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ILLINOIS POLLUTION CONTROL BOARD

IN MATTER OF: )  
 )  
AMENDMENTS TO LOCATION ) R97-29  
STANDARDS FOR LANDSCAPE WASTE) (Rulemaking - Land)  
COMPOST FACILITIES, )  
35 ILL. ADM. )  
CODE 830.203(c) )

The following is the transcript of a  
hearing held in the above-entitled matter, taken  
stenographically by Caryl L. Hardy, CSR, a notary  
public within and for the County of Cook and State  
of Illinois, before Richard McGill, Hearing  
Officer, at 100 West Randolph Street, Room 9-040,  
Chicago, Illinois, on the 8th day of September  
1997, A.D., commencing at the hour of  
approximately 10:10 a.m.

1           PRESENT:

2                           HEARING TAKEN BEFORE:  
3                           ILLINOIS POLLUTION CONTROL BOARD  
4                           100 West Randolph Street  
5                           Suite 11-500  
6                           Chicago, Illinois 60601  
7                           (312) 814-4925  
8                           BY: MR. RICHARD M. MCGILL, JR.

6

7           ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

8           Ms. Marili McFawn  
9           Ms. Kathleen Hennessey

10

11           ILLINOIS ENVIRONMENTAL PROTECTION AGENCY MEMBERS  
12           PRESENT:

12

13           Ms. Judith S. Dyer  
14           Ms. Valerie A. Puccini  
15           Ms. Joyce Munie, P.E.

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Identification

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1 MR. MCGILL: Let's go on the record. Good  
2 morning. My name is Richard McGill, and I have  
3 been appointed by the Illinois Pollution Control  
4 Board to serve as the hearing officer in this  
5 regulatory proceeding entitled In the Matter of  
6 Amendment to Location Standards for Landscape  
7 Waste Compost Facilities, 35 Ill. Adm. Code  
8 830.203(c). The docket number for this matter is  
9 R97-29, and today is the first hearing.

10 Also present today on behalf of the  
11 board is Kathleen Hennessey, the board member  
12 assigned to this rulemaking.

13 MS. HENNESSEY: Good morning.

14 MR. MCGILL: And Board Member Marili McFawn.

15 MS. McFAWN: Good morning.

16 MR. MCGILL: On May 6th, 1997, this proposed  
17 rulemaking was filed by its proponents, Dr. Renuka  
18 Desai and Susan Garrett. I would just like to  
19 give a little background.

20 35 Ill. Adm. Code 830.203(c)  
21 contains locations standards for certain landscape  
22 waste composting areas. Generally, the proponents  
23 request in their proposal that the board answered  
24 Section 830.203(c) to prohibit composting areas

1 from being located within one-half mile of the  
2 property line of a hospital, school, athletic  
3 field, or public park and to require that existing  
4 composting operations located within that setback  
5 distance be relocated. The board accepted this  
6 matter for hearing by its order of June 19th,  
7 1997.

8                   If you would note, at the back of  
9 the room on several of the chairs in the back row,  
10 there is a service list and notice list sign-up  
11 sheets for this proceeding.

12                   Just to explain what those are,  
13 those who are on the notice list will receive only  
14 board opinions and orders and hearing officer  
15 orders. Those on the service list will receive  
16 these documents, plus any prefiled testimony and  
17 certain other filings.

18                   Also at the back of the room are  
19 copies of the current notice lists and service  
20 lists. These lists are updated periodically.

21                   I would like to make a few comments  
22 about the procedure that will follow today. This  
23 hearing will be governed by the Board's procedural  
24 rules for regulatory proceedings. All information

1       which is relevant and not repetitious or  
2       privileged will be admitted. All questions -- I'm  
3       sorry. All witnesses will be sworn and subject to  
4       cross-questioning.

5                       In terms of the order for today's  
6       proceeding, first, we will address two motions  
7       filed by the Illinois Environmental Protection  
8       Agency and one motion filed by the city of Lake  
9       Forest. When I refer to the agency today, I'm  
10      referring to the Illinois Environmental Protection  
11      Agency.

12                      After addressing these motions, we  
13      will begin testimony. We will start with the  
14      testimony of the proponents' witnesses followed by  
15      questions for them as a panel.

16                      Then we will have the testimony of  
17      the agency's witness followed by questions for  
18      her.

