

1           BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3

4       ILLINOIS LANDFILL, INC.,

5                   Petitioner,

6           vs.

No. PCB 97-205

7       ILLINOIS ENVIRONMENTAL

8       PROTECTION AGENCY,

9                   Respondent.

10

11

12

13                   Proceedings held on July 25, 1997, at  
14       9:35 a.m., at Vermillion County Courthouse, Annex,  
15       County Board Room, 6 North Vermilion Street,  
16       Danville, Illinois, before the Honorable Deborah L.  
17       Frank, Hearing Officer.

18

19

20

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

22

23

24

KEEFE REPORTING COMPANY  
11 North 44th Street  
Belleville, IL 62226  
(618) 277-0190

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

A P P E A R A N C E S

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
BY: Robert J. Scherschligt, Esq.  
Assistant Counsel  
Division of Legal Counsel  
2200 Churchill Road  
Springfield, Illinois 62794-9276  
On behalf of the Illinois Environmental  
Protection Agency.

DUKES, MARTIN, RYAN, MEYER & KRAPF, LTD.  
BY: Nancy S. Johnson, Esq.  
146 N. Vermilion Street  
Danville, Illinois 61832  
On behalf of Illinois Landfill, Inc.

GROPPI, McNAMARA & UNDERHILL  
BY: Frederick Underhill, Esq.  
414 W. North Street  
Danville, Illinois 61832  
On behalf of the Objector, Mr. William  
Regan.

1 I N D E X

2	WITNESS	PAGE NUMBER
3	SAMUEL L. MARTIN, II	9
4	ALLEN DECKER	19
5	STEVEN C. SMITH	24
6	WILLIAM G. PARASKEVAS	26

7

8 E X H I B I T S

9	NUMBER	MARKED
10	Hearing Public Comment Exhibit 1	11
	Hearing Public Comment Exhibit 2	13
11	Hearing Public Comment Exhibit 3	13
	Hearing Public Comment Exhibit 4	16
12	Hearing Public Comment Exhibit 5	16

13

14 (Hearing Public Comment  
15 Exhibits 1 through 5 were  
retained by Hearing Officer  
Frank.)

16

17

18

19

20

21

22

23

24

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

P R O C E E D I N G S

(July 25, 1997; 9:35 a.m.)

HEARING OFFICER FRANK: Good morning and welcome to the hearing in Illinois Landfill, Inc. versus the Illinois Environmental Protection Agency, PCB 97-205. This is a variance. It is a hearing before the Illinois Pollution Control Board. I would note for the record that there are members of the public present.

If the attorneys for everyone would like to go ahead and make an appearance on the record, then we can go ahead and begin.

MR. SCHERSCHLIGT: Bob Scherschligt, Counsel for the Illinois EPA.

MS. JOHNSON: Nancy Johnson, attorney for Illinois Landfill, Inc.

HEARING OFFICER FRANK: Is there an attorney for the objector here?

MR. UNDERHILL: Yes. Fred Underhill, the attorney for objector, Bill Regan.

HEARING OFFICER FRANK: Anybody else that needs to make an appearance? Okay. Then are there opening statements from either the Illinois Landfill or from the Agency?

1 MS. JOHNSON: I just had a brief  
2 statement to make.

3 HEARING OFFICER FRANK: Please begin.

4 MS. JOHNSON: I am Nancy Johnson. I am  
5 the attorney for Illinois Landfill, Inc. I have  
6 with me today Steve Smith, who is a Registered  
7 Professional Engineer, and an employee of Allied  
8 Waste, one of the affiants on our petition. I also  
9 have with me Mr. Bill Paraskevas, who is the  
10 project director for Andrews Engineering, and also  
11 one of our affiants on our petition.

12 We are basically going to stand on our  
13 petition as submitted. We will not be presenting  
14 any additional or new evidence today. I do have  
15 the affiants present if either the IEPA or the  
16 Hearing Officer has any questions of them or any  
17 need for us to respond to any of the public  
18 comment.

