. Did you ever see any perc released or

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1 spilled from the dry cleaner?

2 A. No.

3 Q. Did you ever see any perc released or
4 spilled from the filter assembly?

5 A. No, I did not.

6 Q. Did you ever see any perc released or
7 spilled from the sniffer?

8 A. No.

9 Q. Did you ever see any perc released or
10 spilled from the drums which contained spent
11 filters?

12 A. No.

13 Q. Did you ever see any perc released or
14 spilled from the base tank?

15 A. No.

16 Q. Did you -- did any of your staff advise
17 you that they observed any perc leaks?

18 A. No.

19 Q. Did you provide any instructions to your
20 employees regarding the use of perc?

21 A. Well, Claude -- Mr. Stevens was very aware
22 of the perc and the importance and handling of
23 it. We had a manual, and really no one else but
24 Mr. Stevens and I worked with the perc.

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1 Q. When you closed the business, what did you
2 do with the dry cleaning equipment?

3 A. Actually, the dry cleaner in September of

4 '96 was removed, and that was removed by T & D
5 Service. They had done some repair work for me,
6 and the dry cleaning presses, sniffer, and things
7 like that, I donated to the dry cleaning school in
8 Joliet.

9 Q. Did you have an opportunity to see the
10 floor of the Martin's premises on Vollmer Road
11 after the equipment was removed?

12 A. Yes.

13 Q. Did you observe any stains on the floor
14 where the dry cleaner and the base tank were
15 located?

16 A. No.

17 Q. Did you observe any stains on the floor
18 where the perc storage tank was located?

19 A. No, just the outline of the tank and the
20 machine.

21 Q. Okay. Did you observe any cracks in the
22 floor where the equipment was located?

23 A. No.

24 Q. Yesterday you were here when Mr.

1 McClelland was testifying regarding an audit
2 performed by Pioneer and testified that you asked
3 -- that you retained them to perform that audit.

4 Do you remember that testimony?

5 A. Yes, that is correct, I did.

6 Q. Why did you seek to have an audit done?

7 A. I -- in the process of selling the
8 cleaners, the buyer wanted to have the audit done
9 for the purpose of a loan from --

10 Q. When was this? I'm sorry. I should have
11 asked that.

12 A. This was in '95. This was
13 in '95.

14 Q. Okay.

15 A. And the buyer needed to have the audit
16 done for the purpose of the loan to buy the
17 business.

18 Q. And how did you come to select Pioneer?

19 A. Well, I had -- I called Mr. Persino to
20 tell him that -- what I was going to do, and I
21 sent him a copy of the -- and I'm trying to
22 remember the name of the company that I had had
23 obtained before, and he suggested that Pioneer do
24 the work because he told me it was his property

1 and he would only approve someone that he was
2 familiar with, and I then had Pioneer do the work.

3 Q. Did you ask him to approve anyone other
4 than Pioneer?

5 A. The first company that I sent him a letter
6 for, yes.

7 Q. And he said we wouldn't approve the use --

8 A. No, he would not.

9 Q. -- of that company? Okay.

10 I'm going to show you what was
11 previously marked as Complainant's Exhibit A,
12 which purports to be the audit done by
13 Pioneer, and ask you if you've seen this document
14 before?

15 A. Yes, I have.

16 Q. Okay. On page eight of the report, the
17 third full paragraph says, quote, the dry cleaning
18 chemical circulates through a filter assembly
19 located directly behind the dry cleaning machine
20 as used during the dry cleaning process. Major
21 staining was observed on and around the base of
22 the filter assembly, unquote.

23 Do you see that?

24 A. Yes, I do.

1 Q. Did you observe any staining around the
2 filter assembly during the time that you operated
3 Martin's?

4 A. No, I did not, but it could have been. We
5 used grease guns for the bearings, and there were
6 several points on the machine where we would put
7 -- we would use the grease gun that you actually
8 put into there to keep it running just like with
9 motors and things like that. That may have been
10 that.

11 Q. I'm going to show you what's been marked
12 as exhibit -- Complainant's Exhibit B, which is
13 the June 2nd, 1995, letter from Pioneer to you
14 reporting on the results of the initial soil
15 sampling.

16 Do you recall receiving that letter?

17 A. Yes, I do.

18 Q. Prior to the time you received that
19 letter, did you have any knowledge of perc
20 contamination in the soil?

21 A. No, I did not.

22 Q. Prior to this letter, did you have any

23 reason to suspect that there had been releases of
24 perc to the soil?

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1 A. No.

2 Q. I'm going to show you what was marked as
3 Complainant's Exhibit C, which also purports to be
4 a Pioneer report from June of 1985 (sic) regarding
5 the additional sampling after they did the --
6 after you received the June 2nd letter.

7 Do you recall seeing this report?

8 A. Yes.

9 Q. After you received the report that's
10 Complainant's Exhibit C, did you have discussions
11 with either Pioneer or Mr. Persino about what to
12 do next?

13 A. At this report, we put in the wells.

14 Q. No. That was in 1995.

15 A. Okay. There is the one that -- this is
16 the one where the groundwater was observed. I'm
17 sorry.

18 Q. The soil contamination.

19 A. Right, right. And they then sent me a
20 proposal as to how we would go along with the

21 cleanup.

22 Q. Did you have any discussions with Pioneer
23 prior to the time you received the proposal?

24 A. No, I did not.

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1 Q. Did they call you after you got that
2 report in June of 1995 --

3 A. To -- only to tell me that
4 they --

5 Q. -- to discuss the results?

6 A. They said that they would send me a bill
7 showing what it would cost to do this for the work
8 that would be involved to take care of this.

9 Q. And did you subsequently receive from
10 Pioneer a proposal for doing a soil remediation
11 project?

12 A. Yes.

13 MR. RIESER: Would you mark this
14 Respondents' Exhibit C, please?

15 (Respondents' Exhibit C
16 marked for identification,
17 10-21-99.)

18 BY MR. RIESER:

19 Q. I'm showing you what's been marked as
20 Respondents' Exhibit C, which purports to be a
21 letter from Pioneer to Martin's of Matteson Dry
22 Cleaners dated October 16th, 1995.

23 Do you recall receiving this letter?

24 A. Yes.

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1 Q. Do you recall receiving it around the date
2 that it's dated, October of 1995?

3 A. Yes.

4 Q. And when you talked about the proposal
5 that you got from Pioneer regarding the clean-up
6 of the soil, is this the proposal you were
7 referring to?

8 A. Yes, this is the one, and I talked it over
9 -- Mr. Persino and I talked about this, and he
10 told me at that time that he wanted me to put
11 money into the bank in a trust to make sure that
12 this was taken care of.

13 Q. To make sure that the proposal --

14 A. This proposal that we see.

15 Q. That the work described in this October

16 1995 letter was done?

17 A. Was done, yes.

18 Q. Did you thereafter put -- have a bank
19 issue a letter of credit?

20 A. I borrowed \$70,000 as he requested and put
21 it into the trust at the bank in Matteson as he
22 had requested. I
23 also -- the report of the -- the first report,
24 Pioneer report, I called and reported this.

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1 Q. Who did you call?

2 A. Illinois Control.

3 Q. The Illinois EPA?

4 A. Yes.

5 Q. After you received that October 1995
6 letter and after you put -- had the bank issue a
7 letter of credit --

8 A. Yes.

9 Q. -- did you have further discussions with
10 Pioneer about the work that that they were going
11 do at the property?

12 A. Pioneer told me that they wanted to come

13 out and do some more soil testing.

14 Q. They wanted to test the remediation system
15 that they were proposing?

16 A. Yes.

17 Q. Did you receive another letter from
18 Pioneer describing the work that they intended to
19 perform prior to this additional work being done?

20 A. No, I did not.

21 Q. You don't recall receiving a letter?

22 A. As to what they were going to do?

23 Q. Additionally describing what they were
24 going to do.

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1 A. I don't recall receiving that letter.

2 MR. RIESER: Would you mark this as
3 Respondents' Exhibit D?

4 (Respondents' Exhibit D
5 marked for identification,
6 10-20-99.)

7 BY MR. RIESER:

8 Q. I'm going to show you what's been marked
9 as Respondents' Exhibit D. It purports to be a
10 letter from Pioneer both to First Development

11 Corporation to Martin's of Matteson dated
12 April 15th, 1996.

13 A. Yes, I did receive this.

14 Q. Does that refresh your recollection --

15 A. Yes, it does.

16 Q. -- as to whether you received --

17 A. Yes.

18 Q. -- another letter from Pioneer?

19 A. Yes.

20 Q. -- prior to the time that they did the
21 additional work?

22 A. Yes.

23 Q. The first sentence of the letter says this
24 letter is intended to further address the issue we

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1 discussed during our recent meeting.

2 Do you see that?

3 A. Yes, I do.

4 Q. Do you recall a meeting with Pioneer
5 regarding these issues?

6 A. No, I do not. I don't recall having a
7 meeting with them. Most of my transaction with

8 them was through the mail or by phone.

9 Q. Okay. After they began this additional
10 work in 1996, do you recall what they found?

11 A. After this -- after this test?

12 Q. Right.

13 A. It was after this test that I received
14 communication from them in writing that they felt
15 that they had found groundwater.

16 Q. And did they ask to do additional testing
17 with respect to the groundwater that they found?

18 A. As far as searching for groundwater?

19 Q. Yes.

20 A. After that, they sent me the letter
21 showing that they had found groundwater. It was a
22 complete surprise to me.

23 MR. RIESER: Would you mark this as
24 Respondents' Exhibit E, please?

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1 (Respondents' Exhibit E
2 marked for identification,
3 10-20-99.)

4 BY MR. RIESER:

5 Q. I'm showing you what's been marked as

6 Respondents' Exhibit E, and it purports to be a
7 letter from Pioneer to Martin's of Matteson dated
8 May 10th, 1996, and ask if can you identify this?

9 A. Yes.

10 Q. Is this the letter you were referring to
11 that reported on the results of the -- reported
12 that they found groundwater and wanted to do
13 additional sampling?

14 A. Yes.

15 Q. And did you approve that additional
16 sampling be done?

17 A. Yes, I did.

18 Q. And it's your understanding that Pioneer
19 actually went out and performed the additional
20 sampling that they described in this May letter,
21 correct?

22 A. It was my understanding that this is what
23 they were going to do. I also called Mr. Persino,
24 and he had also received this, he had received

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1 this, and he told me that he had received this.

2 So he was aware of this.

3 Q. Now, when Pioneer went out and did this
4 additional work during 1996, did you pay them for
5 the work that they did?

6 A. Yes. I paid them for all of the work.

7 Q. Did you pay them for this work in 1996
8 from the letter of credit money?

9 A. No. That was -- the letter of credit was
10 other money. I had paid them this out of other
11 funds.

12 Q. After the work was -- after the work was
13 done in 1996, did you receive -- and they found
14 groundwater, did you receive another proposal from
15 Pioneer with respect to remediation of the site?

16 A. Yes, I did.

17 Q. Okay. And do you recall about when you
18 received that letter?

19 A. I can't recall the date. I really can't
20 recall the date.

21 MR. RIESER: Would you mark this as --

22 BY THE WITNESS:

23 A. Probably June.

24 MR. RIESER: -- Exhibit F?

1 (Respondents' Exhibit F
2 marked for identification,
3 10-20-99.)

4 BY MR. RIESER:

5 Q. Showing you what's been marked as a letter
6 from Pioneer to Martin's of Matteson dated August
7 30th, 1996, and ask if you've seen that letter
8 before?

9 A. Yes.

10 Q. Is that the letter you received from
11 Pioneer proposing additional remediation to be
12 done at the site?

13 A. Yes, it is.

14 Q. Including the additional groundwater
15 remediation?

16 A. Yes. This is the one that I received that
17 -- I could not believe this one. I could not
18 believe this. I was so -- I called Mr. Persino
19 also at that time and, you know, I told him that,
20 you know, I had tried to do everything that he had
21 asked me to do, and at this point, you know, he
22 told me that he wanted it done, you know, and it
23 didn't matter how much it cost, and I said, you
24 know, how do we know that this is true?

1 You know, I just can't believe that
2 this is -- that it has gotten into the water, and
3 he said he didn't know and he didn't care and that
4 he was going to proceed with legal action.

5 At that time, I didn't know what else
6 to do. I had tried to do as we went along
7 everything that he had told me to do. I had
8 reported it. I had put the money in the trust as
9 he had requested. So once he said he would
10 proceed with legal action, I called you, and we
11 have since been in with the court since that time.

12 MR. RIESER: I have no further questions.
13 I'd like to move for the admission of the Exhibits
14 C, D, E, and F that were introduced through Ms.
15 Martin.

16 HEARING OFFICER KNITTLE: Let's take them
17 one at a time. Mr. Podlewski, do you have any
18 objection to Respondents' C, the letter from
19 Pioneer to Martin, what is it, October 16th,
20 1995?

21 MR. PODLEWSKI: No. I have no objection.

22 HEARING OFFICER KNITTLE: That will be
23 admitted.

24 Respondents' D is a letter dated

1 April 15th, 1996.

2 MR. PODLEWSKI: I'd like to reserve that
3 for the moment until I complete my
4 cross-examination of Ms. Martin.

5 HEARING OFFICER KNITTLE: Any problem with
6 that?

7 MR. RIESER: No.

8 HEARING OFFICER KNITTLE: We'll reserve
9 that one.

10 Respondents' E, which was a letter, I
11 think, dated May 11th, 1996.

12 MR. PODLEWSKI: May 10th, 1996.

13 THE WITNESS: May 10th.

14 MR. PODLEWSKI: I don't have any objection
15 to that.

16 HEARING OFFICER KNITTLE: That will be
17 admitted.

18 And the last one is Respondents' F,
19 which is a letter from Pioneer to Martin dated
20 August 30th, 1996.

21 MR. PODLEWSKI: I don't have any objection
22 to that.

23 HEARING OFFICER KNITTLE: That will be
24 admitted as well.

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1 You can conduct your
2 cross-examination.

3 MR. PODLEWSKI: Can you give me a few
4 minutes?

5 HEARING OFFICER KNITTLE: Let's take
6 five.

7 MR. PODLEWSKI: Okay. That's fine. Thank
8 you very much.

9 (Break taken.)

10 HEARING OFFICER KNITTLE: We're back on
11 the record after a short break, and, Eva, let me
12 remind you you're still under oath and you're
13 going to be subject to cross-examination.

14 C R O S S - E X A M I N A T I O N

15 by Mr. Podlewski

16 Q. Ms. Martin, my name is Joe Podlewski. I
17 represent Matteson WHP Partnership in this case,
18 and I have some questions to ask you on
19 cross-examination as follow up to Mr. Rieser's

20 direct examination of you.

21 A. Yes.

22 Q. You testified during your direct
23 examination that you work at the Martin's of
24 Matteson business every day; is that correct?

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1 A. I didn't say every day. I said I was
2 there when I was not at the conventions. I was
3 not there when there were conventions.

4 Q. Okay. And that's the South Suburban Dry
5 Cleaners Association?

6 A. Yes.

7 Q. Okay. And I believe your testimony was
8 they had conventions once a year?

9 A. No.

10 Q. How often did they --

11 A. Every couple of years. Every couple of
12 years they had them.

13 Q. Okay. So your testimony is that for the
14 17 years that you operated the dry cleaning
15 business at the property, the only time that you
16 weren't there was when you attended one of the
17 South Suburban Dry Cleaning Association

18 conventions?

19 A. Until we took the dry cleaning machine out
20 of there when my husband moved, I did -- I was in
21 Las Vegas some of those times, but while we were
22 dry cleaning at that location, I was there. We
23 removed the dry cleaning machine in September of
24 '96 and all of the work was done outside of our

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1 store. All of the cleaning was done outside.

2 Q. I understand that.

3 And your husband moved to Las Vegas
4 in 1995 --

5 A. Yes.

6 Q. -- is that correct?

7 A. Yes.

8 Q. So was there dry cleaning being done on
9 the site from 1995 -- anytime from 1995 when your
10 husband moved to Las Vegas to May of 1997 when the
11 business was shut down?

12 A. Say that again.

13 Q. All right. Your husband moved to Las
14 Vegas in 1995, correct?

15 A. Correct.

16 Q. And from 1995 to 1997 when the business
17 shut down because the business stopped in 1997,
18 correct?

19 A. Correct.

20 Q. You would periodically go out and visit
21 your husband?

22 A. Or he would come here.

23 Q. But you did go out to Las Vegas during
24 that period of time to visit your husband,

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1 correct?

2 A. Correct.

3 Q. From the time that your husband left to go
4 to Las Vegas in 1995 --

5 A. Yes.

6 Q. -- until the business shut down in May of
7 1997 --

8 A. Yes.

9 Q. -- was there any time that on site dry
10 cleaning was ever being conducted at the business,
11 or was that strictly at that point just a drop-off
12 location?

13 A. After September of '96, it was a drop off.

14 Q. Okay.

15 A. In September. Once I got this final
16 report, I stopped dry cleaning and had all of the
17 work done off site by Modern Way Cleaners.

18 Q. When you say this report, what are you
19 referring to?

20 A. The final report from Pioneer.

21 Q. And what are you pointing to there? What
22 report is that?

23 A. This is the one saying that -- for the --
24 showing that -- saying that there was groundwater.

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1 Q. And that's -- what's that?

2 A. This is in --

3 HEARING OFFICER KNITTLE: I think he's
4 looking for the little sticker at the bottom.

5 BY THE WITNESS:

6 A. Oh. This is C.

7 THE WITNESS: Respondents' Exhibit C.

8 BY MR. PODLEWSKI:

9 Q. So the date of that is --

10 A. This one is --

11 Q. The date of that is October 16th, 1995.

12 HEARING OFFICER KNITTLE: I think you
13 might --

14 MR. PODLEWSKI: Let me pursue with my
15 cross-examination.

16 BY MR. PODLEWSKI:

17 Q. So your testimony is that sometime in
18 October or September of --

19 A. Of '96.

20 Q. -- of '96, that was when you stopped --
21 that Martin's of Matteson stopped doing on-site
22 dry cleaning on the premises and that location was
23 simply used as a drop-off location; is that
24 correct?

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1 A. That is correct.

2 Q. Okay. Now, between -- when exactly --

3 HEARING OFFICER KNITTLE: Mr. Podlewski?

4 MR. PODLEWSKI: Yes.

5 HEARING OFFICER KNITTLE: One minute while
6 she changes her paper.

7 MR. PODLEWSKI: Sure.

8 (Brief pause.)

9 HEARING OFFICER KNITTLE: We're back.

10 MR. PODLEWSKI: Could you read my last
11 question back, please, and Ms. Martin's answer
12 too?

13 (Record read.)