19                      Then we will have the testimony of  
20      the city of Lake Forest witnesses followed by  
21      questions for them as a panel.

22                      Then we will have the testimony of  
23      the Chicago Recycling Coalition's witness followed  
24      by questions for him.

1                   Then we will have the testimony of  
2 the witness for Land and Lakes Company followed by  
3 questions for her.

4                   After that, time permitting, we will  
5 take testimony of any interested persons who did  
6 not prefile testimony. Anyone may ask a question  
7 of any witness.

8                   I ask, however, that during the  
9 question period if you have a question, please  
10 raise your hand and wait for me to acknowledge  
11 you. When I acknowledge you, if you would state  
12 in a loud and clear voice your name and any  
13 organization that you represent.

14                   Also, I would like to note that any  
15 questions asked by a board member or myself are  
16 not intended to express any preconceived notions  
17 or bias, but are only to build a complete record  
18 for review for those board members who are not  
19 present here today.

20                   Also, to help ensure that interested  
21 persons get an opportunity to testify during these  
22 hearings, I ask that you make extra efforts to  
23 avoid repetitious testimony.

24                   In addition, I would like to remind



1 everyone that this rulemaking involves a proposed  
2 change to a statewide regulation. Accordingly,  
3 this is not the proper forum to argue about permit  
4 status or permit applications of any particular  
5 individual facility.

6 Are there any questions about what I  
7 have just said?

8 I would like to note that there is  
9 currently one additional hearing scheduled in this  
10 matter for Tuesday, October 7th at 10:00 a.m., at  
11 the Illinois State Library, 300 South Second  
12 Street, Room 403, Springfield, Illinois.

13 Right now, I would like to move on  
14 to the various motions that have been previously  
15 filed to the board. First, we will take up the  
16 motions of the agency and then the motion of the  
17 city of Lake Forest.

18 Ms. Dyer, would you like to come up  
19 front? Just have seat here.

20 MS. DYER: Good morning. My name is Judy  
21 Dwyer. I'm here today on behalf of Illinois  
22 Environmental Protection Agency, and with me is  
23 Valerie Puccini, my co-counsel. We have two  
24 motions.

1                   Do you have a preference about the  
2 order?

3           MR. MCGILL: Well, there have been two  
4 motions, as Ms. Dyer indicated. There is a motion  
5 to file instanter and a motion to delay the  
6 appearance of an agency witness.

7                   Why don't we take up the motion to  
8 file instanter, which was filed on August 19th?

9                   As I understand it, you will be  
10 amending that motion, but before you make the  
11 amended motion, maybe you could explain or just  
12 briefly summarize the original motion and the  
13 supporting reasons for it and why we need to --  
14 why there is a need for an amendment.

15           MS. DYER: I'm going to call upon my  
16 co-counsel to explain the background behind our  
17 filing this motion and our needing to amend it.  
18 It has to do with some glitches we ran into in  
19 filing our exhibits.

20           MS. PUCCINI: What happened was when we first  
21 did the filing, we did not include double -- the  
22 two exhibits had double sides to it, and we only  
23 included one side in the copying. So the first  
24 pack of information that everybody received on

1 August 13th had the testimony in it. It also had  
2 a motion to delay the appearance of one of our  
3 witnesses. However, in Exhibits D and E, which  
4 was Dr. Shirley Behr's testimony, it only included  
5 one side of the double-sided copies, and that was  
6 truly a clerical error. It was unintentional.  
7 The agency did not intend to not include the whole  
8 filing.

9                   So what we decided to do, since we  
10 found this out after the date for the prefiling  
11 testimony, is file a motion allowing the board to  
12 accept a late filing, but the late filing would be  
13 a complete filing having Exhibits D and E having  
14 the double-sided copies. So we went ahead and did  
15 that. I think this was filed on August 18th.

16                   The problem was when we filed that  
17 filing, we forgot to include Exhibits F and G,  
18 which were originally filed on August 13th with  
19 the prefiled testimony.

20                   So if everybody has the original  
21 one, which was filed on August 13th, and the  
22 second one, which was filed on August 18th, if you  
23 took Exhibits F and G from the first filing and  
24 added it to your second filing, you would have a

1 complete filing.