19 I am not going to waste a lot of time and  
20 reiterate the long history of this situation. I  
21 think we are all familiar with it. I would like to  
22 note that the addendum to our application for  
23 significant modification has been filed, as  
24 promised in our petition, so that the 180 days is

1 running now as we speak. I want the Pollution  
2 Control Board and the IEPA to note that ILI is  
3 working diligently to get a resolution of this  
4 matter.

5           Also, I would like to acknowledge on  
6 behalf of ILI that certainly any technical  
7 deficiencies that were a part of our application  
8 are obviously the responsibility of ILI, and we  
9 take the responsibility for those and we are  
10 working to correct those. However, it is still our  
11 belief that all other delays that have occurred in  
12 this situation prior to the technical deficiencies  
13 have been in large part beyond our control, and  
14 that we are in compliance with everything that we  
15 need to be in compliance with at this time, and  
16 that whenever necessary we have sought statutory  
17 relief. We feel like we have, you know, taken the  
18 right avenues and done the correct things in  
19 getting ourselves to where we are today.

20           The petition was brought in good faith  
21 and, like I said, we are trying to resolve the  
22 situation as expeditiously as possible, and we want  
23 to thank the Pollution Control Board and the IEPA  
24 for all the time and effort put into the situation

1 and we are requesting that the petition be allowed  
2 from September 18th of 1997 to September 18th of  
3 1998. Thank you.

4 HEARING OFFICER FRANK: Mr. Scherschligt?

5 MR. SCHERSCHLIGT: Just briefly. The  
6 Illinois EPA would acknowledge that we have  
7 received the addendum and that we will be reviewing  
8 it. We would also like to state that we believe  
9 the Illinois EPA and the Illinois Landfill are  
10 working together, and we look forward to the  
11 successful resolution of this matter. We believe  
12 that both parties are working in good faith.

13 Thirdly and finally, I just would like to  
14 state that the Illinois EPA submits that regardless  
15 of what happens on Illinois Landfill's application  
16 for significant modification, the regulations would  
17 require Illinois Landfill to operate and close  
18 their landfill in accordance with Subpart C if they  
19 choose to accept waste beyond September 18th of  
20 this year. I would just like to submit that.

21 Other than that, we would stand on our  
22 recommendation and response filed on June 11th of  
23 this year.

24 HEARING OFFICER FRANK: The objectors, do

1 you wish to make a statement on the record?

2 MR. UNDERHILL: Yes.

3 HEARING OFFICER FRANK: Okay. Please  
4 introduce any witnesses you plan on questioning for  
5 our court reporter.

6 MR. UNDERHILL: Yes. Thank you. My name  
7 is Fred Underhill. I am the attorney for the  
8 objector, William Regan. We have filed a written  
9 objection in this matter previously and also a  
10 reply which should be part of the record, and would  
11 ask the Board to consider those items.

12 I have two individuals with me today that  
13 would like to make a presentation to the Board and  
14 make some comments to you today concerning this  
15 matter that are intimately involved with the  
16 situation.

17 First of all, I would like to, though,  
18 call on Sam Martin to make public comments  
19 concerning this situation.

20 HEARING OFFICER FRANK: Would you please  
21 swear the witness.

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

24 HEARING OFFICER FRANK: Please begin.



1                   S A M U E L L. M A R T I N, II,  
2           having been first duly sworn by the Notary Public,  
3           saith as follows:

4                   MR. MARTIN: My name is Sam Martin. I am  
5           the farm manager for the Regan Farms. Allen Decker  
6           is our farm operator. Bill had hoped to be here  
7           today, but unfortunately had a prior commitment and  
8           was unable to attend. He had requested a hearing  
9           date change, and that was not possible. We  
10          certainly appreciate the opportunity to speak at  
11          this hearing.

12                   Mr. Regan's position is the Illinois  
13          Pollution Control Board should deny the ILI  
14          petition for variance of PCB 97-205. The Pollution  
15          Control Board has had previous concerns regarding  
16          the ILI Hoopeston Landfill, an example being the  
17          Illinois PCB reversal of the original Hoopeston  
18          siting in its decision on September 23rd, 1993 and  
19          also the Illinois Pollution Control Board decision  
20          to deny ILI's motion for reconsideration on  
21          December 16th of 1993.