14 BY MR. PODLEWSKI:

15 Q. And that was September of 1996?

16 A. Yes.

17 Q. Now, when did your husband -- what month,
18 as best as you can recall, did your husband move
19 to Las Vegas in 1995?

20 A. I believe it was May.

21 Q. May.

22 So from May of 1995 to September of
23 1996, there was, in fact, on-site dry cleaning
24 being conducted at the Martin's of Matteson

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1 business?

2 A. Yes.

3 Q. Okay. And between May of 1995 and
4 September of 1996, did you have occasion to go out

5 to Las Vegas to visit your husband?

6 A. Yes.

7 Q. So you, in fact, were not at the site
8 every day that on-site dry cleaning was being
9 conducted at least from May of 1995 to September
10 of 1996; is that correct?

11 A. There was times I was not, correct.

12 Q. Now, did you have any position with the
13 South Suburban Dry Cleaners Association, or were
14 you simply a member?

15 A. I was on the board.

16 Q. You were on the board?

17 A. Yes.

18 Q. And was one of the -- I take it that one
19 of the functions of this association was to
20 discuss issues of relevance and significance to
21 dry cleaners?

22 A. Yes, uh-huh. We had a speakers bureau
23 that would bring in guest speakers that were privy
24 to this.

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1 Q. And how long were you a member of the
2 association?

3 A. Probably about ten years.

4 Q. Ten years. Beginning when you first began
5 this business in 1981?

6 A. Not when I first began. I was -- as a
7 board member or just on the board? Which one?

8 Q. Well --

9 A. I was a board --

10 Q. -- let me go through this.

11 A. Okay.

12 Q. How long were you a member?

13 A. Probably about 15 years.

14 Q. Fifteen years.

15 And you were a board member for how
16 long?

17 A. About ten.

18 Q. About ten.

19 A. Uh-huh.

20 Q. And you were a -- so is it correct to say
21 that you were a board member of the South Suburban
22 Dry Cleaners Association for a majority of the
23 time that you were also operating the Martin's of
24 Matteson dry cleaning business?

1 A. Yes.

2 Q. Among the -- and how often did you say
3 that they would have a convention, every year, I
4 believe?

5 A. Every two years.

6 Q. Every two years. I'm sorry. Every two
7 years.

8 A. Uh-huh.

9 Q. And at these conventions, there would be
10 speakers who would speak on various topics of
11 interest to the members of the association?

12 A. Yes, and there were also classes.

13 Q. And classes?

14 A. Well, seminars.

15 Q. Right. At any of these conventions that
16 you attended, was the subject of environmental
17 concerns associated with dry cleaning operations
18 ever -- was that ever the subject of a speaker or
19 a seminar or any discussion at all at one of these
20 meetings?

21 A. Yes.

22 Q. And what were some of the environmental
23 concerns that was the subject of these -- what
24 were some of the environmental concerns that were

1 discussed?

2 A. That I recall as far as the things that
3 were in place, the restrictions that were put on,
4 and the things that were necessary to do as far as
5 handling it.

6 Q. Meaning perchloroethylene?

7 A. Yes. I'm sorry.

8 Q. Please continue.

9 A. And handling perc, the importance of
10 that. Just, you know, really the importance of
11 being very, very careful with this
12 perchloroethylene.

13 Q. And why was that important to the members
14 of the association?

15 A. Because we all had dry cleaners, and we
16 were very concerned with the care and handling of
17 perc.

18 Q. Was there a concern that dry cleaning
19 establishments -- that the operation of dry
20 cleaning -- on-site dry cleaning establishments
21 often resulted in contamination of soil and
22 groundwater with perchloroethylene?

23 A. There was some concern as far as, that I
24 was aware of, that there may be some cleaners that

1 had soil contamination.

2 Q. And was there ever any discussion at these
3 association conventions as to how that could have
4 occurred?

5 A. No, that I remember. I don't recall --

6 Q. I understand.

7 A. -- how that was.

8 Q. But that concern was voiced at these
9 various conventions that you attended --

10 A. Oh, yes.

11 Q. -- and you were at least involved in
12 organizing it?

13 A. Yes.

14 Q. Did you ever have any speakers on the
15 subject of environmental matters?

16 A. Yes, we did.

17 Q. Do you remember who they were?

18 A. No, I do not. I do not remember their
19 names.

20 Q. How large -- now, in your direct
21 testimony, you described for us the fact that the

22 dry cleaning machine itself sat on top of a base

23 tank --

24 A. Yes.

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1 Q. -- is that correct?

2 A. Yes.

3 Q. And the base tank was used to hold

4 perchloroethylene that was used in the dry

5 cleaning operation?

6 A. Yes.

7 Q. What was the capacity of this base tank?

8 A. We normally put 50 gallons of perc in the

9 base tank. Actually, it could hold more than

10 that, but we stored -- we would put 50 gallons of

11 perc in that base tank, although it would hold

12 probably about 100 gallons.

13 Q. And the capacity of the -- and I believe

14 you testified that the capacity of the storage

15 tank -- let's go back.

16 What was the capacity of the storage

17 tank?

18 A. As I recall, it was 100 to -- no. I think

19 it was a little bigger. It was probably 200

20 gallons, the storage tank was.

21 Q. All right. And that was the tank that the
22 perc was put in following the delivery of the
23 perchloroethylene at the premises, correct?

24 A. That is correct.

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1 Q. So the perc first went in the storage tank
2 and then went into the base tank using the piping
3 as it was during the course of your operations?

4 A. That is correct.

5 Q. Okay. Have you ever stated that the
6 capacity of the storage tank was less than 200
7 gallons?

8 A. I believe I -- I believe I did. I said it
9 was about 100 gallons.

10 Q. And do you know where you made that
11 statement?

12 A. When I talked with my attorney.

13 MR. PODLEWSKI: I want to have this marked
14 as Complainant's Exhibit R.

15 (Complainant's Exhibit R
16 marked for identification,

17 10-20-99.)

18 BY MR. PODLEWSKI:

19 Q. Ms. Martin, do you recognize this
20 document?

21 A. Yes.

22 Q. And could you identify it for us?

23 A. The affidavit.

24 Q. And it's an affidavit you prepared in

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1 connection with this case?

2 A. Yes, it is.

3 Q. Okay. And you'll note that specifically
4 -- and this affidavit was given under oath, was
5 it not?

6 A. Yes.

7 Q. And you'll note that in paragraph four of
8 this affidavit, you testified that, quote, I also
9 maintained a 100 gallon reserve tank for storing
10 perc at the facility, close quote; is that
11 correct?

12 A. That is correct.

13 Q. And that's the storage tank that we're
14 talking about? Is that the storage when you say

15 --

16 A. This one, number four that it's talking
17 about, is saying the storage tank.

18 Q. Okay. So the term reserve tank in
19 paragraph four of your affidavit is synonymous
20 with the storage tank that you testified about
21 earlier today? It's the same tank?

22 A. That's correct.

23 Q. Okay. But in your affidavit, you say it's
24 100 gallons, correct?

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1 A. That is correct.

2 Q. Now, you've also testified in your direct
3 examination as to the process of removing the
4 filters from the dry cleaning equipment
5 periodically; is that correct?

6 A. Yes.

7 Q. And was it your testimony that when the
8 filters were removed, they were dry to the touch?

9 A. That was -- my testimony was that there
10 was a metal housing. The filters were in a metal
11 casing, cylinder. So it was metal.

12 Q. But were -- but physically were the
13 filters when they were removed were they wet or
14 dry?

15 A. They were dry because they were not
16 heavy. Had there been perc in them, it would have
17 been heavy.

18 Q. But they were -- when you would remove the
19 filters, there wasn't any -- they were dry to the
20 touch? In other words, there wasn't any moisture
21 left on those filters as a result of residual
22 perc?

23 A. I didn't feel any. It was metal. It was
24 the metal casing. It wasn't the actual filter.

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1 The filter was inside the metal.

2 Q. And would the metal casing also be
3 disposed of or just the filter itself?

4 A. The entire, the entire.

5 Q. Including the metal cylinder?

6 A. Correct.

7 Q. Okay. With respect to your testimony
8 concerning the cleaning of the base tank, you said
9 that happened yearly?

10 A. Annually, yes.

11 Q. Annually. Okay. And that you would place
12 towels or plastic on the floor in the course of
13 doing this tank cleaning?

14 A. Well, it's low. When I did it, it's on
15 the floor.

16 Q. That wasn't the answer to my question.

17 A. Okay.

18 Q. That wasn't the question I was asking.

19 A. Okay.

20 Q. Isn't it true that you testified in
21 response to direct examination by Mr. Rieser that
22 when you would clean the base tank annually that
23 you would place towels or plastic on the floor?

24 A. That's what I said, yeah.

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1 Q. Correct.

2 And why would you do that?

3 A. Because I was getting on the floor, and I
4 would lay on the floor in order to get into the
5 base tank.

6 Q. So the purpose of laying the plastic or

7 towels on the floor was to make sure that you
8 didn't get dirty rather than to collect any drips
9 of perc that may be -- that may happen as a result
10 of the cleaning out of the base tank?

11 A. It was for that as well.

12 Q. Have you ever stated anything to the
13 contrary?

14 A. As far as the towels --

15 Q. Right.

16 A. -- on the floor?

17 Not that I remember.

18 Q. Okay. Directing your attention to
19 paragraph seven of your affidavit, which talks
20 about the cleaning of the base tank, you testified
21 on page -- actually, on the second page of your
22 affidavit that, quote, before doing this, we would
23 place plastic on the floor around the machine to
24 catch any drips of perc, period, close quote.

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1 Is that your testimony?

2 A. Yes.

3 Q. So the purpose of you putting towels on
4 the floor was to catch drips of perc, not to keep

5 your clothes clean because you're crawling around
6 on the floor cleaning out the base tank?

7 A. It was for both.

8 Q. In the course of -- well, you operated the
9 plant for 17 years, and you
10 were -- you yourself were involved in the actual
11 operation of the dry cleaning equipment from 1981
12 to when Mr. Stevens was hired; is that correct?

13 A. That is correct.

14 Q. And when was he hired?

15 A. I had been opened about five years, so
16 probably '86, I think.

17 Q. So about '86.

18 So would it be correct to say that
19 you cleaned out the base tank on at least five
20 occasions personally?

21 A. Yes.

22 Q. Okay. And during that time, this was the
23 procedure that you always followed, you would
24 place plastic or towels on the floor prior to

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1 actually cleaning the inside of the base tank with

2 a mop head?

3 A. As I recall.

4 Q. All right. And were there instances in
5 which the towels or the plastic that you had
6 placed on the floor would collect drips of perc
7 that would come out of the base tank in connection
8 with this cleaning operation?

9 A. Could you repeat that?

10 Q. During the -- on at least five occasions
11 that you personally cleaned out the base tank and
12 you installed towels or plastic on the floor to
13 collect any drips of perc that would be associated
14 with this cleaning operation, did, in fact, the
15 towels or plastic that you placed on the floor
16 collect any drips of perc that came out of the
17 machine during the cleaning out of the base tank?

18 A. If there were any drips that was on the
19 towels, I recycled the towels in the dry cleaning
20 machine. The towels that I removed from the floor
21 were put in the dry cleaning machine and cleaned.

22 Q. And what about the plastic?

23 A. The plastic was thrown into the drum in
24 the back.

1 Q. And you would physically carry it?

2 A. The plastic?

3 Q. Yes.

4 A. I mean, it's not -- it's

5 nothing -- I mean, it's just plastic. Plastic is

6 not heavy.

7 Q. But plastic -- the plastic might contain

8 some drips of perc, correct?

9 A. No.

10 Q. It wouldn't?

11 A. No.

12 Q. So that never happened?

13 A. I don't recall my plastic being heavy with

14 drips of perc that I could not carry, no.

15 Q. But physically this plastic -- in the

16 event that you used plastic to collect drips of

17 perc that may have come from the machine during

18 the cleaning of the base tank, your testimony is

19 that you would then physically carry that plastic

20 to the back door and place it in the drums that

21 were outside the back door of the business?

22 A. There was no perc on the plastic.

23 Q. And you know that for a fact?

24 A. Yes, I do.

1 Q. Now, you testified that -- Mr. Rieser
2 asked you a series of questions as to whether or
3 not you had observed any releases of perc
4 associated with various operations of the dry
5 cleaning business.

6 Do you recall that -- do you recall
7 that line of questioning?

8 A. Yes.

9 Q. Okay. The questions went to, though,
10 whether or not you actually observed any releases
11 of perc, not whether or not there were any; is
12 that correct?

13 A. Correct.

14 Q. All right. So there may have been
15 releases of perc that you didn't personally
16 observe; is that correct?

17 A. I was not there all the time if that's
18 what you're saying. I was not there. When I was
19 there, I never observed any release of perc.

20 Q. Right. So the most that you can testify
21 to is that you personally did not observe any
22 releases of perc? You can't testify that releases
23 of perc never occurred at the facility; is that

24 correct?

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1 A. I didn't testify to that. I just
2 testified to I never observed any releases of
3 perc.

4 Q. Right. And that's all you're testifying
5 to?

6 MR. RIESER: I'm going to object. This is
7 both argumentative and asking her to agree with a
8 legal conclusion that all she can testify to are
9 her observations and what she knows.

10 MR. PODLEWSKI: I don't think it's
11 argumentative. I think it's legitimate
12 cross-examination, and I think the distinction
13 between what she observed and what she can testify
14 to is not a legal conclusion.

15 HEARING OFFICER KNITTLE: Yeah. I'll
16 allow you to ask it one more time, but she has --
17 I think the point you're trying to make is coming
18 across. I don't think she's trying to testify
19 that --

20 THE WITNESS: No.

21 HEARING OFFICER KNITTLE: -- perc never

22 leaked, but you can ask the question one last
23 time.

24 MR. PODLEWSKI: I think it's been

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1 established. Thank you.

2 HEARING OFFICER KNITTLE: Uh-huh.

3 BY MR. PODLEWSKI:

4 Q. How is the -- how is this machine fastened
5 to the floor, if it was?

6 A. It was fastened to the floor because it
7 was in an extract cycle, and when it was
8 installed, there were bolts on each end of the
9 machine.

10 Q. And so were there -- I'm trying to
11 visualize this.

12 Were there clamps like in the shape
13 of an L that were then -- that were attached to
14 the machine and then were fastened with bolts to
15 the cement floor, is that correct, as best as you
16 can recall?

17 A. I'm trying to picture what it looked like.

18 Q. Uh-huh.

19 A. I believe there were bolts that went from
20 the machine into the floor because there was no
21 way to keep that machine from shaking in the
22 extract cycle, very much like an extract cycle in
23 a drying machine.

24 Q. So the machine would vibrate or shake

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1 during the dry cleaning operations?

2 A. No. I would -- it would have had it not
3 been secured to the ground.

4 Q. All right. But when it was secured to the
5 ground, it didn't vibrate or shake during the dry
6 cleaning operations?

7 A. No, no.

8 Q. Your testimony -- let me shift gears for a
9 moment.

10 Your testimony -- this goes to how
11 you came to retain Pioneer. Your testimony was
12 that you had a prospective buyer for your business
13 in about 1995; is that correct?

14 A. That is correct.

15 Q. And that the buyer or the buyer's lender
16 wanted an environmental assessment done of the

17 property before the sale of the business would

18 occur?

19 A. The lender.

20 Q. The buyer's lender?

21 A. The buyer's lender, yes.

22 Q. And you advised Mr. Persino of that fact?

23 A. Yes, I did.

24 Q. Okay. And at that time, did you also

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1 suggest to Mr. Persino that a particular

2 environmental consultant be used to that Phase I

3 environmental site assessment?

4 A. Yes. I had received a proposal from an

5 environmental company.

6 Q. Do you remember the name of that

7 environmental company?

8 A. I don't remember it.

9 Q. Did you solicit that proposal from them?

10 A. Yes, I did.

11 Q. How did you get their name as best as you

12 can recall?

13 A. I believe -- I believe it was through the

14 association, the dry cleaner association.

15 Q. Okay. Have you ever had occasion to use
16 an environmental consultant before?

17 A. No.

18 Q. And you gave the name of this consultant
19 to Mr. Persino; is that correct?

20 A. Yes. Also -- no, not the name. I sent
21 him a copy of the proposal that was sent to me.

22 Q. All right. So you received a proposal to
23 do a Phase I environmental site assessment, and
24 you sent that to Mr. Persino?

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1 A. Yes, I did.

2 Q. And what did you ask him -- did you ask
3 for his approval or just ask him to review it?

4 A. I had called him to tell him what I was
5 going to do, and I got the proposal, and I sent it
6 to him, and he said that --

7 Q. Well, let me back up.

8 A. Sorry.

9 Q. Why did you send him a proposal?

10 A. I wouldn't do anything on his property
11 without sending the thing to him. I just --

12 Q. Were you soliciting his approval of the
13 environmental consultant?

14 A. No. I was showing him what I had planned
15 to do.

16 Q. And -- so continue. So what happened next
17 after you sent this proposal over to Mr. Persino?

18 A. He sent it to Pioneer.

19 Q. He sent the proposal for the Phase I
20 environmental site assessment that you had
21 received from another environmental consultant to
22 Pioneer; is that correct?

23 A. Yes.

24 Q. And what happened next?

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1 A. He phoned me --

2 Q. And --

3 A. -- and he told me that he had done work --
4 Pioneer had done work for him before.

5 MR. RIESER: Mr. Persino had informed --

6 BY THE WITNESS:

7 A. I'm sorry. Mr. Persino informed me that
8 Pioneer had worked for him in the past and that it

9 was his property and he would only approve someone
10 on his property that he was comfortable with.

11 BY MR. PODLEWSKI:

12 Q. Did he at that point direct you to hire or
13 retain Pioneer Environmental to do the Phase I
14 environmental site assessment of the property?

15 A. He told me he wouldn't approve anyone
16 else.

17 Q. He wouldn't approve anyone else?

18 A. No.

19 Q. Did he tell you that the reason why he
20 would not suggest using this other environmental
21 consultant was because the cost of their Phase I
22 environmental site assessment was much greater
23 than the cost -- than it would cost for Pioneer to
24 do similar work?

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1 A. I don't think he was concerned about the
2 cost.

3 Q. Getting back to the operating -- the way
4 that the dry cleaning business operated, the
5 filters that were placed in the drums, the 55
6 gallon drums, the waste filters for the machine --

7 A. In the back of the store.

8 Q. -- in the back, right, and the material

9 that was used in the course of the base tank

10 cleaning, which included a mop head, for example

11 --

12 A. Yes.

13 Q. -- that was placed in the drum too?

14 A. Yes.

15 Q. And they were picked up by Safety Kleen;

16 is that correct?