2                   So what we need to do with this  
3 motion is amend it by adding Exhibits F and G so  
4 that you have a complete filing. F and G were  
5 included in the first filing. We just  
6 inadvertently left it out of the second filing,  
7 but those copies were complete.

8           MR. MCGILL: Thank you. So the service list  
9 has received a full copy of the agency's prefiled  
10 testimony, albeit from several filings, the last  
11 of which was mailed out on approximately August  
12 18th, I believe.

13           MS. PUCCINI: Correct.

14           MR. MCGILL: Are there any objections to  
15 granting the agency's amended motion to file  
16 instanter the prefiled testimony of Joyce Munie  
17 and Shirley Behr and a motion to delay the  
18 appearance of Cheryl Behr?

19                   Seeing none, the motion is granted.

20                   The agency also filed a motion to  
21 delay the appearance of one of its witnesses,  
22 Shirley Behr.

23           MS. DYER: The agency filed this motion  
24 because our witness, Dr. Shirley Behr, has had

1 surgery recently and is not able to be here today,  
2 so we have requested that she be allowed to appear  
3 at the second hearing and be available to answer  
4 questions on her prefiled testimony.

5 MR. MCGILL: Is there any objection to  
6 granting the agency's motion to delay the  
7 appearance of Shirley Behr until the second  
8 hearing?

9 MR. MCGILL: Seeing none, that motion is  
10 granted. Thank you.

11 MS. DYER: Thank you.

12 MR. MCGILL: Next, we will address a motion  
13 of the city of Lake Forest filed on September 3rd  
14 to extend the deadline for submission of prefiled  
15 testimony for one of its witnesses, Karen Strauss,  
16 to September 15th, and to delay the appearance of  
17 that witness until the second hearing.

18 Ms. Whiteman, counsel for the city,  
19 perhaps you could just briefly explain the reason  
20 for the motion.

21 MS. WHITEMAN: Sure. I'm Marian Whiteman,  
22 and I'm representing the city of Lake Forest. The  
23 city had contacted Karen Strauss to provide  
24 testimony in connection with this matter well in

1 advance of the original prefiled testimony  
2 deadline.

3           At that time, Karen Strauss was  
4 previously committed to provide testimony in other  
5 matters in other states and wasn't able to appear  
6 today. It also appeared that not only could she  
7 not make the August 13th prefiled testimony  
8 deadline, she would also be unable to prefile  
9 testimony prior to the October 7th hearing.

10           At that time, we chose not to  
11 present obviously any testimony of hers since we  
12 did not believe she would be able to appear. It  
13 is now clear that her schedule has cleared up. We  
14 were just notified in advance of the day we filed  
15 this motion that her previous commitments have  
16 been eliminated and that she will, in fact, be  
17 able to appear on the 7th.

18           For that reason, we have asked that  
19 the prefiled testimony deadline be extended until  
20 September 15th to allow individuals time in order  
21 to prepare for questioning of her on October 7th.  
22 We believe that since the agency had already asked  
23 for time to have somebody appear on the 7th that  
24 the hearing on the 7th would be going forward at

1 any rate and so we believe that she should be able  
2 to appear at that hearing.

3 MR. MCGILL: Thank you. Is there any  
4 objection to granting the city of Lake Forest's  
5 motion to extend the deadline for submission of  
6 prefiled testimony for one of its witnesses, Karen  
7 Strauss, to September 15th and to the delay the  
8 appearance of that witness until the second  
9 hearing?

10 MR. HANDLER: Yes. Steve Handler on behalf  
11 of the proponents.

12 I can understand why someone would  
13 have a schedule conflict or they couldn't make the  
14 hearing today might have to present their  
15 testimony on October 7th. I don't think, however,  
16 there has been a sufficient showing as to why the  
17 prefiled testimony could not have been filed at  
18 the original deadline.

19 This puts the proponents, I think,  
20 at a very great disadvantage. What, in effect,  
21 Dr. Strauss is able to do is to have the hearing  
22 today, have everybody else speak and talk and have  
23 questions, and then after all that is done, she  
24 will file her testimony.

1                   Then there will be a hearing down in  
2     Springfield, which is a great distance for the  
3     people here, the proponents of this rule. So I  
4     simply don't think that there has been a  
5     sufficient showing as to why the testimony is  
6     coming in after the filing date, and if it is  
7     allowed, then somehow the proponents should have  
8     an opportunity to respond in writing without the  
9     necessity of appearing a second time to respond to  
10    that information.