22                   There have been significant concerns by  
23          Hoopeston citizens; in the city wide site, 90  
24          percent to 10 percent against the ILI expansion

1 application. Mr. Regan opposes the granting of  
2 variance because it would afford ILI eight years to  
3 come into compliance with the Illinois landfill  
4 statutes when the Illinois legislature established  
5 only a four-year period for that compliance.

6           The purpose of Illinois landfill  
7 regulations is to protect the environment and  
8 neighboring property owners as a result of bad  
9 experiences with Illinois Landfill, Inc. and  
10 difficulty communicating with the Illinois  
11 Landfill, Inc. Three years ago Illinois Landfill  
12 constructed a berm 20 feet high which interfered  
13 with surface drainage from the Regan Farms.

14           As was discussed a year ago at this  
15 hearing, we had significant drainage problems. We  
16 submitted a lot of photographs. We had certain  
17 meetings with Illinois Landfill representatives.  
18 They denied that there was any type of a problem.  
19 Based on subsequent investigations, which we dug a  
20 hole and found the tile, they finally agreed that  
21 it was a problem, and had taken some steps to  
22 correct it.

23           I have, which I would like to submit, if  
24 I could, letters between Illinois Landfill, Inc.

1 and ourselves starting with January of 1994  
2 regarding this issue of which we presented them the  
3 problem of the drainage in January. They responded  
4 in December, 11 months later, and specifically  
5 stated that we will re-route our ditches in order  
6 to limit the drainage, pull back the berm a minimum  
7 of 25 feet, and will improve the water flow and  
8 drainage at the western end of the ditch. That was  
9 not accomplished until the spring of 1997.

10 Can I give you a copy of these letters?  
11 It might be easier to follow along.

12 HEARING OFFICER FRANK: Okay.

13 MR. UNDERHILL: Do you have extra copies  
14 for the other individuals here?

15 HEARING OFFICER FRANK: Yes, if you have  
16 copies for the other attorneys that would be great.

17 MR. MARTIN: Yes.

18 HEARING OFFICER FRANK: For now, I am  
19 going to mark the group of letters as Hearing  
20 Public Comment 1.

21 (Whereupon said documents were  
22 duly marked for purposes of  
23 identification as Hearing  
24 Public Comment Exhibit 1 as of

1                               this date.)

2                   MR. MARTIN: Allen Decker will comment  
3 further on the broken tile which was repaired.

4                   As a result of these conversations I have  
5 actually a couple of pictures that I would like to  
6 show you, if I could.

7                   HEARING OFFICER FRANK: Okay. Are you  
8 going to submit these for the record for the Board  
9 to keep?

10                  MR. MARTIN: Yes.

11                  HEARING OFFICER FRANK: Okay.

12                  MR. MARTIN: That is --

13                  MR. UNDERHILL: Wait a minute.

14                  HEARING OFFICER FRANK: We need to mark  
15 them so that --

16                  MR. UNDERHILL: She has to identify and  
17 mark those first, Sam.

18                  MR. MARTIN: Okay.

19                  HEARING OFFICER FRANK: The first picture  
20 is marked as Number 2. Do you have three?

21                  MR. MARTIN: No.

22                  HEARING OFFICER FRANK: The second  
23 picture is marked as Number 3. They are both dated  
24 May 6th, 1997. The picture marked picture Number

1 2, I will call Hearing Public Comment Number 2 and  
2 the picture marked Number 3 will be Hearing Public  
3 Comment Number 3.

4 MR. MARTIN: Okay.

5 (Whereupon said photographs  
6 were duly marked for purposes  
7 of identification as Hearing  
8 Public Comment Exhibits 2 and 3  
9 as of this date.)

10 MR. MARTIN: Going back to the  
11 correspondence with Illinois Landfill, Inc., as you  
12 can tell, January of 1994 confirmed a conversation  
13 that I had with Jim VanWilden (spelled  
14 phonetically) regarding the drainage problem and  
15 the runoff. The response that we received in  
16 December of 1994 made certain promises as to what  
17 they were going to do. Nothing happened in 1995,  
18 whatsoever. There was a lot of verbal phone  
19 calling back and forth.