17 A. Yes.

18 Q. When, as best as you can recall, did you

19 hire Safety Kleen to pick up your

20 perchloroethylene waste?

21 A. I really cannot remember. I don't

22 remember.

23 Q. Did you -- go ahead.

24 A. When I first opened, no, I did not have

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1 them. I would say probably within a year then

2 after I opened.

3 Q. So there was a period of time when Safety

4 Kleen did not pick up the material -- the
5 perchloroethylene waste material from your
6 business for disposal; is that correct?

7 A. Correct.

8 Q. How did you dispose of your
9 perchloroethylene waste material prior to
10 retaining Safety Kleen for waste disposal?

11 A. I put them in a plastic bag, double
12 plastic bag, and I had a trash dumpster at the far
13 end of the building that was used.

14 Q. And that's the way you disposed of it?

15 A. Yes.

16 Q. And would you physically -- you'd put this
17 waste material in a plastic bag and then you would
18 physically carry it outside to a trash dumpster
19 that was located on the property?

20 A. It wasn't heavy. There was nothing in
21 there.

22 Q. Well, I didn't ask you if you were capable
23 of carrying it. I asked you if you did carry it.

24 A. Yes.

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1 Q. Okay. And where was this dumpster

2 located?

3 A. At the far end of the strip mall. The
4 building where I was was on this side and the
5 location went that way (indicating). So it made
6 --

7 Q. It's shaped just like an L?

8 A. Yes, a backward L really. So it was at
9 that far end.

10 Q. All right. And so you had to walk some
11 distance in order to dispose of that -- those
12 bags?

13 A. There were four stores, four or five.

14 Q. There's a White Hen, correct?

15 A. Right.

16 Q. And a couple of other spaces?

17 A. And there's the beauty shop.

18 Q. So you had -- but you had some distance to
19 walk with the bag?

20 A. It was -- yeah.

21 Q. Did Mr. Persino -- to your knowledge, did
22 Mr. Persino provide that dumpster for the use of
23 his tenants at the property?

24 A. We provided it for ourselves. We called

1 the -- through the village, we had our own
2 dumpster.

3 Q. The tenants did?

4 A. Yes.

5 Q. Okay.

6 A. It was not his.

7 Q. Directing your attention, I believe you
8 probably have it in front of you, to Complainant's
9 Exhibit B, that's the June 2nd, 1995, report.

10 A. Did you say B or D?

11 Q. B, B as in boy.

12 A. Okay.

13 Q. I believe your testimony was that prior to
14 June -- prior to your receipt of that report, you
15 had no idea that perchloroethylene contamination
16 existed at the property; is that correct?

17 A. This is our -- the first report that was
18 sent?

19 Q. I'm asking you if that was your
20 testimony.

21 A. Prior to the first report I received from
22 Pioneer, I had no idea.

23 Q. Well, the first report you received from
24 Pioneer was the Phase I report, correct? Let's go

1 through this.

2 A. I'm confused as to which one you're
3 talking about.

4 Q. Let's go through it.

5 A. Okay.

6 Q. I'm going to show you what's been marked
7 as -- do you have it there?

8 MR. PODLEWSKI: Did you ask her about
9 that?

10 MR. RIESER: Yes.

11 MR. PODLEWSKI: You did. Okay.

12 BY MR. PODLEWSKI:

13 Q. Let's proceed anyway.

14 Mr. Rieser is handing you what's been
15 marked as Complainant's Exhibit A, and that is the
16 Phase I environmental site assessment report that
17 Pioneer did of the Martin's of Matteson site; is
18 that correct?

19 A. Yes, it is.

20 Q. Okay. And that report is dated May 30th,
21 1995?

22 A. I don't see the date.

23 Oh. Yes, yes.

24 Q. Okay. And subsequent -- immediately

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1 subsequent to that report, Pioneer then did -- are
2 you familiar with the term Phase II?

3 A. Yes.

4 Q. Okay. Do you know what a Phase II
5 environmental site assessment is?

6 A. That's when they put the wells in to do
7 the SVE wells.

8 Q. Or do any -- just take soil samples?

9 A. Yes.

10 Q. Immediately subsequent to
11 receipt -- to that Phase I work, is it correct
12 that Pioneer then proceeded to do a Phase II
13 environmental site assessment which was limited to
14 taking soil samples from two soil borings located
15 at the Martin's of Matteson site?

16 A. Yes.

17 Q. Okay. And you recall that work being
18 done?

19 A. Yes.

20 Q. And Exhibit B, Complainant's Exhibit B,

21 which is the June 2nd, 1995, report from Pioneer
22 that you have there --

23 A. This one, yes.

24 Q. Right. That reports the results of the

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1 phase -- that Phase II work; is that correct?

2 A. Yes.

3 Q. And that report concludes that based upon
4 the soil sampling and the analysis of soil samples
5 that there was evidence of perchloroethylene in
6 the soil samples that were taken; is that correct?

7 A. It does.

8 Q. Okay. And your testimony was that prior
9 to receipt of that report you had no idea that
10 there was perchloroethylene contamination at the
11 property; is that correct?

12 A. Yes.

13 Q. Is Pioneer the only environmental
14 consultant that you've hired to do Phase II
15 environmental work at the property?

16 A. Is he the only one that I've hired?

17 Q. Yes.

18 A. At the time that they did the work, there

19 was another consultant. KREC I believe was the
20 name.

21 Q. Is it K-R-E-C?

22 A. Yes.

23 Q. And KREC did work for you?

24 A. They only -- when they took the samples,

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1 he took samples alongside them. Pioneer did the
2 work, and he just took samples at the time they
3 did their samples.

4 Q. You hired KREC?

5 A. Yes.

6 Q. When I say you, I mean Martin's of
7 Matteson hired KREC?

8 A. He took samples. He did not do any
9 drilling or anything to the --

10 Q. But that wasn't my question.

11 A. Okay.

12 Q. My question was you hired KREC to take
13 soil samples at the property?

14 A. No.

15 Q. Why did you -- did you hire KREC?

16 A. Yes.

17 Q. Why did you hire KREC?

18 A. To work along -- to also study samples
19 with Pioneer.

20 Q. And when you say to also study samples,
21 what do you mean?

22 A. Well, when Pioneer took their samples,
23 they also took -- he took samples as well.

24 Q. KREC did?

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1 A. That's right.

2 Q. How did you come to hire KREC to do this
3 particular work sort of alongside Pioneer?

4 A. How did I come to hire them?

5 Q. Yeah.

6 A. He was in the environmental field, and I
7 knew him through the association as well.

8 Q. Okay. And why did you hire KREC to do
9 this work if you were already paying Pioneer to do
10 the same thing?

11 A. I wanted to.

12 Q. Sort of as a check on Pioneer's work?

13 A. Well, if you want to say it that way.

14 Q. Is that because you didn't trust Pioneer?
15 A. I wasn't sure. Truthfully, I was not sure
16 if I trusted them or not.
17 Q. Did you tell Mr. Persino at the time that
18 this initial Phase II work was being done that you
19 had hired another environmental consultant to take
20 sort of split -- I'll use the word split samples
21 -- to take split samples?
22 A. He was aware of it.
23 Q. He was aware of that.
24 Did you seek his approval to hire

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1 KREC?
2 A. I told him of KREC.
3 Q. Did you seek his approval to hire KREC?
4 A. Well, by telling him, I guess I was.
5 Q. And did he say fine, go ahead and use
6 KREC, or what was his response to that?
7 A. No problem.
8 Q. No problem. All right.
9 A. If there had been a problem with it, it
10 certainly wouldn't have been done.

11 Q. Did you ever receive a report from KREC on
12 the work that they performed?

13 A. Yes.

14 Q. And what were the results of that report?

15 A. The same as Pioneer.

16 Q. Okay. Do you recall receiving that report
17 before or after you received the June 2, 1995,
18 report that's been marked as Complainant's Exhibit
19 B?

20 A. I don't recall how I received them.

21 (Complainant's Exhibit S
22 marked for identification,
23 10-20-99.)
24

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1 BY MR. PODLEWSKI:

2 Q. I'm going to be showing you what's been
3 marked as Complainant's Exhibit S and I'll ask you
4 if you recognize that document?

5 A. Yes.

6 Q. And can you identify that for us?

7 A. This is the audit of the boring samples on
8 May 24th, '95.

9 Q. And this is the report that was done by
10 KREC?

11 A. From KREC.

12 Q. Okay. And you'll note that -- you'll note
13 that the date of the report is May 30th, 1995?

14 A. Yes.

15 Q. Do you recall now that this -- having
16 looked at this report, Complainant's Exhibit S,
17 and seeing it dated May 30th, 1995, do you recall
18 if you had this report or knew of the contents of
19 this report before you received the Pioneer report
20 dated June 2, 1995?

21 A. I don't recall receiving this report
22 before receiving this one. This is the one that I
23 received first (indicating). I know the date is
24 this.

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1 Q. I'm sorry. Just so the record is clear,
2 when you say the report you received, you were
3 touching the Pioneer report --

4 A. I'm touching the Pioneer report.

5 Q. -- when you said you received that first?

6 A. This is the report that I received first
7 (indicating).

8 Q. Please be clear.

9 A. I'm sorry. I'm so sorry.

10 Q. It's just that the court reporter can't
11 take down gestures.

12 A. I apologize.

13 The report that I received first was
14 the Pioneer report. I see there is a difference
15 in the date clearly, but this is the report that I
16 received first (indicating).

17 MR. RIESER: The Pioneer report?

18 THE WITNESS: The Pioneer report. The
19 Pioneer report. I'm so sorry.

20 HEARING OFFICER KNITTLE: Don't be sorry.
21 You're doing the best you can, and we'll help you
22 out when we can.

23 THE WITNESS: Thank you.

24

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1 BY MR. PODLEWSKI:

2 Q. Has anyone -- Strike that.

3 Isn't it true that you've been

4 provided with various reports from KREC, from
5 Pioneer all of which, with the exception of
6 probably the Phase I report that Pioneer did, all
7 of which indicate that there's evidence of
8 perchloroethylene contamination at the Martin's of
9 Matteson site and the surrounding area; is that
10 correct?

11 A. From the report of the Pioneer, yes.

12 Q. So all the reports say that?

13 A. Pioneer did the work, yes.

14 Q. Has anyone ever told you what the possible
15 source of that identified contamination is or was?

16 A. It may be from the dry cleaning machine.

17 I don't know.

18 Q. When you say it may be from the dry
19 cleaning machine, what do you mean?

20 A. That's the only one that has perc. That's
21 the only thing that has perc.

22 Q. Now, this KREC report, you did receive
23 that report, correct?

24 A. Yes.

1 Q. And you do recall reading that?

2 A. Yes.

3 Q. Okay. Directing your attention to the
4 page of the report that contains the conclusions
5 and recommendation which is the last page of the
6 narrative before the analytical results, do you
7 see that? It's the last page of the text that's
8 right before the analytical results?

9 A. Yes, yes, yes, yes.

10 Q. And is there a section that says there
11 conclusions and recommendations?

12 A. Yes.

13 Q. Okay. And in the paragraph above that, it
14 provides that the possible source of the --

15 MR. RIESER: Excuse me. I'm going to
16 object at this point in terms of what this report
17 -- any questions regarding technical conclusions
18 or the report either being read into the record or
19 eventually if the report is presented for an
20 exhibit.

21 Mr. Ross is not here as a witness.
22 The report itself is hearsay. It's not being used
23 as impeachment or anything else to contradict
24 anything that Mrs. Martin said. The only question

1 is was she told something, and what she is told by
2 someone else obviously a statement of hearsay by
3 that other person.

4 Mr. Podlewski could have called Mr.
5 Ross who prepared this report as a witness. He
6 chose not to do so. So to bring the report itself
7 in as a witness in the surrogate for Mr. Ross
8 where I can't cross-examine him regarding any of
9 his findings is to bring in inadmissible hearsay,
10 and I think -- and I object to the testimony
11 regarding this report on that basis.

12 HEARING OFFICER KNITTLE: You're objecting
13 to the testimony at this point only, correct?
14 You're not objecting to the -- he hasn't moved the
15 report.

16 MR. RIESER: Right. Of course not, but he
17 is about to say something about what's in this
18 report --

19 HEARING OFFICER KNITTLE: Right.

20 MR. RIESER: -- and that's a hearsay
21 statement.

22 HEARING OFFICER KNITTLE: Let's have your
23 response to specifically her testimony. You
24 haven't moved the report. I just want to hear why

1 her testimony is admissible.

2 MR. PODLEWSKI: Well, she's --

3 HEARING OFFICER KNITTLE: Because it does
4 seem to be fairly clearly hearsay, and I don't see
5 how her testimony impacts this one way or the
6 other.

7 MR. PODLEWSKI: But it goes to -- her
8 testimony goes to and I believe my
9 cross-examination of her at this point goes to
10 what she knows, has she ever been told what the
11 source of the contamination was, and the KREC
12 report, which she admits that she received, does
13 indicate what a possible source of the
14 contamination that was found at the property to
15 be.

16 It's not -- I'm not introducing it --
17 well, actually, I haven't introduced it yet. I'm
18 using it as a -- during cross-examination to probe
19 what she knew about and what she knows about a
20 possible source of contamination.

21 MR. RIESER: If she's getting -- if the
22 issue is what information did you get from

23 somebody else regarding the site, A, I don't know
24 how that's relevant, but, B, if the question is if

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1 you got information from somebody else regarding
2 that site, what that somebody else says is
3 hearsay, and I have the right to cross-examine
4 that person --

5 HEARING OFFICER KNITTLE: No. I
6 understand. We know the hearsay rules before the
7 Board are a little bit lax, but I don't see how
8 it's relevant, and that's why I'm inclined to
9 grant the objection and call a halt to this line
10 of questioning.

11 MR. PODLEWSKI: Well, one of the issues
12 here -- I mean, her testimony -- her direct
13 testimony went to did she observe any spills or
14 releases of perchloroethylene at the facility, and
15 there was a lot of testimony on that point. The
16 underlying premise is I don't know how this
17 contamination could have happened, I have no
18 information as to how this contamination could
19 have occurred because I handled perchloroethylene
20 properly the entire time that I operated the

21 facility. The fact of the matter is is that she
22 does have some information that suggests that the
23 perchloroethylene contamination may not be
24 necessarily from a release or mishandling of

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1 perchloroethylene, but may be simply from the
2 operation of the machine itself, something that
3 she -- is within her knowledge because she was
4 given a copy of the report that she testified that
5 she had, and that's what the report says. Is it
6 within her knowledge, yes or no?

7 HEARING OFFICER KNITTLE: One last thing,
8 Mr. Rieser?

9 MR. RIESER: Yeah. I mean, it's really
10 restating what it is before. Again, you're
11 talking about something that came from somebody
12 else, information that came from somebody else,
13 and we're always allowed the opportunity to test
14 the quality of that information.

15 You know, we've had in this case
16 itself, the Board sending a very clear signal that
17 on reports without any statements as to the

18 validity without the testimony or at least the
19 verification by the people who put those reports
20 together are not acceptable.

21 Again, we're talking about did she
22 get an observation from somebody else regarding
23 something having to do with the operation of the
24 facility, but what's the value of that

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1 observation? I can't -- excuse me. I can't test
2 the value of that observation, and, again, she has
3 given all of her observations required regarding
4 the equipment. She's not being asked for a
5 technical exoduses about, you know, where the
6 source of contamination could have come from.

7 She is being asked, as we've talked
8 about, for her observations, and she's given her
9 observations. She cannot appropriately testify to
10 somebody else's observations, but she can, Mr.
11 Hearing Officer, testify as to what she knows and
12 what she was told.

13 MR. PODLEWSKI: No. It's within the scope
14 of her knowledge. I don't intend, and I'll say it
15 right on the record right now, I don't intend to

16 introduce this exhibit into evidence because I
17 don't have Mr. Ross here, okay, but that's not to
18 say that I can't query the witness as to what she
19 knows.

20 MR. RIESER: But that's -- if you're going
21 to introduce a statement from your report, there's
22 no difference between that and having it accepted
23 into evidence.

24 MR. PODLEWSKI: It's cross-examination.

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1 It's cross-examination. I can use -- I can use
2 information that's not necessarily admissible
3 during cross-examination.

4 MR. RIESER: But it has to be for a
5 legitimate purpose. It has to be for --

6 HEARING OFFICER KNITTLE: Yeah. You're
7 not attacking her credibility I don't think. I'm
8 failing to see how this is appropriate
9 cross-examination. I'm not so sure I wouldn't
10 allow the report to come in. If you want to move
11 the report, like I said, there are relaxed
12 standards.

13 She's already stated and testified
14 that she's read the report and she's -- if she's
15 read the report, she's read the statement, and
16 you're trying to get her to admit that she has
17 knowledge of in the first place. I don't know
18 that I want her to be testifying as to what this
19 other person said.

20 Do you understand what I mean, Mr.
21 Podlewski?

22 MR. PODLEWSKI: No.

23 HEARING OFFICER KNITTLE: Well, regardless
24 of whether you understand it or not, the objection

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1 is going to be sustained, and I don't want you
2 questioning her on that particular aspect of this
3 report.

4 BY MR. PODLEWSKI:

5 Q. Do you have any -- Ms. Ross -- Ms. Martin,
6 do you have any knowledge at all as to how the
7 perchloroethylene contamination that has been
8 reported by Pioneer at the Martin's of Matteson
9 site, do you have any information at all as to how
10 that contamination could have occurred?

11 A. As far as how -- if there was
12 contamination, where did it come from?

13 Q. Yes.

14 A. There's only one place that I use perc,
15 and that was in my dry cleaning machine.

16 Q. Thank you.

17 Ms. Martin, during the time that you
18 operated the Martin's of Matteson facility, the
19 store, did you ever go on vacation during that
20 time?

21 A. No, I did not. I went to conventions.

22 Q. Right.

23 A. But when you enjoy what you do, it's not
24 difficult to come to work every day.

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1 Q. Were you ever sick -- out sick?

2 A. No, I was not.

3 MR. PODLEWSKI: I don't have any more
4 questions.

5 HEARING OFFICER KNITTLE: Mr. Rieser, do
6 you have a redirect?

7 MR. RIESER: I have no questions.

8 HEARING OFFICER KNITTLE: Ms. Martin,
9 thank you very much. You can step down.

10 THE WITNESS: Thank you.

11 HEARING OFFICER KNITTLE: Let's go off for
12 a sec.

13 (Discussion had
14 off the record.)