11                 MR. MCGILL: Thank you, Mr. Handler. Your  
12    objection to the motions is part of the record,  
13    which the board members will review.

14                   Ms. Whiteman, do you have any  
15    response to the objections?

16                 MS. WHITEMAN: Yes. In the first instance,  
17    the board had already scheduled an October 7th  
18    hearing, so the fact that individuals must appear  
19    in order to cross examine witnesses that have  
20    chosen to appear at that hearing or been allowed  
21    to appear at that hearing is not sufficient  
22    prejudice or reason not to allow them to appear.

23                   Secondly, the purpose of this  
24    hearing to allow all testimony relevant to a



1 rulemaking to come in. This is not an adversarial  
2 proceeding. It's an opportunity by the board to  
3 find out as much as information as it can about  
4 the appropriate basis for this rulemaking, and  
5 Karen Strauss' testimony will definitely be  
6 relevant.

7 She has a Ph.D. in public health,  
8 and she has spoken on this issue and been involved  
9 both with the Lake Forest and Winnetka facilities  
10 in reviewing the scientific and technical  
11 information. So her testimony is definitely  
12 relevant.

13 Third of all, she did not file  
14 prefiled testimony because she did not believe she  
15 was in a position to appear, and so she didn't  
16 want to waste the board's in reviewing testimony  
17 that would not be cross examined. But because she  
18 is able to appear for cross examination, the  
19 proponents have a full opportunity to review her  
20 testimony with her and to ask her direct questions  
21 about that. So we do not feel that the proponents  
22 are in any way prejudiced by this motion.

23 MR. MCGILL: Thank you. Let's go off the  
24 record.

1 (Whereupon, a discussion was held  
2 off the record.)

3 MR. MCGILL: Let's go back on the record.

4 We are going to rule on this later  
5 this morning after we have had a chance to talk  
6 among ourselves and deliberate on the motion and  
7 the objections that have been made.

8 We will now proceed to the  
9 proponents' presentation. Ms. Garrett, if you  
10 would like to, come up and bring any other  
11 witnesses for the proponents who are present.

12 Let's go off the record for a  
13 moment.

14 (Whereupon, a discussion was held  
15 off the record.)

16 MR. MCGILL: Let's go back on the record.

17 Ms. Garrett, as I understand it, you would  
18 like to make a motion regarding entering your  
19 testimony and Steven Handler's testimony as  
20 hearing exhibits.

21 MS. GARRETT: I make a motion to enter  
22 additional testimony of Susan Garrett and Steven  
23 Handler. We provided 40 copies for those people  
24 in the audience.

1           MR. MCGILL: Okay. As I understand it, then  
2 your motion is to have entered as exhibits your  
3 prefiled testimony and Stevens Handler's prefiled  
4 testimony with a few pages of additional testimony  
5 from each witness.

6           MS. GARRETT: Yes.

7           MR. MCGILL: And there are extra copies of  
8 this additional testimony?

9           MS. GARRETT: Yes, there are.

10          MR. MCGILL: I believe those are at the back  
11 of the room now.

12                        Is there any objection to the  
13 proponents' objection?

14          MS. WHITEMAN: Yes. I would like to object  
15 on the basis that these folks were asked to file  
16 complete prefiled testimony prior to the hearing,  
17 and they have chosen not to do that.

18                        They filed only a portion of the  
19 testimony, so the individuals who wanted to  
20 prepare for cross examination of these witnesses  
21 have been, in fact, prejudiced in their ability to  
22 do that.

23          MR. MCGILL: Do the proponents have a  
24 response to that?

1 MS. GARRETT: I can only say that what we  
2 have added is not additional evidence, so to  
3 speak, but we are just supporting -- they are  
4 supporting comments to our testimony, and I don't  
5 think it's an unreasonable request. We are just  
6 basically supporting what we have already  
7 prefiled, and we have done this with additional  
8 comments -- by adding additional comments.

9 MR. MCGILL: Let's go off the record for a  
10 moment.

11 (Whereupon, a discussion was held  
12 off the record.)