20 The pictures we submitted a year ago at  
21 the hearing show the ponding problem that was  
22 created by the water. In November of 1996 I met  
23 with -- excuse me. In October of 1996 I met with  
24 the Vermillion County Health Department. In their

1 letter they mentioned that they spoke with Rich  
2 Girard of the Champaign Regional Office of the EPA,  
3 and kind of pointed out that the Illinois EPA does  
4 not regulate the situations that I pointed out  
5 dealing with the dead trees, the ponding and  
6 whatnot. They recommended the Illinois Department  
7 of Transportation, Division of Waterways may be  
8 able to help.

9           Subsequently, in 1997 we had submitted a  
10 bill to the Illinois Landfill for the crop damage  
11 that was created by the ponding water on our farm,  
12 in a meeting with Rich Galloway and Larry Sheiling  
13 (spelled phonetically) regarding the removing of  
14 the dead hedge trees and improving the surface  
15 drainage and also being reimbursed for our crop  
16 damage.

17           February 26 of 1997 Illinois Landfill,  
18 Inc. responded to our requests. They agreed to  
19 construct the necessary drainage structure to  
20 relieve the water ponding, the problem on the  
21 property. They agreed to remove the dead trees. I  
22 would like to point out as for the monetary damages  
23 we can appreciate the fact that weather and  
24 rainfall directly impacts the profitability of your

1 operation just as it does ours, however, we have no  
2 more control over those forces than you do.  
3 Therefore, we decline payment of any damages.

4           The pictures that I submitted, Number 2  
5 and Number 3, relate to the necessary drainage  
6 structure which was the tile that they cut in the  
7 hedge row that they did put an extension on and  
8 they did dig an outlet ditch for that tile to  
9 drain. I believe it is picture Number 2 that shows  
10 the structure containing the tile at the bottom,  
11 and picture Number 3 would be the ditch extending  
12 that drainage.

13           They also removed the dead trees that  
14 were in that area. Subsequent to that, that  
15 drainage ditch that runs to the west, the extension  
16 in picture Number 3, just goes to a dead end. That  
17 water now -- which I would like to submit new  
18 pictures. As that water runs westerly on their  
19 side of the property it is now re-routed back into  
20 our farm further to the west. So while they have  
21 solved one problem of ours, they have created  
22 another problem. These were pictures taken in June  
23 of 1997.

24           HEARING OFFICER FRANK: Can you identify

1 for the record -- I will mark this first picture,  
2 picture Number 4, Hearing Public Comment Number 4.

3 (Whereupon said photograph was  
4 duly marked for purposes of  
5 identification as Hearing  
6 Public Comment Exhibit 4 as of  
7 this date.)

8 HEARING OFFICER FRANK: Can you identify  
9 for the record what that picture is of, please?

10 MR. MARTIN: Yes, this is of our bean  
11 field that would be next to the hedge which is the  
12 borderline between Illinois Landfill and Regan  
13 Farms.

14 HEARING OFFICER FRANK: I will mark this  
15 photograph next as Hearing Public Comment Number 5.

16 (Whereupon a photograph was  
17 duly marked for purposes of  
18 identification as Hearing  
19 Public Comment Exhibit 5 as of  
20 this date.)

21 HEARING OFFICER FRANK: Okay. For the  
22 record, Number 5, can you identify that, please.

23 MR. MARTIN: Number 5 would be the hedge  
24 row that is our bean field and Illinois Landfill's



1 property. This is where the water is coming back  
2 from the Illinois Landfill on to the farm.

3 HEARING OFFICER FRANK: For the record,  
4 you are pointing to the right-hand side of the  
5 picture and you are saying that Illinois Landfill  
6 would be on the right-hand border of the picture?

7 MR. MARTIN: On the right-hand side, yes.

8 HEARING OFFICER FRANK: Okay. Thank you.

9 MR. MARTIN: Which is a result of this  
10 ditch.

11 HEARING OFFICER FRANK: Which is picture  
12 Number 3?

13 MR. MARTIN: Number 3. It just runs down  
14 there, and when the ditch is no longer a ditch but  
15 out on the surface, it runs back on to our farm.