15 HEARING OFFICER KNITTLE: We're on the
16 record, and you can call your next witness.

17 Please state your name, sir.

18 THE WITNESS: Claude Stevens.

19 HEARING OFFICER KNITTLE: Would you mind
20 swearing him in?

21
22
23
24

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1 (Witness sworn.)

2 WHEREUPON:

3 C L A U D E S T E V E N S ,

4 called as a witness herein, having been first duly
5 sworn, deposeth and saith as follows:

6 DIRECT EXAMINATION

7 by Mr. Rieser

8 Q. Mr. Stevens, could you please state your
9 name and address?

10 A. Claude Stevens, 6207 South Justine.

11 Q. What's your current job?

12 A. My current job now is spotting.

13 Q. Where are you working?

14 A. Pardon me?

15 Q. Where are you working?

16 A. Park Cleaners on 95th Street, 3533 -- I
17 don't even know the address, but it's in the 30 --
18 on the block.

19 Q. How long have you worked in dry cleaning
20 jobs?

21 A. Twenty-five years.

22 Q. Where did you work before you worked at
23 your current dry cleaning job?

24 A. This one year?

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1 Q. Yeah.

2 A. I can't hardly remember. I hardly had --

3 almost all I ever did was dry clean -- dry
4 cleaning. I did have a job once before, but
5 that's been so long ago. The railroad when I was
6 about 17 years old. I went to the service.

7 Q. You were employed at the dry cleaning
8 facility known as Martin's of Matteson located on
9 Vollmer Road in Matteson, Illinois?

10 A. Yes, I was.

11 Q. How long did you work at Martin's?

12 A. About 13 years.

13 Q. Do you remember from when to when, from
14 what year to what year?

15 A. I can't recall from year to year, but I've
16 been there about that long.

17 Q. Were you there until she stopped dry
18 cleaning?

19 A. Yes. I come there and she stopped dry
20 cleaning. I started doing the dry cleaning.

21 Q. Did you work there until it closed in
22 1997?

23 A. Yes, I did.

24 Q. So it was 13 years until 1997?

1 A. Yeah, somewhere in that neighborhood,
2 yeah.

3 Q. Okay. So about 1984-85 to 1997; is that
4 correct?

5 A. That's correct.

6 Q. Okay. Do you remember where you worked
7 before Martin's?

8 A. I worked at One Hour Martinizing on
9 Belmont Avenue, Belmont and First Avenue before I
10 come to her.

11 Q. And how long did you work there?

12 A. I worked there about three years, three or
13 four years, somewhere in the neighborhood.

14 Q. Where had you worked before that?

15 A. I worked for another place on Irving Park
16 Road. I worked there for a good while, about 20
17 years there or something in that neighborhood.

18 Q. And the place you worked on Irving Park
19 Road, what did you do there?

20 A. I was a dry cleaner and spotter.

21 Q. Okay. When you work as a dry cleaner,
22 what do you do?

23 A. Well, you dry clean clothes, you know,
24 operate a machine and everything, but it was old

1 machines there because they were -- that's going
2 back before they had all the new stuff. They
3 didn't have perchloroethylene then.

4 Q. Okay. At the place you worked before you
5 worked for Martin's, did they have a newer
6 machine?

7 A. Yeah. They had the same type that they
8 had at Martin's, and they used perchloroethylene
9 there.

10 Q. Okay. What was your job at Martin's of
11 Matteson?

12 A. Dry cleaning and spotting.

13 Q. Did that job change during the time you
14 were there?

15 A. Well, sometimes I would do a little
16 pressing when they got behind a little bit or they
17 didn't have somebody there, but most of the time
18 most of my job was dry cleaning and pressing --
19 dry cleaning and spotting.

20 Q. Okay. And what did your -- when you dry
21 cleaned, what did you do?

22 A. Well, I operate the machine.

23 Q. The dry cleaning machine?

24 A. I operated the dry cleaning machine, and

1 when the clothes come out, I dry clean them. When
2 the clothes come out, then I would spot them and
3 put the clothes on one side -- pants on one side
4 and the clothes on the other side.

5 Q. Were you -- you understood that you used
6 perchloroethylene or perc in the dry cleaning
7 machine at Martin's?

8 A. Did I do what?

9 Q. Used perchloroethylene in the
10 dry --

11 A. I used perchloroethylene there, yeah.

12 Q. And you've worked with perchloroethylene
13 at other facilities as well?

14 A. I sure did. At the place on Irving Park
15 Road, they changed over to perchloroethylene.
16 They made them all change over to
17 perchloroethylene because there's no cleaners -- I
18 don't think there's no cleaners now that don't
19 have perchloroethylene because it's in all of them
20 now.

21 Q. Did you have any understanding as to any
22 hazards or dangers --

23 A. Yes.

24 Q. -- associated with perc?

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1 A. Very much so.

2 Q. What was that understanding?

3 A. It was a hazard to your health. They
4 didn't want you to breathe it, nothing at all.

5 Like, no open containers or nothing like that.

6 Everything is supposed to be sealed up, and, you
7 know, cleaning -- your cleaning machine was
8 supposed to be airtight. There's supposed to be
9 nothing -- no leaks or nothing from them.

10 Q. During the time you worked at Martin's,
11 did you observe any deliveries of perc?

12 A. Did I--

13 Q. Did you see them deliver perc to the shop?

14 A. Yeah. Oh, yeah, a lot of times.

15 Q. Was it your responsibility to be present
16 for the deliveries?

17 A. I was there all the time. Whenever a
18 delivery would come, if the delivery truck was
19 late, I stayed late until they got there if I knew

20 it was coming.

21 Q. What were the procedures for making a
22 delivery of perc at Martin's?

23 A. Well, when a truck would come, we had a
24 tank in the back. It's like a -- like the

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1 gasoline truck with a big hose, and they'd bring
2 it in and sit in the tank and put it on the tank
3 like this down in the tank.

4 Q. They put the nozzle --

5 A. Nozzle down in the tank and they're set
6 from the machine how much -- you've got 100
7 gallon, 200 gallon. It would set for that amount,
8 and when it gets to that amount, it would cut off,
9 cut off from the truck.

10 Q. So there was a pump on the machine that
11 the delivery man could set as to how much he was
12 going to deliver?

13 A. That's correct.

14 Q. Once it was delivered, then the pump cut
15 off?

16 A. After he set it to what he -- if I wanted
17 100 gallons in there, it would pump 100 gallons

18 and shut off.

19 Q. Did you ever observe a release or spill of
20 perc during a delivery to Martin's?

21 A. No. There was no leaks and no spills.

22 They are very, very careful with that. They were

23 -- the truck driver was very, very careful with

24 that.

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1 Q. When he brought his hose back from the
2 store, was he careful?

3 A. Yes.

4 Q. So there was never a drip or release from
5 the hose?

6 A. No drip or release from the hose.

7 Q. During the time you worked at Martin's,
8 were there any deliveries of perc where you were
9 not there?

10 A. No. I was always there.

11 Q. Okay. Now, did your responsibilities also
12 include changing the filters that --

13 A. Yes.

14 Q. -- Ms. Martin described?

15 A. Yeah.

16 Q. What were your procedures for changing the
17 filters?

18 A. Well, we would shut off -- we'd shut off
19 on Saturday night. We would drain all the
20 filters. We'd drain the filters, drain the perc
21 out of the filters and let it sit overnight, and
22 we'd change the filters on Monday. Come Monday
23 morning, we'd change the filters. There was no
24 perc in the filters when we changed them. You

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1 didn't get no spill from no filters.

2 Q. So how -- so you opened the valve, let the
3 perc drain out of the filters, and then you did
4 that on Saturday night right at closing, right?

5 A. Right.

6 Q. And then Monday what would you do when you
7 came in?

8 A. I'd come in and I open them up and take
9 them out, put them in the drum and put the new
10 ones in, and we would put the perc back in there.

11 Q. So you would -- you put the filters into a
12 drum, and where did you get the drum from?

13 A. Right in the back -- back at the back
14 door.
15 Q. Did the drum have a lid?
16 A. It had a top on it, yeah.
17 Q. So you'd have to open the lid to put the
18 filters in?
19 A. That's correct.
20 Q. And then after you put the filters in, did
21 you close the lid?
22 A. You'd close the lid back up.
23 Q. Did it have a lock or something on it?
24 A. No. It had a clamp that come and lock it

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1 like that, and some of them had that lock -- some
2 of them had the clamp on it that had a nut and
3 bolt on it. There were two different types.
4 Q. So the drums had either a screw or lever
5 --
6 A. They had a big screw go through and you
7 screw the nut on it and tighten it up.
8 Q. And then what would happen to the drums
9 with the spent filters after you would --

10 A. Well, when the man would pick them up, he
11 would bring two more new ones there.

12 Q. Were you present each time the filters
13 were changed during the time you worked at
14 Martin's?

15 A. I was present every time they were
16 changed.

17 Q. And did you do --

18 A. I'm the one who did all the changing.

19 Q. You did all the changing?

20 A. That's true, after I got there, not before
21 she was there, after I got there.

22 Q. When the filters were removed from the
23 filter assembly, were they wet or dripping with
24 perc?

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1 A. No, they wasn't wet.

2 Q. For how long would the drums be outside
3 before they were picked up by Safety Kleen?

4 A. Not over a day. You called them -- we
5 called when they -- and they'd come either Monday
6 evening or the following day.

7 Q. Okay. And during that time, the lid was

8 always kept on the drum?

9 A. Always closed.

10 Q. Okay. Did you ever observe any releases
11 or spills or drips of perc when you were changing
12 the filters?

13 A. No.

14 Q. Did you ever clean the base tank that was
15 beneath the driveway?

16 A. Yes, I have.

17 Q. How often would you do that?

18 A. We did it about once a year, sometimes
19 whenever it really needed it, maybe once a year or
20 six months. Six months to a year we did it.

21 Q. How was it done?

22 A. Well, we had a pump that we pumped the
23 perc out of the base tank into the drum, and the
24 -- if it was over 50 gallons, which it wasn't

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1 over 50 gallons, we used two, but one -- we only
2 put one in there, and then you would open up the
3 back where it's got six or eight screws in the
4 back where you open up that paddle and you'd tape

5 that open, and when you tape that open, there
6 you'd see the lint and stuff in there.

7 There was no perc in it because you
8 pumped all the perc out, and then you would clean
9 it out, clean all of the lint and stuff out of
10 there, all up there would be just as clean as this
11 table when we get through with it, shiny, but it
12 was done once -- about once.

13 Q. What would you use to clean the lint out?

14 A. Well, we used towels and things. I used
15 towels, I did, and rags. There was no perc. It
16 just -- it wipes it out. That's all.

17 Q. What did you do with the lint and stuff
18 that was on the bottom of the --

19 A. The lint and stuff when it come out of
20 there, I'd take it and put it in the drum, the
21 drum that Safety Kleen picked up. It picked all
22 that up together.

23 Q. And what would you do with the towels and
24 things that you used?

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1 A. Well, sometimes I would clean them, and
2 sometimes I would put them in there in the drum.

3 When I need it right away, I would clean, you
4 know. Then the rest of it, I'll put in the drum.

5 Q. Did you also put something down on the
6 floor while you were doing this?

7 A. Yeah. We always had towels or rags,
8 whatever, you know, down, always put those down
9 when you kneel down on the floor, but there was no
10 perc down there.

11 Q. Okay. Did you ever observe any drips or
12 releases of perc from the base tank when you were
13 doing that work?

14 A. No.

15 Q. Did you ever observe any releases of perc
16 from the drum that you pumped the perc into before
17 you cleaned out the base tank?

18 A. No.

19 Q. Did anybody else but you clean out the
20 base tank during the time you were working at
21 Martin's?

22 A. I did it when I was there only. Before,
23 like I said, I think she did it before I got
24 there.

1 Q. Eva?

2 A. Eva, yeah. Eva did it before I got there.

3 Q. But after you got there --

4 A. I did all of it, most of it.

5 Q. You did it all. Okay.

6 During the time that you worked at
7 Martin's, did you ever observe any perc spilled or
8 released on the floor inside the Martin's
9 premises?

10 A. No.

11 Q. During the time you worked at Martin's,
12 did you observe any perc spilled or released on
13 the ground outside?

14 A. No.

15 Q. Okay. Did you ever see any perc released
16 or spilled during a delivery?

17 A. No.

18 Q. Did you ever see any perc released or
19 spilled from the storage tank?

20 A. No.

21 Q. Did you ever see any perc released or
22 spilled from the dry cleaner machine?

23 A. No.

24 Q. Did you ever see any perc released or

1 spilled from the filter assembly?

2 A. No.

3 Q. Did you ever see any perc released or
4 spilled from the sniffer?

5 A. No.

6 Q. Did you ever see any perc released or
7 spilled from the drums which contained spent
8 filters?

9 A. No.

10 Q. Did you have an opportunity to see the
11 floor of the Vollmer premises after the dry
12 cleaning equipment was removed?

13 A. Yes.

14 Q. Did you observe any stains on the floor
15 where the equipment was located?

16 A. Like what?

17 Q. Like anything, any stains or anything on
18 the floor.

19 A. Oh, stains?

20 Q. Yeah.

21 A. No, there wasn't no stains. It was --
22 there was some grease on the floor, but there
23 wasn't no stains. I mean, perc don't stain
24 nowhere. Perc cleans. You know, anything on the

1 floor, perc would be clean as a...

2 Q. Did you observe any cracks in the floor
3 where the equipment was located?

4 A. No.

5 Q. During the time that you were at Martin's,
6 did anyone other than yourself or Eva Martin ever
7 operate the dry cleaning equipment?

8 A. No. I operated it after I got there.

9 Q. If there were times when Eva Martin was
10 not in the store, were you always present to
11 operate the dry cleaning equipment?

12 A. Yes.

13 MR. RIESER: I've got nothing further.

14 HEARING OFFICER KNITTLE:

15 Cross-examination?

16 MR. PODLEWSKI: Yes.

17 C R O S S - E X A M I N A T I O N

18 by Mr. Podlewski

19 Q. Mr. Stevens, how big was the base tank?
20 What was the capacity of the base tank?

21 A. The capacity -- well, the base tank was

22 100 gallons. The --

23 Q. That's fine. Thank you.

24 And what was the capacity of the

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1 storage tank?

2 A. The storage tank holds about 200 gallons.

3 Q. How many filters were on the machine?

4 A. Ten all total. Four -- let's see. One,
5 two, eight, yeah, ten.

6 Q. Now, you testified that in response to
7 Mr. Rieser's question that when the filters were
8 removed from the machine --

9 A. Yes.

10 Q. -- that they weren't wet.

11 Do you remember that?

12 A. Yes.

13 Q. That's what you testified to?

14 A. That's right.

15 Q. Were they dry?

16 A. Well, they was not wet. You know, wet and
17 dry is two different things. You know, when you
18 take them out, when we drain them, they was not
19 wet because there's steel on the outside and

20 inside is the liner.

21 Q. I understand, but my question is were they
22 dry?

23 A. It wasn't wet.

24 Q. Well, if they weren't -- well, still my

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1 question is were they dry to the touch, yes or no?

2 A. Yes, they were dry to the touch. Yeah,
3 they were dry to the touch. Maybe -- it was dry
4 to the touch, you know, whatever. They wasn't
5 wet.

6 Q. Might they have been damp?

7 A. They might have been damp.

8 Q. Now, Mr. Stevens, during the cleaning of
9 the base tank, you testified that the perc that
10 was in the base tank would be removed and put in a
11 drum, correct?

12 A. That's right.

13 Q. And then you would clean out the interior
14 base tank using rags?

15 A. That's correct.

16 Q. Okay. Approximately how much perc would

17 be removed from the base tank during this
18 operation?

19 A. Well, maybe 30, 30 gallons or maybe a
20 little more. It all depends, you know. You can't
21 just pinpoint it.

22 Q. Would it be -- would it be correct to
23 state that the tank would almost be empty at the
24 time that you did this when you cleaned it out?

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1 A. About 30 gallons in there. It holds 50
2 when you're cleaning. So I would say about 30
3 gallons would be in there.

4 Q. You also testified that you would, during
5 the time when you would clean out the base tank,
6 you would place towels or rags on the floor?

7 A. Yes.

8 Q. Okay. And what was the purpose of doing
9 that?

10 A. Well, you're on your knees and you've got
11 to put something down there because there was no
12 perc in the tank. You're only cleaning out the
13 lint on the side and the little muck or whatever,
14 you know, in there. You clean that out, dust

15 mostly. Dust hangs from the side, lint.

16 Q. So the purpose of putting towels or rags
17 on the floor during the cleaning of the base tank
18 was not to collect any drips of perc from the
19 machine during the cleaning operation, but rather
20 to keep your clothes clean while you were doing
21 that job; is that correct?

22 A. Right. Okay.

23 Q. Is that correct?

24 A. That's correct.

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1 Q. Now, the rags that you would use to clean
2 out the inside of the base tank, they would then
3 be placed in drums for pick up by Safety Kleen?

4 A. That's correct.

5 Q. Okay. Were the rags placed in plastic or
6 were they -- did you simply put them in the drums
7 as they were?

8 A. Most of the time I would -- I would put
9 them in there just like they were because there
10 was no perc in them. It's just the lint and stuff
11 from the machine. That's all it was. There was

12 no perc. All the perc was out. There wasn't

13 nothing in there to be wet.

14 Q. But you wouldn't place the rags in plastic

15 before you would put them in the drum for

16 disposal?

17 A. I never did.

18 Q. Do you know if Ms. Martin did?

19 A. I don't know. I didn't ask her.

20 Q. Okay. Did Ms. Martin ever take a vacation

21 during the time that you worked there?

22 A. I think she had taken one weekend after I

23 first got there.

24 HEARING OFFICER KNITTLE: Could you hold

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1 on a second sir?

2 THE WITNESS: Pardon?

3 HEARING OFFICER KNITTLE: Can you hold on

4 a second, sir?

5 (Whereupon, Mr. Pyles

6 entered the proceedings.)

7 MR. PODLEWSKI: This is my next witness.

8 HEARING OFFICER KNITTLE: Okay. Please,

9 start it up again. You were talking about --

10 MR. PODLEWSKI: Yeah. Could you read back
11 his answer? I'm sorry.

12 HEARING OFFICER KNITTLE: Sure.

13 (Record read.)

14 BY MR. PODLEWSKI:

15 Q. Any other time that she took vacations?

16 A. I can't recall any of the times.

17 Q. Was she ever out sick?

18 A. Yes. She was off sick one day.

19 Q. One day?

20 A. One day and come back.

21 Q. Any other times that she wasn't at the
22 business?

23 A. All those other times she was. Only about
24 one day I can recall.

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1 Q. Did Ms. Martin ever instruct you
2 personally to be extremely careful in working with
3 the machinery and not to take any action which
4 would result in release of perc? Did she ever
5 tell you that?