13 MR. MCGILL: Let's go back on the record.

14 Ms. Garrett, would you hand me a  
15 copy of the prefiled testimony and additional  
16 testimony for each of the two witnesses, yourself  
17 and Steven Handler?

18 MS. GARRETT: You wanted additional and the  
19 prefiled?

20 MR. MCGILL: Please.

21 MS. GARRETT: The additionals are in back.

22 (Documents tendered.)

23 MR. MCGILL: Thank you.

24 I'm going to grant the

1     proponents' motion. The additional testimony is  
2     very brief. Steven Handler's additional testimony  
3     relates to the board regulation that had been  
4     referenced in the prefiled testimony. The  
5     additional testimony of Susan Garrett is a few  
6     pages.

7                     Copies of this additional testimony  
8     are available at the back of the room, and persons  
9     may review these to ask questions later today. I  
10    just believe that for the order and coherency of  
11    the hearing transcript that it makes sense to  
12    include this additional testimony when the  
13    witnesses are covering the prefiled testimony.

14                    Accordingly, I'm marking as Exhibit Number 1  
15    and entering as a hearing exhibit the prefiled  
16    testimony of Susan Garrett.

17                             (Hearing Exhibit No. 1 marked for  
18                             identification, 9/8/97.)

19                    MR. MCGILL: I'm marking as Exhibit Number 2  
20    the additional testimony of Susan Garrett, which  
21    includes an attached letter from John Lumpkin,  
22    director of public health, Illinois Department of  
23    Public Health.

24

1                   (Hearing Exhibit No. 2 marked for  
2                   identification, 9/8/97.)

3           MR. MCGILL: I'm marking as Exhibit Number 3  
4           and entering as a hearing exhibit the prefiled  
5           testimony of Steven Handler, which includes, as an  
6           attachment, a letter from Jordan Fink, and a  
7           letter from Raymond Slavin, a letter from Vincent  
8           Marinkovich, and a letter from Steven Edberg.

9                   (Hearing Exhibit No. 3 marked for  
10                  identification, 9/8/97.)

11          MR. MCGILL: I'm marking as Exhibit 4 and  
12          entering as a hearing exhibit the additional  
13          testimony of Steven Handler, which attaches what  
14          appear to be board regulations 35 Ill. Adm. Code  
15          various sections of Part 811.

16                  (Hearing Exhibit No. 4 marked for  
17                  identification, 9/8/97.)

18          MR. MCGILL: Would you please swear in --  
19          Ms. Garrett, all of these people are going to be  
20          testifying?

21          MS. GARRETT: Yes, and then one more will be  
22          coming after lunch.

23          MR. MCGILL: Why don't we swear them in as a  
24          panel?

1 (The panel was duly sworn.)

2 MR. MCGILL: Ms. Garrett, why don't you begin  
3 with your testimony?

4 MS. GARRETT: Pardon me?

5 MR. MCGILL: You may begin your  
6 presentation.

7 MS. GARRETT: Fine. Thank you.

8 Today we are here to testify before  
9 the Illinois Pollution Control Board in support of  
10 amending the Location Standards for Landscape  
11 Waste Compost Facilities Regulation, Section  
12 830.203(c).

13 Currently the regulation reads,  
14 which is on the overhead, "The composting area of  
15 the facility must be located so as to minimize the  
16 incapacity with the character of the surrounding  
17 area, including at least a 200-foot setback from  
18 any residence, and in the case of a facility that  
19 is developed or the permitted composting area of  
20 which is expanded after November 17th, 1991, the  
21 composting area must be located at least  
22 one-eighth mile from the nearest residence other  
23 than a residence located on the same property as  
24 this facility."

1                   Our proposed amendment would add the  
2 following language. Please note the bold  
3 type. "The composting area" -- well, I will just  
4 read the bold. "The composting area shall be  
5 located at least one-eighth mile from the nearest  
6 residence and a minimum of one-half mile from the  
7 property of the facility --" I'm sorry --  
8 "property of a hospital, school, an athletic  
9 field, and a public park. Existing composting  
10 operations that are located within one-half mile  
11 of the above-mentioned facilities shall be  
12 relocated to more than one-half mile within six  
13 months of the effective date of this regulation."

14                   The rationale of this proposed  
15 amended regulation is based on several matters,  
16 all of which have been submitted to you either  
17 through prefiled testimony or as testimony you  
18 will hear today.