16 HEARING OFFICER FRANK: Okay.

17 MR. MARTIN: I have met with Ken Samet  
18 (spelled phonetically) at the landfill, who was  
19 going to discuss the problem with the people there  
20 to try and get that ditch dug a little further to  
21 keep the water off of our property. As of last  
22 night, nothing had been done. It still is a  
23 problem area for us.

24 I would just like to point out, for the

1 record, that the crop years of 1995 and 1996 have  
2 been adversely affected by Illinois Landfill,  
3 Inc.'s lack of attention. They certainly were  
4 aware of it. Their letter of December of 1994  
5 would indicate that. They have just been very  
6 difficult to, you know, accommodate any of our  
7 concerns. We will just leave it at that. The  
8 trees did die and have been removed. There are  
9 more dead trees in that hedge row.

10 I have been trying to get ahold of Bob  
11 Blare, who is the Illinois Department of Forestry  
12 representative for this area out of Charleston.  
13 Bob has not had an opportunity to come up and look  
14 at those trees. I am trying to figure out why they  
15 are dying, either because of the standing water on  
16 there or the activity on that side or some other  
17 reason. But that hedge row is being greatly or  
18 adversely affected by their operation.

19 It has just been very frustrating to get  
20 them to cooperate. My firm manages about 16,000  
21 acres in 7 counties in the State of Illinois. We  
22 have drainage conflicts with neighbors in a lot of  
23 different counties. Those conflicts are always  
24 addressed and it never seems to be a problem at all

1 to get them resolved, whether it is waiting until  
2 the crops come off to run some tile through or  
3 whatever. I have never had this much problem in 21  
4 years of managing farm ground to try and get what I  
5 think is a simple situation taken care of, than I  
6 have had with Illinois Landfill, Inc.

7 I would now like to let Allen Decker talk  
8 to you about the drainage problems.

9 HEARING OFFICER FRANK: Okay. You need  
10 to be sworn, too.

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

13 A L L E N D E C K E R,  
14 having been first duly sworn by the Notary Public,  
15 saith as follows:

16 MR. DECKER: I am Allen Decker, and I  
17 have farmed Bill Regan's ground since probably  
18 1988. In 1994 I spoke with Bill and said that we  
19 had some sort of problem now that the landfill was  
20 going about their work on their side. We had  
21 trouble getting some corn planted in 1994. Then in  
22 1995 we couldn't get some beans planted in that  
23 area, and in 1996 the corn again.

24 Then in the summer of 1996 I talked with

1 Bill and said there has got to be a tile in that  
2 area, because it never was a problem before. So we  
3 went out there and exposed the tile and there was  
4 and looks to be. In talking to area farmers that  
5 have farmed that farm in years past, they said that  
6 tile probably ran to the northeast of that farm all  
7 the way through the Illinois Landfill now and goes  
8 to an open ditch.

9           So being that they did alleviate the  
10 problem the spring of this year we hooked on an  
11 open ditch there and they cut that in, which Sam  
12 related to, now the water just runs back and  
13 around. We fixed one problem but made another one,  
14 in a sense. The main thing is I think that, you  
15 know, it is just a broken down tile system now.  
16 Where it used to go through that farm there is just  
17 not an outlet for us now.

18           We went to an open ditch always before,  
19 and I think until we get back to where we can hook  
20 on to the existing tile of some sort we are going  
21 to have a water problem forever because there is so  
22 many acres behind this tile it gets loaded down,  
23 and it is just like a running faucet now.

24           Basically I think that's pretty

1 self-explanatory. We went through it last year  
2 and, like I said, we have talked with the guys and  
3 had pretty good luck saying they are going to do  
4 something, but we just keep kind of sprinkling salt  
5 on a wound and never get anything done.

6 HEARING OFFICER FRANK: Is there anything  
7 further?

8 MR. UNDERHILL: I would like to briefly  
9 summarize our objection for the record, then. This  
10 is Fred Underhill. I am the attorney for the  
11 objector. As I mentioned before, we have filed  
12 written objections, and I do not intend to read the  
13 written objections. But to summarize our feeling  
14 in this matter, of course, the standards were set  
15 in September of 1990. Illinois Landfill has  
16 received prior variances. The regulations require  
17 compliance in four years or 1994.