6 A. I already knew that. She didn't have to

7 tell me that. I already knew. I've been working
8 around perc before she even got a cleaners.

9 Q. I understand, but question was did she
10 ever --

11 A. No.

12 Q. -- specifically instruct you of that?

13 Just a couple other questions. When
14 the -- when the perc during the base tank cleaning
15 operations, when the perc was pumped out from the
16 base tank and put in the 55-gallon drum --

17 A. Uh-huh.

18 Q. -- you said there was about 30 gallons?

19 A. Something similar to that.

20 Q. Right. After the base tank was cleaned
21 out, what would then be done with that perc that
22 was put in the 55-gallon drum?

23 A. It would be put back in the machine
24 because it was not dirty, but when we would clean

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1 it, we would clean the base tank, not the perc.

2 Q. And how would that be put back in the base
3 tank?

4 A. Just the way I had taken it out with a

5 pump, pumped it from the tank back into the base
6 tank.

7 Q. So you'd reverse the flow --

8 A. That's right.

9 Q. -- from the drum to the base tank?

10 A. That's right.

11 Q. How was -- could you describe that pump
12 for me?

13 A. Well, it was a regular pump that you used
14 for perc. It had holes in the drum, and it went
15 one here and one goes into the tank, and then you
16 -- then you turn the electric on to pump it out
17 and pump it into the tank, and if you want it
18 brought back, you'd pump it back into the drum.

19 Q. So this was an electric pump?

20 A. Electric pump.

21 Q. Was that installed as part of the --

22 A. No.

23 Q. -- dry cleaning machine?

24 A. No.

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1 Q. It was external to the dry cleaning

2 machine?

3 A. The pump that you -- that you get when you
4 -- when you're changing your perc back and forth.

5 Q. All right.

6 A. We didn't have -- we didn't own that
7 pump. That pump -- the people that -- the perc is
8 the one who owned that pump, and I got it from
9 them for changing back and forth.

10 Q. Would the pump -- I'm trying to visualize
11 this.

12 Would the pump be on the floor?

13 A. Yeah. It sat right on the floor.

14 Q. Was it fastened to the floor?

15 A. No. You didn't have to fasten it. You
16 set it right on the floor and the pump went to the
17 -- in and out.

18 Q. Were there ever any releases of perc that
19 you observed from that pump?

20 A. No.

21 Q. From time to time, would you -- Strike
22 that.

23 Now, isn't it true that in the many
24 years that you were operating the dry cleaning

1 equipment that there might have been some drips of
2 perchloroethylene --

3 MR. RIESER: I'm sorry. At Martin's?

4 MR. PODLEWSKI: At Martin's, right, the
5 dry cleaning equipment at the Martin's of Matteson
6 facility.

7 BY MR. PODLEWSKI:

8 Q. (Continuing.) -- that there might have
9 been some drips of perchloroethylene that occurred
10 just in the nature of operating the dry cleaning
11 equipment or in the pumping of perc cleaning out
12 of the base tank?

13 A. (Shaking head.)

14 Q. You never saw any drips at all?

15 HEARING OFFICER KNITTLE: Sir, you've got
16 to either say yes or no. If you nod your head,
17 the court reporter can't pick it up.

18 BY THE WITNESS:

19 A. I can't -- I can't recall any drips.

20 BY MR. PODLEWSKI:

21 Q. As part of your job in operating the dry
22 cleaning equipment at the Martin's of Matteson
23 shop, did you also from time to time mop the
24 floor?

1 A. I mopped the floor at least once a week.

2 That floor was mopped once a week.

3 Q. How would you -- you'd have a bucket I
4 would take it that you would use to mop the floor?

5 A. Yeah.

6 Q. And once you mopped the floor, the dirty
7 water that you collected as you mopped the floor,
8 what would you do with that water?

9 A. Throw it down the drain outside.

10 Q. Outside?

11 A. Outside in the drain outside.

12 Q. There was a drain outside?

13 A. Right. Yes, sir.

14 Q. And when you say outside, was that behind

15 --

16 A. Behind the cleaners.

17 Q. By the back door?

18 A. A little bit past the back door. Right
19 down the driveway is a drain, a big drain.

20 MR. PODLEWSKI: I don't have any other
21 questions.

22 HEARING OFFICER KNITTLE: Mr. Rieser, do
23 you have a redirect?

24 MR. RIESER: Yeah. Just, I think, two

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1 questions.

2 R E D I R E C T E X A M I N A T I O N

3 by Mr. Rieser

4 Q. Mr. Stevens, you were asked about the
5 number of filters on the machine?

6 A. Yeah.

7 Q. And you said there were ten filters?

8 A. Let's see. Four, eight. It was ten.

9 Four -- let's see. It was eight carbon core and
10 two -- and two all carbon.

11 Q. And were these filters stored in cylinders
12 on the back of the filter assembly?

13 A. Yeah, uh-huh, yes.

14 Q. And how many cylinders on the back of the
15 filter assembly were there?

16 A. One, two, six, two, four, eight, it was
17 eight because I got -- there's ten filters all
18 total. I know that for sure.

19 Q. Were they -- how many filters would go
20 into one of these cylinder filter assemblies?

21 A. Two. Two filters would go in the -- in

22 the cylinder, two.

23 Q. In the cylinder.

24 So there were five cylinders that

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1 each held two filters?

2 A. Yes. There was ten all total. I changed
3 them so many times.

4 Q. When you -- you were asked some questions
5 -- he asked a question about mopping the floor.

6 When you were mopping the floor, was
7 there any perc on the floor?

8 A. No. We mopped the floor to keep it
9 clean. We wouldn't mop the floor for no perc.
10 There was no perc on the floor.

11 MR. RIESER: Nothing further.

12 MR. PODLEWSKI: I don't have anything
13 further.

14 HEARING OFFICER KNITTLE: Thank you, sir,
15 very much. You can step.

16 HEARING OFFICER KNITTLE: Okay. Thank
17 you.

18 MR. RIESER: Step down. You can leave.

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

21 (Discussion had
22 off the record.)

23

24

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1 (Whereupon, further proceedings
2 were adjourned pursuant to the
3 lunch break and reconvened
4 as follows.)

5 (Whereupon, Mr. Perkins
6 entered the proceedings.)

7 HEARING OFFICER KNITTLE: We're back on
8 the record after a lunch recess. A couple
9 housekeeping matters. Respondents' Exhibit D you
10 had reserved whether or not you had an objection.
11 Mr. Podlewski, do you have any objection to this
12 exhibit?

13 MR. PODLEWSKI: I do not.

14 HEARING OFFICER KNITTLE: That will be
15 admitted. Also, you stated off the record you are
16 not going to offer Complainant's Exhibit S?

17 MR. PODLEWSKI: That's correct.

18 HEARING OFFICER KNITTLE: But you will
19 offer Complainant's Exhibit R, which is an
20 affidavit of Eva Martin?

21 MR. PODLEWSKI: That's correct.

22 HEARING OFFICER KNITTLE: Is there any
23 objection to this exhibit?

24 MR. RIESER: No objection.

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1 HEARING OFFICER KNITTLE: That will be
2 admitted. You can call your next witness.

3 MR. RIESER: I call Mr. David Pyles.

4 HEARING OFFICER KNITTLE: Can you swear
5 him in, please?

6 (Witness sworn.)

7 WHEREUPON:

8 D A V I D P Y L E S, P. G.,

9 called as a witness herein, having been first duly
10 sworn, deposeth and saith as follows:

11 D I R E C T E X A M I N A T I O N

12 by Mr. Rieser

13 Q. Could you state your name and address for

14 the record, please?

15 A. My name is David Pyles. My address is
16 6744 North Lightfoot, Chicago, Illinois.

17 Q. Mr. Pyles, how are you currently employed?

18 A. I'm employed with the firm of Krikau,
19 Pyles, Rysiewicz and Associates.

20 Q. You're going to have to spell Rysiewicz?

21 A. Krikau is spelled K-r-i-k-a-u; Pyles,
22 P-y-l-e-s; Rysiewicz, R-y-s-i-e-w-i-c-z, and
23 Associates.

24 Q. Are you a principal in that firm?

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1 A. I'm a principal in that firm, yes.

2 Q. How long have you been with that firm?

3 A. Approximately six years.

4 Q. Where were you before that?

5 A. Prior to my employment with Krikau, Pyles
6 and Rysiewicz, I was employed by Fred G. Krikau
7 and Associates for one year.

8 Q. And what was your position with Fred G.
9 Krikau and Associates?

10 A. I was a vice-president and principal.

11 Q. Prior to being with Fred G. Krikau, where

12 were you?

13 A. I was with a firm by the name of

14 Environmental Restoration Systems.

15 Q. And where before that?

16 A. Prior to that, I was with an engineering

17 firm by the name of Roy F. Weston. I was with

18 Weston from 1984 to 1989.

19 Q. What is the -- what's your education?

20 A. I'm educated as a geologist.

21 Q. Did you receive any degrees from any

22 universities or colleges?

23 A. Yes.

24 Q. What were those degrees?

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1 A. I hold a degree in geology from Drake

2 University, and the second degree I hold is a

3 master of science degree in geology from Iowa

4 State University.

5 Q. When did you obtain those degrees?

6 A. I obtained my bachelor's degree in 1980

7 and obtained my master's degree in 1983.

8 Q. Do you have any certifications or

9 registrations?

10 A. Yes.

11 Q. What are those?

12 A. I have certifications in several states to
13 practice geology.

14 Q. What are the nature of those
15 certifications?

16 A. The nature of the certifications are the
17 state of Illinois is a licensing agency for
18 geologists. I hold a similar license with the
19 state of Indiana and the state of Iowa as well as
20 a license or a certification as a professional
21 geologist from the national accreditation known as
22 the American Institute of Professional Geologists.

23 Q. Have you studied in the area of
24 hydrogeology?

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1 A. Yes.

2 Q. What was that study?

3 A. The study was at Iowa State with my
4 master's degree, and after grad school, I took
5 postgraduate course work and additional
6 hydrological studies.

7 Q. What was the nature of those additions?

8 A. They were field applications of
9 hydrological methods.

10 Q. Have you written papers in the area of
11 hydrogeology?

12 A. Yes.

13 Q. How many would you say?

14 A. Approximately eight in environmental, the
15 arena pertaining to environmental matters as well
16 as geology.

17 Q. Have you prepared a curriculum vitae or CV
18 that describe your professional qualifications?

19 A. Yes.

20 MR. RIESER: Would you mark this, please,
21 as Respondents' Exhibit G?

22 (Respondents' Exhibit G
23 marked for identification,
24 10-20-99.)

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1 BY MR. RIESER:

2 Q. I'm showing you what's been marked as
3 Respondents' Exhibit G and ask you if that's a

4 true, correct, and current copy of your CV?

5 A. Yes.

6 Q. Okay. And does this list your

7 publications on the second page?

8 A. Yes.

9 Q. Prior to working for Roy Weston, it also
10 lists your employment history; is that correct?

11 A. Yes, it does.

12 Q. Prior to working for Roy Weston, you
13 worked for the United States Geological Survey?

14 A. Yes.

15 Q. What did that work entail?

16 A. I was a field hydrologist for the U.S.
17 Geological Survey in charge with data collection
18 for the High Level Radioactive Waste Isolation
19 Program with the principal responsibility of
20 drilling hydrologic test wells and performing
21 hydrologic tests on those wells.

22 Q. In your current position with what I'll
23 call for the ease of the court reporter KPR, are
24 you involved and does that position require you in

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1 any way to be involved in groundwater or

2 hydrogeologic investigations?

3 A. Yes, routinely.

4 Q. And to what extent? What do you do?

5 A. With my involvement with hydrologic
6 investigations, that would entail soil
7 investigations as well as groundwater
8 investigations in pursuit of defining contaminants
9 and the hydrogeological properties of the soils.

10 Q. Throughout your employment history, have
11 you been involved in the same types of
12 investigations?

13 A. Yes.

14 Q. How many groundwater investigations would
15 you say you've been involved in?

16 A. Numerous groundwater investigations. I
17 would estimate in excess of 50.

18 Q. And how many of those were in Illinois?

19 (Whereupon, Ms. McFawn entered
20 the proceedings.)

21 BY THE WITNESS:

22 A. I would estimate approximately 25 to 30.

23 BY MR. RIESER:

24 Q. Are you familiar with a groundwater

1 investigation that was performed at 5603 West
2 Vollmer Road in Matteson, Illinois, referred to as
3 the Martin's of Matteson facility?

4 A. Yes.

5 Q. In what way are you familiar with them?

6 A. I was provided documents pertaining to an
7 investigation performed by Pioneer Environmental.

8 Q. Do you recall the documents you reviewed
9 in connection with that facility?

10 A. Yes.

11 Q. What were those documents?

12 A. I believe they were described in my
13 affidavit.

14 Q. As part of your involvement with that
15 facility, were you asked to prepare an affidavit
16 which included a description of the documents that
17 you reviewed?

18 A. Yes.

19 MR. RIESER: Would you please mark this as
20 Respondents' Exhibit H?

21 (Respondents' Exhibit H
22 marked for identification,
23 10-20-99.)

24

1 BY MR. RIESER:

2 Q. Mr. Pyles, I'm showing you what has been
3 marked as Respondents' Exhibit H and ask if that's
4 the affidavit that you were referring to in your
5 last answer?

6 A. Yes.

7 Q. And in paragraph two of that affidavit,
8 does it describe the exhibits -- the documents
9 that you reviewed in connection with this case?

10 A. Yes.

11 Q. Are there any other documents that you
12 reviewed in connection with the case?

13 A. Other than these, there were some
14 technical references that I reviewed which are
15 typical reference sources.

16 Q. What are those reference sources?

17 A. Those were textbook type of references.

18 Q. Would those include the references that
19 Mr. Perkins referred to in his deposition
20 transcript which is identified in your affidavit?

21 A. Yes. They're similar types of references,
22 many identical.

23 Q. So you have reviewed -- in addition to all

24 the other documents you reviewed, you reviewed the

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1 Pioneer report of September 10th, 1996, which has
2 been entered in this matter as Complainant's
3 Exhibit E?

4 A. Yes.

5 Q. Based on your experience and training and
6 the documents you've reviewed, do you have an
7 opinion as to whether the samples taken from the
8 groundwater wells by Pioneer and reported in their
9 September 10th, 1996, report, which is Exhibit E
10 in this matter, are representative of the
11 groundwater conditions at the site?

12 A. Yes, I have an opinion.

13 Q. What is that opinion?

14 A. My opinion is is that the samples and the
15 information contained in here are unreliable, and
16 I have some doubts with the information presented.

17 Q. What's the basis for that opinion?

18 A. Upon review of the techniques in which the
19 samples were collected and certain monitoring
20 wells were installed, I found some fundamental

21 errors with the procedures used.

22 Q. Could you describe those errors?

23 A. Well, within the report, it appears that
24 the soil samples were obtained using a bucket

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1 auger, which is a hand tool which is used to drill
2 soils and obtain samples, and when you use this
3 type of tool, the tool is taken in and out of the
4 borehole repeatedly in order to obtain the
5 sample.

6 By that mere method alone without
7 having some sort of casing to isolate the hole as
8 you advance the borehole, it allows surficial
9 contaminants and/or if you hit, for example,
10 underneath a concrete floor fill materials that
11 may have moisture, it allows for contaminants to
12 carry through and down the borehole repeatedly.

13 Without properly casing a hole or
14 sealing a hole using traditional methods such as a
15 hollow stem auger, it introduces error into the
16 sampling procedure.

17 Q. When you use the phrase bucket auger, is
18 that the same thing as a hand auger?

19 A. Yes.

20 Q. Are there other issues associated with
21 hand -- the use of hand augers for constructing a
22 monitoring well as opposed to hollow stem augers
23 that also provide a basis for your opinion?

24 A. Yes.

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1 Q. What are they?

2 A. When you install a monitoring well with
3 this hand auger using that technique, the borehole
4 diameter with those are typically
5 three-and-one-quarter-inch, perhaps as much as
6 three-and-one-half inches. The monitoring well's
7 diameter depicted within the Pioneer report is a
8 two-inch monitoring well, which leaves the
9 borehole diameter with a two-inch hole in it. The
10 space between the outer side of the pipe and the
11 borehole is referred to as the annulus.

12 That annulus or annular space when
13 you're installing in a well needs to be properly
14 sealed and the materials placed in and around the
15 screen in the annular space above the screen,

16 which is the riser pipe, need to be properly
17 sealed, and it's critical that you have proper
18 placement and proper construction during this
19 process.

20 If you have an unsealed hole in that
21 case, contaminants may sluff in the hole. By
22 going in and out of the hole with the bucket
23 auger, you have an amalgamation of borehole
24 materials from top to bottom. By bringing well

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1 screen and putting it down an uncased hole, you
2 could smear the screen on the way down, and if you
3 drill through permeable materials above a denser
4 material, you have perched water that can
5 infiltrate and show you contaminants at a depth
6 much greater than is really there.

7 So by constructing a monitoring well
8 in a bucket auger's hole, it introduces a great
9 number of variables in which errors could be
10 introduced.

11 Q. Which error?

12 A. Errors, plural.

13 Q. Okay. When you -- can you describe

14 briefly the differences between constructing a
15 well using a hollow stem auger and constructing it
16 using a hand auger in terms of how the issues of
17 placement of the sand in a monitoring well
18 construction are achieved?

19 A. Yes. The difference -- first, the hollow
20 stem auger technique is a technique that is
21 industry standard for the installation of
22 monitoring wells. Hollow stem augers allow you to
23 essentially corkscrew an auger into the ground as
24 the hole is advanced to the desired depth.

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1 While that auger is being
2 corkscrewed, you have the opportunity to do a
3 sample ahead of the auger to obtain undisturbed
4 samples; whereas, the bucket auger generates
5 disturbed samples. So by corkscrewing the auger
6 into the hole, you remove a center plug bit which
7 keeps the cuttings from coming up the interior.
8 So, in essence, you've corkscrewed a hollow pipe
9 into the ground.

10 When you construct your monitoring

11 well, the inner diameter of the hollow stem auger
12 minimum is four-and-one-quarter inch. You set the
13 two-inch screen with riser pipe down the middle of
14 that hollow stem auger, and you place your
15 materials around -- within the annular space and
16 build the well from the bottom up.