19                   We have organized our testimony into  
20 four categories. Those categories are: Overall  
21 rationale of the proposed amendment to the  
22 regulation, health and quality of life concerns,  
23 composting and clean air, and economics.

24                   It is important to note that as



1     proponents for an amended regulation requiring  
2     distances between compost areas and schools,  
3     athletic fields, public parks, and hospitals, we  
4     also support the composting industry. We are not  
5     here today to shutdown compost operations  
6     throughout the state of Illinois of Illinois, but  
7     instead we are here requesting a more reasonable  
8     set of standards to regulate the location of these  
9     operations.

10                     We believe that those here to oppose  
11     our proposed regulation should consider that a  
12     regulation mandating a setback between compost  
13     areas and residences, but not requiring a setback  
14     from schools and parks where young children live  
15     and play over 250 days a year is just not logical  
16     or fair.

17                     By revising the current regulation  
18     to include additional and necessary criteria for  
19     siting of compost areas, we will be providing a  
20     standard that will ultimately work to protect the  
21     interest of all concerned and facilitate our  
22     harmonious relationship between compost operations  
23     and the entire community they serve.

24                     We believe that the state of

1 Illinois seeks equal protection of all of its  
2 citizens. We further believe that protection  
3 applies to the improper siting of compost  
4 operations. The state would not specifically deny  
5 anyone equal protection under the law, including  
6 users of schools, public parks, playing fields,  
7 and hospitals, who are pre-entitled to the same  
8 protection as provided to nearby residents.

9                   Therefore, is it fair and proper for  
10 the state of Illinois to protect one group,  
11 residents, by providing a minimum setback of  
12 one-eighth-mile from compost operations and ignore  
13 other groups, those being children, athletes, and  
14 hospitals patients by not providing the same  
15 buffer zone?

16                   As stated in the current regulation,  
17 quote, "The requirements in Section 830.203 are  
18 also designed to protect the surrounding  
19 properties from off-site impacts," end of quote.

20                   Is the omission of schools, parks,  
21 and hospitals de facto discrimination against the  
22 infirmed and the children? Whether the primary  
23 concern is health, as we, of course, believe it  
24 is, or whether it is nuisance noise, odor, quality

1 of life, why should protection be limited to  
2 people in residences? What we are asking for  
3 today is equal protection for all.

4                   The same basic question is posed by  
5 the Illinois State Statutes, Environmental Safety,  
6 Section 415, 5/2 legislative declaration, which  
7 states that, and I quote, "The General Assembly  
8 finds that environmental damage seriously  
9 endangers the public health and welfare as more  
10 specifically described in later sections of this  
11 Act."

12                   If the state is concerned with the  
13 protection of public health and welfare of its  
14 citizens, why does the current regulation  
15 regarding the siting of compost facilities ignore  
16 public school children who are affected by the  
17 same odors, noise, dust and possible health  
18 hazards, as well as citizens who use public parks  
19 and athletes who use athletic playing fields?

20                   We ask is there any logical or fair  
21 basis to distinguish between providing protection  
22 for residents while not providing the same  
23 protection for users of public facilities. The  
24 health and welfare of all citizens of Illinois are

1 at stake here, not just for those citizens who  
2 reside between one-eighth and one-half-mile from  
3 compost operations.

4 Today we are requesting that the  
5 Illinois Pollution Control Board exercise its  
6 authority to modify the current regulation to be  
7 more inclusive of others who must also be  
8 protected from off-site impacts. We are simply  
9 asking for the same protection as already provided  
10 to residents living nearby compost sites in the  
11 state of Illinois.

12 The Illinois Environmental  
13 Protection Act states in Title 1, General  
14 Provisions, Section 5, that the Illinois Pollution  
15 Control Board, and I quote, "shall determine,  
16 define, and implement the environmental control  
17 standards applicable in the state of Illinois of  
18 Illinois and may adopt rules and regulations in  
19 accordance with Title VII of this Act," end of  
20 quote.

21 Today we are here representing  
22 hundreds of Illinois citizens who deserve equal  
23 protection from compost sites. We hope you, the  
24 Illinois Pollution Control Board, will take into

1 consideration the health and welfare of all of  
2 these citizens as guaranteed by the state of  
3 Illinois of Illinois.