18 Now we are -- now they are requesting a  
19 four-year delay to comply. When the Board granted  
20 the first extension in December of 1994 it was  
21 conditioned upon the fact that the application  
22 would be filed by September 18th, 1995. Well, it  
23 wasn't until a year after that.

24 The Illinois Landfill must prove that the

1 claimed hardship outweighs the public interest in  
2 attaining compliance with the regulations which are  
3 designed to protect the public. As you have heard  
4 today from Mr. Martin and Mr. Decker, the public  
5 continues to be at risk. The environment has  
6 continued to be adversely affected.

7           This one particular farm has suffered  
8 extensive damage because of their failure to  
9 maintain drainage tiles and their diversion of the  
10 surface drainage on to the property. This has been  
11 brought up to this hearing before and it  
12 continues. There certainly has been an  
13 environmental impact and the public has been  
14 affected.

15           I do not feel that the petition has set  
16 forth and shown measures that they intend to  
17 undertake during the period of the variance to  
18 minimize the impact of the discharge of the  
19 contaminants on the environment. I believe any  
20 damage in this regard is relevant. Illinois  
21 Landfill has not demonstrated that they intend to  
22 comply with the requirements, and they have not  
23 shown any measures that they intend to take to  
24 comply.

1                   As the Board stated in the December 1st,  
2 1994 order, this variance is by its very nature a  
3 temporary reprieve from compliance. Compliance  
4 should be sought regardless of the hardship in this  
5 regard. The Illinois Landfill must also calculate  
6 and commit to a plan which is calculated to achieve  
7 compliance within a term certain.

8                   We feel at this point, based on the  
9 evidence, that the public is at risk and will  
10 continue to be at risk until Illinois Landfill has  
11 met the regulatory standards. They have had four  
12 years for compliance and now they are asking for a  
13 total of eight years for continued compliance. We  
14 would ask, then, that the Illinois Landfill should  
15 immediately come into complete compliance with the  
16 landfill regulations, because that is the purpose  
17 of the regulations, and there has been hazards to  
18 the public and the safety. The Illinois Landfill  
19 has had long enough to come into compliance and it  
20 is time for the Illinois Pollution Control Board to  
21 protect the public, which is this mandate.

22                   Thank you.

23                   HEARING OFFICER FRANK: Thank you.

24                   There are two other members of the

1 public. Do you wish to speak? For the record,  
2 they are shaking their heads no.

3 Do either of the attorneys for either ILI  
4 or the IEPA wish to respond, or do you have closing  
5 statements?

6 MS. JOHNSON: Can I have second?

7 HEARING OFFICER FRANK: Sure. Off the  
8 record.

9 (Whereupon a short recess was  
10 taken.)

11 MS. JOHNSON: One of my affiants, Steve  
12 Smith, has a response to make.

13 HEARING OFFICER FRANK: Okay. We need to  
14 get him sworn in then.

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

17 S T E V E N C. S M I T H, P. E.,  
18 having been first duly sworn by the Notary Public,  
19 saith as follows:

20 MR. SMITH: I guess my comment, just with  
21 the public comments, is with respect to the dates  
22 of compliance. Nancy had said earlier that as of  
23 today we are in compliance with all prevailing  
24 regulations that apply to this facility. Last year



1 we sought and were granted a variance from the date  
2 of actual submission, which was September of 1995  
3 to a date of September of 1996. The Agency  
4 typically takes a year to two years to review such  
5 an application. That is a pretty typical track  
6 record.

7 We have documented in our information  
8 submitted that we are right on that track record.  
9 The date of compliance that we needed a permit by  
10 to meet the new regulations is actually September  
11 11th of 1997, not the four years or eight years  
12 that has been calculated. So, therefore, we would  
13 be seeking a variance of an additional year. That  
14 would be the window that we are sliding or trying  
15 to vary or variate off of that date.