17 Q. And you do -- and is it correct that you
18 do that while the hollow stem auger is still in
19 the ground?

20 A. Yes. The hollow stem auger is still in
21 the ground at the desired depth in which your
22 placement is, and you start adding -- for example,
23 around your well screen, you would add your filter
24 sands. As you lift your auger up, the outer

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1 diameter of the hollow stem auger, which is
2 approximately nine inches, becomes your borehole
3 diameter, and you have a two-inch pipe in the
4 middle of that, and your filter pack sluffs out of
5 the bottom of the auger as you raise your hollow
6 stems up which gives you an effective annular
7 filter pack of sand greater than the four inches
8 because it's coming out the bottom, and you keep

9 sand inside your auger as you lift up and you lift
10 your augers up as it sluffs out of the bottom of
11 the auger until you get above your well screen.
12 Typically, two feet is kind of a rule of thumb,
13 two to three feet.

14 Q. Two to three feet of what?

15 A. Above -- filter sand above the top of the
16 well screen. That's desired. The reason you have
17 that is because it may settle over time and it
18 assures proper sand placement.

19 Once you're above the well screen,
20 typically, bentonite pellets are used to seal the
21 well and then a grout mixture is placed above the
22 bentonite pellets, and the grout mixture is
23 typically a bentonite type of material.

24 Q. And how is that different than using a

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1 hollow stem auger, all those steps you've just
2 described?

3 A. Do you mean a bucket auger?

4 Q. Bucket auger. I'm sorry.

5 A. The hollow stem method I just described

6 differs from the bucket auger technique in the
7 sense that the bucket auger technique doesn't
8 allow adequate placement of well construction
9 materials. You have a three-and-a-half-inch
10 borehole that is uncased. So the side walls may
11 collapse or swell or fall into the hole.

12 If you're standing the pipe in there,
13 it's very difficult to get it exactly centered in
14 a small diameter hole. So when you pour your
15 materials down the hole, you'll have uneven
16 placement of well construction materials. So, in
17 theory, if you put a screen down an uncased hole,
18 you may smudge and get contaminants on the side of
19 the screen during the insertion of the screen down
20 the hole.

21 Then when you place your screen
22 materials around -- the sand materials around your
23 screen, you may have uneven distribution. So you
24 may, in effect, have no sand screen -- screening

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1 materials around your well screen. Likewise, when
2 you place your grout seal or your pellets, it's
3 nearly impossible to get a good tight seal.

4 Q. Why is that?

5 A. Because the diameter of your annular space
6 is generally less than an inch-and-a-half, and
7 when you set your pipe in a hole, it will have
8 some deflection vertically, and it may be leaning
9 to one side.

10 Q. So it might lean from one side to the
11 other?

12 A. Yes. It may lean from one side to the
13 other.

14 Q. And so what does that mean in terms of
15 creating a seal?

16 A. It creates a defective seal. You can have
17 vertical contaminants migrating down the well from
18 the surface or from above.

19 Q. Now, is it accurate that the way the
20 bentonite seal is created is by placing the
21 bentonite chips and then pouring water on them; is
22 that correct?

23 A. Sometimes that's done to hydrate the
24 bentonite pellets or chips.

1 Q. And then do they expand as a result of the
2 water coming in on top of it?

3 A. Yes.

4 Q. Does that -- is the expansion of bentonite
5 in a well created by using a bucket auger
6 sufficient to create an adequate seal for the top
7 of the well?

8 A. You don't know. That's the problem. And
9 that gets back to why you don't use bucket augers
10 to create monitoring wells.

11 Q. Why don't you know?

12 A. Because you don't know if you've had
13 adequate well placement of your materials, and
14 there may be a vertical conduit created by a small
15 annular space in an uncased well.

16 Q. Because the pipe itself may be --

17 A. It may be leaning.

18 Q. -- leaning from one side to the other?

19 A. Correct.

20 You may have materials that have
21 fallen into the hole during your construction that
22 may have inhibited proper placement or a uniform
23 placement of the materials.

24 Q. Uh-huh. Were there any other things that

1 Pioneer has described in their September 10th
2 report that's Exhibit E that they did or didn't do
3 that also supports your opinion?

4 A. Well, they had a variety of protocols
5 listed that --

6 MR. PODLEWSKI: What?

7 THE WITNESS: Protocols?

8 MR. PODLEWSKI: What was the previous
9 word? Variety?

10 MR. RIESER: Variety.

11 THE WITNESS: Yes. They have a variety of
12 protocols.

13 MR. PODLEWSKI: A variety of protocols.

14 Okay.

15 BY THE WITNESS:

16 A. I believe they had two protocols in there,
17 one for soil sampling and another one for
18 groundwater sampling.

19 BY MR. RIESER:

20 Q. Did the protocols discuss how the wells
21 were to be developed and purged?

22 A. They reference to some standard methods.

23 Q. Do you recall what those were?

24 A. I believe they were ASTM methods.

1 Q. I think if you'll look at Appendix C of
2 Exhibit E, it will...

3 A. Yes. Appendix C contains a groundwater
4 monitoring well installation and sampling
5 protocol. That's what I referred to as the
6 protocols.

7 Q. Were there things that Pioneer did or
8 didn't do in terms of the development of the well
9 that support your opinion?

10 A. Yes. According to their protocol, prior
11 to sample collection, the wells are to be purged
12 by removing a maximum of three to five well
13 volumes, and development, they called for five to
14 ten well volumes from each well.

15 Q. What's the different between development
16 and purging?

17 A. Development is a term that is used to
18 remove the sediments and the siltation within a
19 well, and it introduces flow from the aquifer to
20 the well. It's done after drilling and after your
21 materials have had time to cure, swell, and
22 appropriately set up.

23 Typically, you don't develop a well
24 immediately after construction. Once the

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1 materials have stabilized, you remove and agitate
2 the material in the well in order -- the water in
3 the well to remove the fines and any materials
4 that may have been introduced during the
5 construction process, and it also helps settle out
6 the sand so you have a uniform packing of sand and
7 even distribution of sand around the well.

8 Q. Go ahead.

9 A. The purging refers to the removal of
10 stagnant or static water within the well prior to
11 collecting a sample for analytical purposes, and
12 the difference is is obviously one is part of the
13 completion of construction and the other one is
14 for analytical purposes.

15 Q. Can you tell by the report what Pioneer --
16 whether Pioneer followed that protocol or not?

17 A. It appears that they departed from the
18 protocol.

19 Q. In what way?

20 A. The wells themselves did not yield

21 suitable quantities of water for them to follow
22 their protocol.

23 Q. In terms of the development?

24 A. Development as well as well sampling. The

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1 development, there's several ways you can develop
2 a monitoring well. Usually, it's an agitation
3 method where you take a bailer or a pump and pump
4 the water out to clean-up the well and get pure
5 and less turbid -- turbid-free water.

6 Pioneer encountered wells that did
7 not yield water, and then at other occasions
8 yielded water, and when they yielded water, they
9 evacuated the wells dry which did not allow for
10 any development to occur. That was the best they
11 could do because the wells were of such poor
12 yield.

13 Q. When you say it's the best they could do,
14 are there industry protocols for how wells with
15 very low recharge weight ought to be developed?

16 A. Yes.

17 Q. What are they?

18 A. There's other ways that it can be done.
19 One of them is a washing technique where ultrapure
20 deionized water is placed down the well and
21 agitated or surged back and forth in and out of
22 the screen and then removed and evacuated, and
23 this process is repeated. That's one way to
24 develop a low yielding well.

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1 Q. Are there other ways?

2 A. There's one other way. It's called surge
3 blocking, and that's where you just place one
4 volume of water down the well and basically push
5 and pull the water in and out and use the same
6 water, similar.

7 Q. Are there other deviations from the
8 protocols that you're aware of?

9 A. The purge volumes requested they remove
10 three to five volumes of static water prior to
11 sample collection. I don't believe they removed
12 three to five volumes of water.

13 Q. Okay. What happens when you don't do
14 that?

15 A. What happens is is you have stagnant water

16 or water that may be resident within the sand
17 materials or, in this case, we don't know where
18 the water is coming from if the well is improperly
19 constructed. You're not -- you're getting
20 stagnant water rather than water representative
21 truly of what the aquifer is yielding.

22 Q. Given that these are low permeability, low
23 recharge wells, would it be common to remove three
24 to five volumes for purging purposes prior to

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1 taking a sample?

2 A. That would be ideal. However, in low
3 yielding formations, many times it's not possible
4 to get that within an allotted time period. If
5 the well yields, it's a matter of time before he
6 has adequate volume.

7 Q. So what do you do with wells that are --
8 to purge wells that are under those conditions?

9 A. Typically, you evacuate the well dry, you
10 allow it to recover, and upon its recovery, you
11 could, A, depending on how fast recharge is, elect
12 to purge it again or collect your sample.

13 Typically, you need -- you would like to have
14 several rounds of purging conducted prior to
15 collecting your sample.

16 Q. And, again, what happens in terms of the
17 sample reliability if you don't have that type of
18 purging?

19 A. It diminishes its reliability.

20 Q. In what way?

21 A. It diminishes the reliability of the
22 sample in the sense that your water that is
23 resident in the well may be there and starting
24 degradation. It may be exposed to the sand pack.

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1 It may not be truly representative of aquifer
2 water.

3 Q. Would that necessarily bias the sample one
4 way or the other?

5 A. It could go either way. It could go to
6 representing lower concentrations that are there
7 in the sense that the well has had time to oxidize
8 and volatilize some of the contaminants, or if you
9 have an improperly constructed well, you may be
10 receiving recharge from other sources not truly

11 groundwater, which would bias you to the high.

12 Q. So the failure -- it's accurate that the
13 failure to develop and purge properly has an
14 impact on the reliability of the samples; is that
15 correct?

16 A. Yes.

17 Q. Does the fact that the well recharges
18 slowly diminish that impact?

19 A. I don't think I understand your question.

20 Q. One of the issues with development of the
21 well is the removal of the construction --

22 A. Correct.

23 Q. The contaminated part -- particles of
24 material from elsewhere in the borehole that may

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1 have fallen to the bottom of the borehole and may
2 have contaminants adhere to them, correct?

3 A. True.

4 Q. So one of the purposes of development is
5 to remove those fines, correct?

6 A. Correct.

7 Q. If the well is a low recharge -- recharges

8 at a very slow rate, is there a danger that those
9 fines would still be picked up by the sample even
10 with the slow rate of recharge?

11 A. Yes. In that context, yes. If you don't
12 adequately develop and purge, you may have carry
13 down or other contaminants resident in them. That
14 was the amalgamation of the materials coming in
15 and out of the hole, and it ties back to the
16 construction of the well. If you don't properly
17 develop and get adequate development, you could
18 have materials remaining within the well that are
19 not representative of groundwater chemistry other
20 than an artifact of the construction.

21 Q. Now, these issues you've talked about, the
22 use of a bucket auger rather than a hollow stem
23 auger, the development and purging, are these
24 issues that -- Strike that.

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1 You've talked about several different
2 issues including the use of a hollow stem --
3 bucket auger rather than a hollow stem auger and
4 the development and purging of the well, and it's
5 your testimony that these all affect the

6 reliability of the sample results; is that
7 correct?

8 A. That is correct.

9 Q. Are these -- is the effect that these
10 different issues have on this reliability of the
11 sample results, is that cumulative? In other
12 words, do they all add on each other?

13 A. Yes, and is cumulative.

14 Q. In what way?

15 A. In the fact that you don't know which
16 effect has affected your results. You don't know
17 if your well is properly constructed. You don't
18 know if it's properly developed. Just in
19 departure from protocol, you don't know how or
20 what you're truly looking at in the data results.

21 Q. Based on your experience, did you also
22 review -- Strike that. Let me start over.

23 Did you also review the Pioneer
24 report, which is Exhibit E, with respect to its

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1 conclusions regarding the existence of groundwater
2 at the site?

3 A. Yes.

4 Q. Based on your experience, training, the
5 documents reviewed, do you also have an opinion
6 regarding Pioneer's finding as to the extensivities
7 of groundwater at the site?

8 A. Yes.

9 Q. What is that opinion?

10 A. My opinion is is that I don't know if
11 they're truly looking at groundwater at this site.

12 Q. And what's the basis for that opinion?

13 A. The basis of that opinion is what we've
14 just discussed with the construction and
15 reliability of the construction techniques and the
16 installation of the well, the well development,
17 and the sampling protocols. The conclusion that
18 groundwater is there, there was enough error there
19 that to me it doesn't seem to be an area where I
20 would be confident in stating that it's truly
21 representative of groundwater at the site.

22 Q. When you say there's enough error there,
23 what do you mean?

24 A. The errors that were compounded by the

1 techniques of the investigation is what I'm
2 referring to.

3 Q. So, for example, the failure to have a
4 proper seal on the wells?

5 A. That would contribute to it, yes.

6 Q. In what way?

7 A. By not having a proper seal, you may be
8 having infiltration into your well from surficial
9 sources or sources other than groundwater.

10 Q. Is the information that's presented --
11 given the totality of information presented in the
12 September 1996 Pioneer report that we've been
13 talking about, including both the boring logs from
14 their prior work as well as their results of the
15 last round of work, does that information taken
16 together present enough information in your
17 opinion to conclude that there's groundwater at
18 the site?

19 A. The information presented leaves me in a
20 position as saying I don't know. I think there's
21 enough construction errors and flaws in the
22 methodology used whereas I don't believe you can
23 conclusively say that there's groundwater there.

24 Q. Does it enter into your opinion that the

1 groundwater was identified in the 1996
2 investigation, but not identified in most of the
3 borings in the 1995 investigation?

4 A. I find that interesting in the sense that
5 it appeared one year and the next year it wasn't
6 -- it wasn't there the first year, and the next
7 year it was there.

8 Q. What does that tell you regarding the
9 site?

10 A. It tells you, perhaps, there could be an
11 intermittent condition. It could be a condition
12 whereby you could have water in transit. I think
13 if you look at groundwater, you need to look at
14 the whole hydrologic system rather than just
15 focusing on the one specific aspect of it.

16 Q. When you reviewed the September 1996
17 Pioneer report, did you see any information
18 regarding climatic or meteorological data at the
19 time the work was being performed?

20 A. I did not see anything to that effect.

21 Q. Does the lack of that information have
22 anything to do with your opinion?

23 A. Yes.

24 Q. In what way?

1 A. In the sense that when you look and
2 perform a hydrogeological study, you need to look
3 at all conditions. Looking solely at groundwater,
4 groundwater is a unique system whereby you have
5 different zones of saturation, capillary fringe,
6 and infiltrating waters.

7 By merely sticking a well through a
8 concrete floor and uncasing it and improperly
9 constructing it, in essence, you've put a straw in
10 the ground that may be acting as a sump or a
11 reservoir which fluids may accumulate. By a
12 classic definition, yeah, we have a straw and a
13 sump in the ground that may accumulate water, then
14 it must be groundwater. In some definitions, that
15 may be true. However, when you see intermittent
16 conditions tied to meteorological, one year it's
17 there and the next year it's not, draws into some
18 level of suspect.

19 Q. I'm sorry. What is suspect?

20 A. The suspect if you're truly monitoring
21 groundwater conditions here.

22 Q. I'm going to show you what's been marked

23 as Complainant's Exhibit M, which is the affidavit
24 of C. Michael Perkins, and ask if that was one of

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1 the documents that you reviewed in preparing for
2 your testimony?

3 A. Yes, it is.

4 Q. Attached to that affidavit is a map that's
5 identified as July 25th, 1996, potentiometric,
6 p-o-t-e-n-t-i-o-m-e-t-r-i-c, surface map.

7 Do you see that map?

8 A. Yes.

9 Q. As a high hydrogeologist, what does that
10 map tell you about conditions at the site, if
11 anything?

12 A. The map shows some very odd data or some
13 odd results.

14 Q. In what way?

15 A. Well, it's really odd to see a hydrologic
16 elevation change over a short distance of five
17 feet. That, to me, is a bit odd. Usually, it's
18 not that radical.

19 Q. I'm sorry. Is it correct to say that that

20 map depicts about a five-foot tall mound of water
21 in the middle of the site?

22 A. Yes.

23 Q. Okay.

24 A. As well as a very strong gradient as well

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1 in some other aspects of the site.

2 Q. What do you mean by a strong gradient?

3 A. That the fall from five feet or the slope
4 of the water surface is fairly steep is what I
5 mean.

6 Q. Have you visited the site?

7 A. I've been at the site, but I've not
8 inspected it.

9 Q. Would you agree that the site is
10 relatively flat?

11 A. Yes.

12 Q. Are there any topographic features of
13 which you are aware that would account for this
14 mound?

15 A. There's no topographic features that I saw
16 that would amount to this type of a change of
17 gradient.

18 Q. Based on the information you have, does
19 the presence of this mound tell us anything about
20 the site?

21 A. Yes. I think it tells you that you may
22 have some errors in your data in your monitoring
23 well system to have such radical errors over a
24 short distance. That may be indicative of this.

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1 To have a groundwater mound, typically that
2 indicates some source of a recharge. That's like
3 the peak of a hill.

4 I find it a little odd that you have
5 a recharge source underneath the building floor
6 that's got a roof over it and a cap and concrete
7 footers around it to have the groundwater high
8 there. Typically, a recharge zone is where water
9 gains or has access to the ground.

10 So if you have a monitoring well
11 there, I really wonder if it's under a building if
12 you're really looking at water gain from a
13 precipitation event or else if you're monitoring,
14 perhaps, sewer water or some other source and

15 erroneously calling it groundwater.

16 Q. Looking at the Pioneer report, Exhibit E
17 and Appendix C that you were looking at earlier,
18 do the groundwater protocols follow the sampling
19 protocols? You agree that those are standard
20 protocols in the industry?

21 A. Somewhat.

22 Q. In what way are they not?

23 A. I've seen other protocols that are more
24 definitive.

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1 Q. In other words, more descriptive in terms
2 of what one is supposed to do?

3 A. Yes.

4 Q. On the second page of those protocols, the
5 last paragraph talks about field blanks --

6 A. Correct.

7 Q. -- as a quality control tool for
8 groundwater sampling?

9 A. Yes.

10 Q. What are field blanks and what are they
11 intended to do?

12 A. The field blanks are water that is

13 ultrapure water that is provided by the laboratory
14 and is brought out to the site and is used to
15 demonstrate the adequacy of your decontamination
16 process of your tools.

17 So if you're using, perhaps, a bailer
18 from one monitoring well to the next or if you're
19 sampling a -- using a bucket auger from one hole
20 to the next, to make sure that you're cleaning the
21 tools properly and thoroughly, this is a test in
22 which you can evaluate the adequacy of that
23 decontamination process and show that you haven't
24 had cross contamination between monitoring wells

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1 or in sampling episodes with the soil sample.

2 Q. Is that different from a trip blank?

3 A. Yes.

4 Q. What's a trip blank?

5 A. A trip blank is typically used to show
6 that no contaminants were introduced along the
7 chain of the sampling episode being from the time
8 the grass bore was sent from the laboratory to the
9 field during the sampling process and back to the

10 lab. That's to say that it didn't pick up any in
11 transit or any ambient contamination along the
12 trip.

13 Q. Would the failure to have field blanks or
14 trip blanks performed as part of the sampling by
15 Pioneer have any impact on your opinion as to the
16 reliability of the results?

17 A. Yes.

18 Q. In what way?

19 A. It further draws into suspicion as to the
20 accuracy and reliability upon the data set.

21 Q. Why is that?

22 A. Because you don't know if from one well to
23 the next if contaminants were brought along with
24 it. You don't know if contamination was brought

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1 upon the site from another site where cross
2 contamination may have occurred, and that's the
3 sole purpose of having a quality assurance and
4 quality control protocol.

5 Q. Would that be true even if you assumed
6 that all of the protocols in terms of the
7 decontamination between boreholes were actually

8 followed?

9 A. If you have a technique and method to
10 decontamination to avoid the cross contamination
11 issue, the test of a field blank would determine
12 or demonstrate the adequacy of your technique. So
13 that would essentially reduce that variable
14 substantially and at least document to the user
15 that no cross contamination was occurring.

16 MR. RIESER: I have no further questions
17 at this time. I'd move for the admissions of
18 Respondents' Exhibit G and Respondents' Exhibit H.

19 HEARING OFFICER KNITTLE: We'll start with
20 Respondents' G, the CV of Mr. Pyles.

21 MR. PODLEWSKI: I have no objection.

22 HEARING OFFICER KNITTLE: That will be
23 admitted.

24 Respondents' H was the affidavit of

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1 Mr. Pyles?

2 MR. PODLEWSKI: I have no objection to
3 that one either.

4 HEARING OFFICER KNITTLE: That will be

5 admitted as well. Let's take a -- yeah.

6 MR. PODLEWSKI: Were you going to take a
7 break?

8 HEARING OFFICER KNITTLE: Are you
9 requesting a break?

10 MR. PODLEWSKI: Yes, I am.

11 HEARING OFFICER KNITTLE: Let's take a
12 short break. We'll go off the record.

13 (Break taken.)

14 HEARING OFFICER KNITTLE: We're back on
15 the record, and it is -- Mr. Podlewski, you have a
16 cross-examination of this witness. Let me remind
17 you you're still under oath. You probably know
18 that.

19 THE WITNESS: Yes, sir.

20 C R O S S - E X A M I N A T I O N

21 by Mr. Podlewski

22 Q. Mr. Pyles, good to see you again.

23 You testified on your direct
24 examination that in Illinois you've performed

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1 between 25 and 30 groundwater investigations; is
2 that correct?

3 A. Yes.

4 Q. How many of those 25 or 30 involved
5 installation of groundwater -- installation and
6 sampling of groundwater monitoring wells by you
7 personally?

8 A. Me personally, I'd estimate 90 percent of
9 those.

10 Q. And of -- so that would be how many maybe?

11 A. Twenty.

12 Q. Twenty. And out of that 20, how many of
13 them -- how many were involved -- Strike that.

14 Of that 20, how many involved dry
15 cleaning sites?

16 A. I believe approximately five.

17 Q. And is that in Illinois?

18 A. Five in Illinois, dry cleaning sites I'd
19 say, yeah, approximately five sites.

20 Q. And of those five dry cleaning sites in
21 Illinois, how many were located in the Chicago
22 area of Illinois?

23 A. In the Chicagoland area, I would guess or
24 estimate all five.

1 Q. All five were.

2 Of those five sites, how many
3 involved -- of those five sites, how many were you
4 personally involved in the installation of
5 groundwater monitoring wells?

6 A. I believe three is my recollection.

7 Q. Okay. So out of the 25 or 30 groundwater
8 investigations that you've performed in the state
9 of Illinois, three involved your personal
10 installation of groundwater monitoring wells at
11 dry cleaning sites in the Chicago area?

12 A. Yeah, Chicago, Illinois, area, yes.

13 Q. Okay. Now, Mr. Pyles, is it your
14 testimony that the use of a hand auger is never
15 appropriate to drill a borehole for the
16 installation of a groundwater monitoring well?

17 A. Solely using a bucket auger, in my
18 opinion, should not be used to install a
19 monitoring well.

20 Q. Okay. So you're saying that it isn't true
21 that the use of a hand auger is a well accepted
22 method to drill a borehole for the installation of
23 a groundwater monitoring well?

24 MR. RIESER: I'm sorry. Would you please

1 repeat that question back?

2 (Record read.)

3 MR. PODLEWSKI: I'll withdraw that and ask
4 a different question.

5 BY MR. PODLEWSKI:

6 Q. Isn't it true that the use of a hand auger
7 is a well accepted method to drill boreholes for
8 the installation of groundwater monitoring wells?

9 A. No. By itself, no.

10 Q. Now, Mr. Pyles, as a hydrogeologist of
11 some experience, you're of the United States
12 Environmental Protection Agency's suggested
13 practice for the design and installation of
14 groundwater monitoring wells, are you not?

15 A. Yes, I'm familiar with it.

16 Q. And isn't it true that the U.S. EPA
17 acknowledges that hand augers may be used to
18 install shallow groundwater monitoring wells with
19 casing diameters of two inches or less?

20 A. Yes, as long as the casing is advanced
21 with a bucket auger, that is correct.

22 (Complainant's Exhibit T
23 marked for identification,
24 10-20-99.)

1 BY MR. PODLEWSKI:

2 Q. Mr. Pyles, I'm going to show you what's
3 been marked -- what's been marked as Complainant's
4 Exhibit T, if you could kind of hold that there,
5 and I'm going to ask you if you recognize that
6 document?

7 A. Yes.

8 Q. And could you identify it for us, please?

9 A. Handbook of Suggested Practices for the
10 Design and Installation of Groundwater Monitoring
11 Wells.

12 Q. And this is a U.S. EPA publication, is it
13 not?

14 A. Yes, dated March 1991.

15 Q. And have you seen this document before?

16 A. Yes.

17 Q. And so you're familiar with the suggested
18 practices for the design and installation of
19 groundwater monitoring wells that are described in
20 this document?

21 A. Yes.

22 Q. Would you deem this document to be
23 authoritative?

24 A. In conjunction with other reference

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1 materials, yes.

2 Q. Directing your attention to section five
3 -- no. I don't think that's correct. Section
4 four, I believe. Bear with me while I'm trying to
5 find my place.

6 Directing your attention to section
7 four, description and selection of drilling
8 methods on page 35, do you see that?

9 A. Yes.

10 Q. Okay. And there's a paragraph that begins
11 drilling methods for monitoring well installation.

12 Do you see that in the first column
13 about halfway down, it's the caption?

14 A. Yes.

15 Q. And it says underneath the word hand
16 augers, quotes, hand augers may be used to install
17 shallow monitoring wells, paren, zero to 15 feet
18 in depth, close paren, with casing diameters of
19 two inches or less, end quote.

20 Isn't that what it says?

21 A. Yes, and it goes on to say that boreholes
22 that cannot be advanced below the water table
23 because the borehole collapses in the next
24 paragraph, the first sentence.

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1 Q. But that doesn't affect the fact or alter
2 the fact that a hand auger may be used to install
3 a shallow monitoring well according to the U.S.
4 EPA, does it?

5 A. What it suggests, in my opinion, is that
6 hand augers can be used to advance a borehole. To
7 properly construct a monitoring well using a hand
8 auger, you have to consider the site specific
9 geological conditions.

10 Q. I accept that, but the fact of the matter
11 is is that a flat statement that it's improper or
12 not a well-accepted technique to use a hand auger
13 to drill a borehole for the installation of a
14 groundwater monitoring well is an incorrect
15 statement; isn't that correct?

16 A. According to whom?

17 Q. According to the U.S. EPA.

18 A. I don't believe that to be a correct
19 statement.

20 Q. Well, either it is or it isn't. Let's
21 move on.

22 Now, you also testified that one of
23 the problems that you have with constructing a
24 well, monitoring well, using a hand auger is that

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1 if the typical diameter of a monitoring well is
2 two inches, that the annulus -- if you use a hand
3 auger, which has a diameter of I believe your
4 testimony was three-and-a-half to
5 three-and-a-quarter inches, that the annulus is
6 too small to allow for proper well construction;
7 is that correct?

8 A. That is correct.

9 Q. All right. But the fact of the matter is
10 is that if the U.S. EPA acknowledges that the use
11 of a hand auger may be appropriate to dig a
12 borehole for the installation of a groundwater
13 monitoring well that has a casing diameter of two
14 inches, doesn't that acknowledge the fact that

15 your annulus is going to be a half an inch or less
16 for that monitoring well? Yes or no, sir?

17 A. What the method approaches here is that --

18 Q. Yes or no?

19 MR. RIESER: Excuse me. He's entitled to
20 describe his answer.

21 MR. PODLEWSKI: I want an answer to my
22 question.

23 BY MR. PODLEWSKI:

24 Q. Yes or no?

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1 THE WITNESS: Could you read the question
2 back, please?

3 HEARING OFFICER KNITTLE: Please do.

4 (Record read.)

5 MR. RIESER: I don't think that correctly
6 characterizes what this document says. We didn't
7 talk about anything about a seal or what other
8 activities you might have to do to have a decent
9 seal. It just talks about how you create a hole
10 in the ground.

11 HEARING OFFICER KNITTLE: I think there's

12 a yes or no question there.

13 Do you understand the question?

14 THE WITNESS: Not --

15 HEARING OFFICER KNITTLE: I'm not trying

16 -- I think I would direct him to answer the

17 question yes or if I thought it was possible, and

18 I think there was a yes or no question at the end

19 there, but I don't know about all the stuff

20 leading up to it.

21 MR. PODLEWSKI: Let me withdraw it and

22 rephrase it.

23 BY MR. PODLEWSKI:

24 Q. If the U.S. EPA acknowledges that a hand

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1 auger may be used to install -- may be used to

2 drill a borehole to install a two-inch diameter

3 monitoring well, doesn't that necessarily mean

4 that the U.S. EPA also recognizes that the annulus

5 at that monitoring well may be half an inch or

6 less?

7 A. No.

8 Q. Okay. Why not?

9 A. Because the borehole diameter and the

10 annular space are construction and site specific.
11 The technique in which the hole is advanced is
12 dependent upon the geological conditions
13 encountered. The larger the annular space, the
14 better the construction of the well.

15 The document within the same frame
16 goes on to say that by advancing a borehole below
17 the water table may collapse. So you're not
18 confident in stating that it's a broadbrush
19 presumption that they're accepting a half inch
20 annular space as being acceptable.

21 What they're saying is is bucket
22 augers can be used to advance monitoring wells
23 under certain conditions and below the water table
24 may be subject to collapse. So they're

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1 acknowledging the fact that you may have annular
2 problems.

3 Q. But if you use a hand auger which has, as
4 you stated, a diameter of three-and-a-half inches
5 to three-and-a-quarter inches to drill your
6 borehole and you insert a two-inch diameter

7 monitoring well inside that borehole, you're
8 annular space is going to be a half an inch or
9 less, correct?

10 A. Perhaps. You don't know. You don't know
11 what your annular space is when you get below the
12 water table.

13 Q. I didn't ask if it was below the water
14 table. I simply asked what the annular space was
15 --

16 A. It's less than --

17 Q. -- at the top of the well?

18 A. Less than an inch.

19 Q. You don't have any opinion as to whether
20 the groundwater monitoring wells installed by
21 Pioneer were improperly constructed, do you?

22 A. Yes, I have an opinion.

23 Q. And what's that opinion?

24 A. My opinion is is that they may have been

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1 properly -- improperly constructed.

2 Q. Have you ever testified to the contrary?

3 A. I don't believe so.

4 Q. You gave your deposition in this case on

5 May 26th, 1999, did you not?

6 A. Yes.

7 Q. At that time, you were sworn as a witness
8 to tell the truth; isn't that correct?

9 A. That is correct.

10 Q. And you did tell the truth on that
11 occasion; is that correct?

12 A. Yes.

13 Q. At your deposition, were you asked the
14 following question by me and did you make the
15 following answer under oath: Question, but you
16 don't have any information that leads you to
17 believe that those wells were not properly
18 constructed, close quote, and did you give this
19 answer, quote, I can't form an opinion, so in that
20 case, there's no way to determine if it or isn't,
21 close quote?

22 A. That's correct.

23 Q. I asked you that question and you gave
24 that answer?

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1 A. I believe so, yes, and I believe --

2 Q. There's no question pending.

3 MR. RIESER: Excuse me, Joe. What page of
4 that deposition was that you were reading from?

5 MR. PODLEWSKI: I believe it was 66.

6 MR. RIESER: I'm sorry. I'm going to have
7 to object because Mr. Podlewski did not read his
8 entire answer to that question.

9 MR. PODLEWSKI: Mr. Pyles answer?

10 MR. RIESER: You did not read the entire
11 answer to the question that you put to him. You
12 said, do you have any information that the wells
13 were not constructed in accordance with the
14 installation protocols that are set forth by
15 Pioneer in that report.

16 He says I have no way -- the answer
17 is I have no way to form an adequate opinion
18 because monitoring well construction diagrams were
19 not provided. Their protocol is relatively vague
20 and general and nonspecific. They don't specify
21 diameters. They use generic terminologies of
22 augers and drill augers and hand augers.

23 They don't specifically define how
24 the wells were constructed, what the well

1 measurements were, which is a very typical
2 diagram, and information to compare and convey in
3 a study such as this.

4 MR. PODLEWSKI: And the next question was,
5 but you don't have any information that leads you
6 to believe that those wells were not properly
7 constructed, and Mr. Pyles' answer was, I can't
8 form an opinion, so in that case, there's no way
9 to determine if it is or it isn't.

10 I think the point is, David, that Mr.
11 Pyles testified that he didn't have an opinion
12 during his deposition and now apparently he does.

13 MR. RIESER: And you're entitled to ask
14 him about that, but I don't think that's the
15 whole -- you've provided only a portion of what he
16 testified --

17 HEARING OFFICER KNITTLE: Well, let's --
18 you know, you'll have the opportunity to
19 rehabilitate him on your redirect examination if
20 you want to revisit this issue at that point in
21 time. Let's move on.

22 BY MR. PODLEWSKI:

23 Q. Mr. Pyles, isn't it true that development
24 of a groundwater monitoring well through removal

1 of three to five case volumes is a preferred
2 procedure, but you personally developed
3 groundwater monitoring wells where three to five
4 case volumes were not removed?

5 A. Yes.

6 Q. And that was in dry wells of low yield; is
7 that correct?

8 A. Yes.

9 Q. And wouldn't you classify the wells at the
10 Martin's of Matteson site as being dry wells of
11 low yield?

12 A. Yes.

13 Q. Isn't it true that it's not uncommon to
14 develop and purge a groundwater monitoring well by
15 bailing one well volume in low yield conditions --
16 isn't it true that it's not uncommon to develop
17 and purge a groundwater monitoring well by bailing
18 one well volume in low yield conditions such as is
19 found at the Martin's of Matteson site?

20 A. May I ask a clarification?

21 Q. Can you -- can you answer the question the
22 way I asked it?

23 A. To develop and purge a monitoring well by

24 removing only one case volume is uncommon.

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1 However, to purge a low yielding well by removing
2 one sample, one case volume, and then collecting a
3 sample is typical. It's done.

4 Q. Typical. Okay.

5 Now, Mr. Pyles, directing your
6 attention to Mr. Perkins' affidavit, which is
7 identified as Complainant's Exhibit M, and
8 attached to Mr. Perkins' affidavit, in fact, it's
9 the document -- let me back up.

10 There are a number of pages attached
11 to Mr. Perkins' affidavit that appear to be
12 photocopies from various source reference
13 materials; is that correct?

14 A. Yes.

15 Q. Okay. And right after the potentiometric
16 map that you testified to on direct examination
17 are some excerpts from a U.S. EPA publication
18 entitled Practical Guide For Groundwater Sampling?

19 A. Yes.

20 Q. Are you familiar with that document?

21 A. I've seen this document before and have

22 read excerpts from it.

23 Q. Now, I believe you testified during direct
24 examination that although Pioneer did the best

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1 they could -- did the best they could in
2 collecting -- Strike that.

3 Your direct testimony, I believe, was
4 that Pioneer did the best they could in collecting
5 groundwater samples at the property because of
6 such poor water yield?

7 MR. RIESER: I object because I don't
8 think that correctly characterizes his testimony.

9 HEARING OFFICER KNITTLE: Sustained. You
10 can ask him if he did testify to that.

11 BY MR. PODLEWSKI:

12 Q. Did you testify that Pioneer essentially
13 -- Strike that.

14 Did Pioneer do the best they could
15 under the circumstances to collect groundwater
16 samples from the monitoring wells they installed
17 at the property?

18 A. I believe there was other things they may

19 have done differently, but based on what they did,
20 it appears that they collected the minimum amount
21 of effort to obtain and develop and purge the
22 wells.

23 Q. Okay. Now, you also -- you testified that
24 there were a couple of other techniques that can

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1 be used to obtain samples from low yield wells.
2 One, I believe, was a washing technique; is that
3 correct?

4 A. To obtain samples, I believe you mean --

5 Q. Groundwater samples.

6 A. -- to develop the wells I believe is the
7 context in which washing terminology was used.

8 Q. To develop. You're absolutely correct.

9 A. A washing technique and there was
10 also a surge blocking technique --

11 A. Yes, sir.

12 Q. -- is that correct?

13 A. Now, again, directing your attention
14 to the attachment to Mr. Perkins' affidavit that's
15 Complainant's Exhibit M on page -- right after the
16 title page on the excerpts that are attached to

17 Mr. Perkins' affidavit right after the title page,
18 the practical guide for groundwater sampling there
19 is a page 76 and there's a portion -- a section of
20 this document that's entitled techniques for low
21 hydraulic conductivity wells.

22 Do you see that?

23 A. Yes.

24 Q. Okay. And the first paragraph states,

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1 does it not, that procedures for developing
2 groundwater monitoring wells in unproductive
3 geological material is somewhat limited?

4 A. That's what the first sentence says, yes.

5 Q. Would you agree or disagree with that
6 statement?

7 A. I would agree.

8 Q. Okay. And the next sentence says, and
9 I'll quote, due to the hydraulic conductivity of
10 the materials, it is difficult to surge water in
11 and out of the well casing, close quote.