16 HEARING OFFICER FRANK: Okay. Is there  
17 anything further?

18 MS. JOHNSON: Could we also swear Mr.  
19 Paraskevas?

20 HEARING OFFICER FRANK: Okay.

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

23 W I L L I A M G . P A R A S K E V A S , P . E . ,  
24 having been first duly sworn by the Notary Public,

1 saith as follows:

2 MR. PARASKEVAS: There is a statement by  
3 Mr. Underhill that I wanted to address that alleges  
4 that the discharge of contaminants during the  
5 requested variance period is not addressed in the  
6 petition, and alleging that this discharge of  
7 contaminants creates potential environmental  
8 problems and affects the public. I take exception  
9 to that because the landfill is in compliance with  
10 the standards that apply to its operation.

11 The discharge of contaminants was not  
12 even brought up in any of the testimony that was  
13 given earlier. The operation of the landfill  
14 occurs several thousand feet away from the area in  
15 question related to the drainage problems which are  
16 in the process of ongoing negotiations with the  
17 Illinois Landfill and Mr. Regan's operation. So I  
18 feel that the allegation of discharge of  
19 contaminants has not been verified or is not  
20 correct for this particular situation.

21 HEARING OFFICER FRANK: Okay. Is there  
22 anything further from any of the witnesses?

23 MS. JOHNSON: I would just like to state  
24 that the issues that have been raised by the

1 objectors, it is ILI's position that those issues  
2 are not relevant to the petition for variance and  
3 do not go to the issues regarding the petition for  
4 variance, and once again we ask the petition for  
5 variance be allowed.

6 HEARING OFFICER FRANK: Thank you.  
7 Okay. Mr. Scherschligt?

8 MR. SCHERSCHLIGT: The Agency has no  
9 response.

10 HEARING OFFICER FRANK: Mr. Underhill,  
11 did you have anything further?

12 MR. UNDERHILL: Just briefly, with regard  
13 to what Ms. Johnson said concerning the relevance  
14 of this matter, concerning the relevance of the  
15 public testimony. I think the law is that when  
16 deciding whether to grant or deny a variance  
17 requested, the Board is required to balance the  
18 hardship of continued compliance against the  
19 adverse impact the variance will have on the  
20 environment and the public.

21 So I feel the evidence that we have  
22 presented today is relevant with regard to the  
23 impact on the public and the environment. I think  
24 under the prevailing law that testimony would be

1 something for the Board to consider. Thank you.

2 HEARING OFFICER FRANK: Is there anything  
3 further from anyone else? Okay. At this time then  
4 I will declare the hearing adjourned.

5 Before we do that, does anyone wish to  
6 submit anything else in writing? Are either side  
7 planning on writing a brief?

8 MR. SCHERSCHLIGT: We will not be  
9 submitting a brief unless the petitioner chooses  
10 to.

11 MS. JOHNSON: We won't be submitting a  
12 brief.

13 HEARING OFFICER FRANK: Mr. Underhill?

14 MR. UNDERHILL: No, we will stand on what  
15 we submitted already.

16 HEARING OFFICER FRANK: Then there will  
17 be no public comment period scheduled in this  
18 case. The record will be considered closed as of  
19 the end of this hearing. Thank you all for  
20 coming.

21

22

23

24

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

3

4

C E R T I F I C A T E

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

I, DARLENE M. NIEMEYER, a Notary Public  
in and for the County of Montgomery, State of  
Illinois, DO HEREBY CERTIFY that the foregoing 28  
pages comprise a true, complete and correct  
transcript of the proceedings held on the 25th of  
July A.D., 1997, at Vermillion County Courthouse,  
Annex, Danville, Illinois, in the case of Illinois  
Landfill, Inc. v. Illinois Environmental Protection  
Agency, in proceedings held before the Honorable  
Deborah L. Frank, Hearing Officer, and recorded in  
machine shorthand by me.

IN WITNESS WHEREOF I have hereunto set my  
hand and affixed my Notarial Seal this 29th day of  
July A.D., 1997.

Notary Public and  
Certified Shorthand Reporter and  
Registered Professional Reporter

CSR License No. 084-003677  
My Commission Expires: 03-02-99