12 Do you agree with that statement?

13 A. Yes.

14 Q. Okay. And continuing on in that same
15 paragraph, quote, also when the well is pumped,
16 the entrance velocity of water can be too low to
17 remove fines effectively from the well bore and
18 the gravel pack material outside the well screen,
19 close quote.

20 Do you agree with that statement?

21 A. Yes.

22 Q. How do those statements that you've
23 indicated you've agreed with bear upon the ability
24 or effectiveness to develop wells using either the

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1 washing technique or the surge blocking technique
2 that you previously testified about?

3 A. I'm not sure I understand your question.
4 Could you restate it?

5 Q. Okay. This paragraph that we've just
6 reviewed indicates that it's difficult to develop
7 wells in soils with low hydraulic conductivity,
8 correct?

9 A. Correct.

10 Q. And it also states the reasons why it's
11 difficult to do that?

12 A. Correct.

13 Q. All right. Now, you testified that there
14 are techniques that are available, washing
15 techniques and surge blocking, that can be used to
16 develop wells in soils with low hydraulic
17 conductivity, correct?

18 A. That is correct.

19 Q. Does anything in this paragraph that we've
20 just discussed change your view or alter your view
21 that other techniques may be available to develop
22 wells and soils exhibiting low hydraulic
23 conductivity?

24 A. The paragraph explains that low hydraulic

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1 conductivity, in my opinion, it's difficult to
2 develop the wells is what that's stating there by
3 surging or other methods.

4 Q. Now, in that same exhibit, Mr. Pyles,
5 Complainant's Exhibit M -- and I believe your
6 testimony was that you reviewed this exhibit in
7 the course of preparing your affidavit in this
8 case?

9 A. Yes.

10 Q. Okay. Directing your attention to page
11 seven of Mr. Perkins' affidavit --

12 A. Page seven?

13 Q. Right. Paragraph C. Are you there?

14 A. Yes.

15 Q. Okay. That paragraph describes the
16 Illinois EPA's policy -- Strike that.

17 That paragraph describes the practice
18 of the Illinois Environmental Protection Agency in
19 sampling groundwater monitoring wells in soils
20 with low hydraulic conductivity, does it not?

21 A. Yes.

22 Q. And that paragraph provides that the
23 practice of the Agency is to purge the water from
24 the well until dry, go back the next day, and

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1 collect the sample; is that correct?

2 A. Generally, yes, that's correct.

3 Q. And do you agree that that's the practice
4 of the Illinois Environmental Protection Agency in
5 taking groundwater samples from wells installed in
6 low hydraulic conductivity soils?

7 A. Yes.

8 Q. Do you know whether the procedures
9 followed by Pioneer in this case in sampling the
10 groundwater monitoring wells that they installed
11 at the property were consistent with those IEPA
12 practices?

13 A. I have no way to determine if they were
14 consistently followed. I wasn't there.

15 Q. Have you ever stated to the contrary?

16 A. I believe I've stated that these practices
17 are accepted practices for sampling in low
18 hydraulic conductivity soils is my recollection.

19 Q. All right. You recall giving your
20 deposition in this case on May 26th, 1999?

21 A. Yes.

22 Q. Do you remember the following questions
23 and giving the -- me asking you the following
24 questions and you giving the following answers --

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1 MR. RIESER: What page are you on?

2 MR. PODLEWSKI: Page 90.

3 BY MR. PODLEWSKI:

4 Q. Question, are you familiar with the
5 practice of the Illinois EPA in sampling
6 groundwater from wells with low yield and soils
7 with low hydraulic conductivity; answer, yes, I'm
8 familiar with their recommended protocol;
9 question, and what's their recommended protocol;
10 answer, the recommended protocol is to develop a
11 well upon completion, allow the well to
12 equilibrate to its static water level, remove one
13 case volume, the residual volume in the well,
14 allow the well to recover, and then collect that
15 sample; that's their guidance; question, do you
16 know whether or not the procedures followed by
17 Pioneer were consistent with that recommended
18 protocol; answer, it appears that they followed
19 that practice, however, there is other practices
20 that suggest that water in a well should be
21 sampled within two hours?

22 A. Yes.

23 Q. Mr. Pyles, are you making any contention
24 or rendering any expert opinion in this case that

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1 groundwater does not exist at the Martin's of

2 Matteson property?

3 A. Could you repeat the question?

4 MR. PODLEWSKI: Could you read that back?

5 (Record read.)

6 THE WITNESS: Thank you.

7 BY THE WITNESS:

8 A. My opinion is is that I don't know if
9 there's truly representative groundwater at that
10 property.

11 BY MR. PODLEWSKI:

12 Q. Mr. Rieser asked you a number of questions
13 on direct examination about the potentiometric map
14 that appears as part of Mr. Perkins' affidavit in
15 this case, correct?

16 A. Yes, he did.

17 Q. Okay. What does -- does any of the
18 information that's provided on that potentiometric
19 map have any bearing at all upon whether or not
20 there's groundwater contamination at the property?

21 A. The map itself depicts the water surface
22 at the property. The map does not depict anything
23 even relevant to contamination. What a
24 potentiometric map depicts is the surface contour

1 or what the surface of the groundwater is by
2 elevation.

3 Q. So it really doesn't have anything to do
4 with groundwater contamination?

5 A. This does not even reference any
6 contamination in this map.

7 Q. Thank you.

8 A. It references groundwater flow direction
9 and the surface of it is what the map depicts.
10 There's no contaminant concentrations illustrated.

11 Q. Finally, Mr. Rieser asked you a number of
12 questions concerning field blanks and trip
13 blanks .

14 Do you recall that line of
15 questioning?

16 A. Yes.

17 Q. Okay. You personally have sampled a
18 number of groundwater monitoring wells, correct?

19 A. Yes, I have.

20 Q. Is it your practice to take a field blank
21 after boring each well?

22 A. After each well?

23 Q. Right.

24 A. No.

1 MR. PODLEWSKI: I don't have any further
2 questions.

3 HEARING OFFICER KNITTLE: Redirect?

4 MR. RIESER: Sure.

5 R E D I R E C T E X A M I N A T I O N

6 by Mr. Rieser

7 Q. With respect to field blanks and trip
8 blanks, what is your practice?

9 A. Generally, we'll take a trip blank and one
10 field blank per episode generally if there's less
11 than 20 samples being collected or in some cases
12 ten. It depends on the ultimate use of the
13 sampling effort and the assessment work.

14 If one, perhaps, two field blanks are
15 collected, generally that's determined to be
16 representative of an evaluation of the adequacy of
17 the decontamination protocols, decontamination
18 procedures.

19 So it would be somewhat unreasonable
20 to expend the resources to collect field blanks
21 between each borehole. That would be unreasonable
22 and generally is not considered to be a reasonable
23 effort. It would be considered excessive.

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1 one per ten, in some cases one per 20.

2 Q. I'm sorry. One per ten what and one per
3 20 what?

4 A. That's a ratio per samples. So if we're
5 going to go out and collect, perhaps, say, six
6 samples, we would have one trip blank. If we're
7 doing groundwater sampling and you're going to use
8 the same bailer between one well and the next, you
9 need to have an equipment blank or in this case
10 it's a field blank. The industry has somewhat
11 shifted in going to using disposable sampling
12 apparatus that is factory certified as being clean
13 and that it basically takes that variable out of
14 the equation because there's an established QA/QC
15 program under actual sampling tools.

16 So many times field blanks are not
17 obtained in lieu of that, and, again, it depends
18 on the end use of the data as well.

19 Q. When you say -- with reference to field
20 blanks, when you say per sampling episode, what do

21 you mean by that?

22 A. If you were to go out and collect a round
23 of groundwater monitoring samples, perhaps, from
24 six monitoring wells, you would have a field blank

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1 prepared to show that the sampling equipment was
2 clean and properly cleaned and that your
3 procedures you were using were not causing some
4 level of cross contamination.

5 Many times for higher level QA/QC
6 work, we've actually had field blanks obtained
7 prior to even starting a sampling episode and then
8 during it and then at the end of it. It depends
9 on the ultimate use of the data.

10 Q. But for each sampling trip to a site, you
11 have at least one field blank and one trip blank?

12 A. Correct.

13 Q. Mr. Podlewski started by asking a series
14 of questions on how many groundwater
15 investigations you performed in Illinois in the
16 Chicago area and involving dry cleaning sites.

17 Do you remember that?

18 A. Yes.

19 Q. Do the protocols or the methodologies you
20 used for installing groundwater monitoring wells
21 differ depending on whether they're in Chicago,
22 Illinois, elsewhere, or different -- differ with
23 the type of site they're in?

24 A. Generally, no. The protocols that you

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1 would use in Chicago, Illinois, would be the same
2 protocols that you would use in Matteson,
3 Illinois. If you're into different types of
4 geological materials, you may consider other
5 techniques for well installation as well as
6 depending on the depths and types of geology
7 you're dealing with. You have to consider site
8 specific factors.

9 Q. Mr. Podlewski also asked you a series of
10 questions relating to the appearance of a -- the
11 drilling methods for monitoring well installation
12 used in hand augers on page 35 of a March 1991
13 U.S. EPA handbook of suggested practices.

14 Do you remember those questions?

15 A. Yes.

16 Q. Does the review of this document in any
17 way change any opinion you've given here today
18 regarding the use of hand augers?

19 A. My opinion about the use of hand augers is
20 essentially unchanged. I think as a professional
21 geologist who has practiced in the field for 19
22 years, the use of hand augers for the installation
23 of monitoring wells, in my opinion, is a technique
24 that requires some sort of casing to assure that

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1 your borehole remains open.

2 There's been numerous papers well
3 beyond this 1991 document that clearly indicate
4 that there are evidence that if you drill using a
5 bucket auger that you should be casing the hole.
6 This document alludes to it, however states that a
7 borehole should not be advanced below a water
8 table, which to me somewhat says you might be
9 subject to have collapse or have some cross
10 contamination and, particularly, if you're
11 drilling through, perhaps, a concrete floor with
12 gravel where there might be perched water and by
13 advancing a borehole to depth without a casing,

14 you may be introducing contaminants to a greater
15 depth.

16 So in its abstract sense or in its
17 literal sense, excuse me, of this paragraph, the
18 monitoring well installation with a hand auger may
19 be used, but it needs to be within the context of
20 the geological setting and the purpose of the
21 investigation.

22 Q. Since 1991, have there been any advances
23 or further changes in the state-of-the-art for
24 drilling groundwater monitoring wells?

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1 A. Yes. There's different technologies and
2 tools have been developed, which, in essence, have
3 advanced beyond the bucket auger technique.

4 Q. You were asked a series of questions with
5 respect to Complainant's Exhibit M, being the
6 affidavit of Michael Perkins, specifically some
7 documents attached to the end of Exhibit M, and
8 one of the documents that you were asked to look
9 at had to do with the practical guide for
10 groundwater sampling, and you were asked to

11 acknowledge the existence of statements made in a
12 paragraph that began development procedures for
13 monitoring wells in relatively unproductive
14 geologic materials is somewhat limited.

15 Do you remember those questions?

16 A. Yes.

17 MR. PODLEWSKI: I object. What I asked
18 him is whether he agreed or disagreed with
19 statements in that first paragraph.

20 HEARING OFFICER KNITTLE: I don't think we
21 need a ruling on this. You can just proceed.

22 BY MR. RIESER:

23 Q. Does the second paragraph, the following
24 paragraph Mr. Podlewski asked you to address, also

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1 address the issue of steps that can be taken in
2 monitoring wells in relatively unproductive
3 geological materials?

4 A. Yes. The rest of the paragraph -- the
5 rest of the section here addresses what other
6 things can be done to develop the well.

7 Q. And what are some of those things?

8 A. You can circulate clean water down the

9 well in the well casing in and out through the
10 screen and the gravel pack prior to the placement
11 of grout seal in the annulus. Basically, it's a
12 flushing technique, and it's a pumping technique,
13 and it will set your well screen and remove some
14 of the sediments. Especially at a shallow depth,
15 that is not too hard to do. It's fairly easy.

16 Q. Mr. Podlewski also asked you whether or
17 not you had an opinion as to whether the wells
18 were properly constructed.

19 Do you remember that?

20 A. Yes.

21 Q. And you said you did have an opinion?

22 A. Yes.

23 Q. What is that opinion?

24 A. My opinion is is that the wells -- the way

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1 and with the methodology we're not sure if they
2 were properly constructed. There's a level of
3 uncertainty there which has not, in my opinion,
4 given me a high level of confidence.

5 Q. Okay. I'd like for you to review the

6 question and answer that appear on pages 65 and 66
7 ending with the statement which Mr. Podlewski read
8 about stating that you can't form an opinion and
9 ask you how you understood the question at that
10 time that provided that answer?

11 MR. PODLEWSKI: I'm going to object to
12 that. I think that's improper examination of his
13 own witness. If he was impeached by his previous
14 testimony under oath, that's what happened.

15 I don't think that it's proper now
16 for Mr. Rieser to ask him to review his deposition
17 transcript and ask him if that was what he
18 testified to at that time if the answers that he
19 gave -- if he understood the questions that I
20 asked at that time. I mean, the proper time for
21 him to raise that objection was during his
22 deposition, not now.

23 HEARING OFFICER KNITTLE: Mr. Rieser.

24 MR. RIESER: Well, I think it's fair after

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1 Mr. Podlewski has attempted, as he said, to
2 impeach Mr. Pyles with respect to this answer --
3 this answer. I think that there -- given the

4 context in which the question was asked, that
5 whole context has to be understood, and I think
6 Mr. Pyles should have an opportunity to explain
7 the two answers because obviously he's had a lot
8 to say, as he did in his deposition, about well --
9 how the well was constructed, and it may have been
10 that there was a misunderstanding as to the nature
11 of that question that he ought to have a chance to
12 explain here.

13 MR. PODLEWSKI: I think when he testifies
14 under oath at his deposition and he -- I asked him
15 a question and gives an answer, if he gives an
16 answer, it's understood that he understands what
17 my question is. I think that's a preliminary
18 statement made before every deposition.

19 HEARING OFFICER KNITTLE: Well, I'm going
20 to overrule the objection. I'm going to allow him
21 to at least comment on this. Certainly, if there
22 is a difference between his testimony at that
23 point in time and this point in time, I think the
24 Board is going to want to know why he testified

1 differently, and if it's a credibility issue, it
2 will be for the Board to weigh.

3 MR. RIESER: In reviewing -- could I have
4 the question pending read back?

5 HEARING OFFICER KNITTLE: It's been a
6 while. Can you find it?

7 (Record read.)

8 MR. PODLEWSKI: Just one thing, at Mr.
9 Pyles' deposition on pages seven and eight, and
10 I'll read this right out of the deposition
11 transcript, question by me; all right. I'll ask
12 you a series of questions, and you are to answer
13 the questions that I ask. If you don't understand
14 the question that I ask, please ask me to rephrase
15 it. If something is unclear, ask me to rephrase
16 it, and I'll be glad to do so. If you answer the
17 question, I will assume that you understood the
18 question that I asked. So if you have any doubt
19 about what I'm asking you or you don't understand
20 the question, please ask me. Otherwise, your
21 answer will be the answer to the question that I
22 ask, okay; answer, I understand.

23 HEARING OFFICER KNITTLE: Anything else?

24 MR. PODLEWSKI: That's all.

1 THE WITNESS: May I go on?

2 HEARING OFFICER KNITTLE: You can answer
3 the question as put to you.

4 BY THE WITNESS:

5 A. The question the way I understand it is do
6 I believe that the monitoring wells that were
7 constructed are representative or were constructed
8 properly. I believe that's your question, the
9 question on the table, and if I have an opinion as
10 if they were.

11 The answer to that was is yes, I have
12 an opinion, and my opinion is, and I believe this
13 has been consistent throughout, that there is not
14 enough adequate information to determine if it was
15 done properly because of the technique, because of
16 the lack of monitoring well construction diagrams
17 and the lack of information.

18 So I believe that to be consistent
19 with my deposition and my previous answers. There
20 has not been enough information presented to have
21 an accurate opinion as to if they were properly
22 constructed or if they were not.

23 MR. RIESER: I have nothing further.

24 MR. PODLEWSKI: I don't have any redirect

1 or re-cross, I guess.

2 HEARING OFFICER KNITTLE: Well, thank you
3 very much, sir. You can step down. Your next
4 witness will be tomorrow, I take it, Mr. Rieser?

5 MR. RIESER: Yes. Mr. Krikau will testify
6 first thing.

7 HEARING OFFICER KNITTLE: And tomorrow we
8 will have -- we're still on the record, but we
9 will have tomorrow your last -- that is the last
10 witness?

11 MR. RIESER: He'll be my last witness.

12 HEARING OFFICER KNITTLE: And then
13 rebuttal, are you planning on having rebuttal
14 witnesses at this time?

15 MR. PODLEWSKI: No more than two.

16 HEARING OFFICER KNITTLE: Well, we'll meet
17 back here at 9:30. Before we end for the day, I
18 want to go over again today's exhibits to make
19 sure we've got them all right.

20 I have exhibits for October 20th,
21 1999, first of all there's Respondents' C, what
22 was a letter from Pioneer to the Martins dated

23 October 16th, 1995. We can gather these
24 afterwards. Let's just make sure we have them --

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1 that I have them right. Excuse me.

2 The second one was Respondents' D, a
3 letter from Pioneer to Martin dated April 15th,
4 1996. Respondents' E was a letter from Pioneer to
5 Martin dated May 10th, 1996. Respondents' F was a
6 letter from Pioneer to Martin dated August 30th,
7 1996.

8 Next, we had Complainant's R, which
9 was an affidavit of Eva Martin. That was
10 admitted. Complainant's S was a report by KREC.
11 That was not offered into evidence, although it
12 was marked. Respondents' G was a resume or the CV
13 of Mr. Pyles. Respondents' H was the affidavit of
14 Mr. Pyles, and Complainant's T is a handbook of
15 suggested practices for monitoring wells from the
16 U.S. EPA. I don't know if that's ever been
17 offered.

18 MR. PODLEWSKI: No, it hasn't.

19 HEARING OFFICER KNITTLE: Do you want to
20 offer that into evidence?

21 MR. PODLEWSKI: I may do it in my rebuttal
22 tomorrow.

23 HEARING OFFICER KNITTLE: Is there
24 anything else that I'm missing?

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1 MR. RIESER: No.

2 HEARING OFFICER KNITTLE: We'll see you
3 here tomorrow at 9:30.

4 MR. RIESER: Thank you very much.

5 (Whereupon, these were all
6 the proceedings held in
7 the above-entitled matter.)

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17 SUBSCRIBED AND SWORN TO
before me this____day
18 of_____, A.D., 1999.

19 _____
Notary Public

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