4 Just one month ago, the Illinois  
5 Department of Public Health sent a letter stating  
6 their position on this exact issue. Let me read  
7 one line from that letter. "We also concur that  
8 the siting of compost facilities with regard to  
9 schools, hospital, athletic fields, and public  
10 parks should be at least as protective as that  
11 provided for residences."

12 Before we begin our testimony, we  
13 want to thank the members of the Illinois  
14 Pollution Control Board for granting this  
15 important hearing. Our concern regarding the lack  
16 of a distance requirement in the current  
17 regulation between commercial compost operations  
18 and schools, hospitals, parks, and athletic fields  
19 stems from years of trying to move a compost  
20 operation in Lake Forest, Illinois.

21 Through our research, including  
22 newly documented findings regarding potential  
23 health implications composting, we have determined  
24 that all parties involved would be well-served by

1 a modified regulation. When we began looking at  
2 the issue in 1994, the impact of the newly  
3 established commercial composting industry was  
4 just beginning to be understood.

5 As we worked then to effect the  
6 relocation of the composting operation in our  
7 community, we found that others from communities  
8 throughout the state of Illinois of Illinois were  
9 doing the same. The common theme among all  
10 concerned citizens appears to be the siting of  
11 those commercial composting operations. We are  
12 pleased that this issue will not be officially  
13 addressed.

14 While we believe there are clear,  
15 compelling, and fact-based arguments supporting  
16 the amendment of this regulation, we are most  
17 grateful for this first-time opportunity to hear  
18 both sides of this issue in a public hearing. We  
19 trust that the process set forward today will  
20 provide those in charge of environmental law a  
21 sound basis for making an informed decision on the  
22 best interest of the health and welfare of all  
23 citizens of Illinois.

24 MR. MCGILL: Thank you. Why don't you

1 present your next witness?

2 MS. GARRETT: My next witness is Steven  
3 Handler, who will be talking about the overall  
4 rationale.

5 MR. HANDLER: My name is Steve Handler. I  
6 live at 1201 West Melody Road in Lake Forest. I'm  
7 submitting this testimony in support of the  
8 proposed rulemaking.

9 In order not to repeat some of what  
10 Ms. Garrett has already testified to, I will just  
11 summarize my prefiled testimony.

12 Basically, our position is quite  
13 simple, and that is that schools, hospitals,  
14 athletic fields, and parks and the people who use  
15 them are entitled to the same protection that  
16 residences are entitled to. There is no reason to  
17 distinguish between the two because people with  
18 asthma, people with immune system deficiencies are  
19 as likely, if not more likely, to use some of the  
20 facilities like hospitals or schools than are  
21 likely to be in residences.

22 The same situation applies with  
23 odors. We can speak from -- a number of us can  
24 speak from personal experience with some of the

1     terribly noxious odors that can result from  
2     composting facilities, and there is no reason that  
3     people in schools, hospitals, athletic fields, and  
4     parks need be subjected to that, too.

5                     The composting facility that we are  
6     familiar with in Lake Forest is a perfect example  
7     of the need for the new rule and the elimination  
8     of the distinction. The facility directly abuts  
9     the grounds of a middle school, the Deerpath  
10    Middle School, which is used for fourth and fifth  
11    graders in Lake Forest.

12                    The school building itself is  
13    approximately 1,000 feet or less from the  
14    composting facility and the windrows. Parts of  
15    the athletic fields for school, however, which are  
16    also used on weekends for children's soccer games,  
17    are immediately across the property line from the  
18    facility. Our point is it doesn't make sense to  
19    say you can't locate a residence within 600 and  
20    some feet of a composting facility, but you can  
21    have kids playing within 50 feet of the windrows.  
22    So the same policy reasons in terms of both  
23    quality of life and health that support a buffer  
24    zone for residents also support a buffer zone for



1 these other facilities.

2 In terms of the half-mile distance  
3 that the proposed rule suggests for these other  
4 facilities, I have submitted a number of letters  
5 from various doctors and medical professionals  
6 which urge a two-mile distance.

7 From our experience with odors, we  
8 have proposed a half-mile distance for these other  
9 facilities because we have been in situations  
10 where we couldn't open the windows in our homes  
11 because of the odors that emanated and the health  
12 concerns which suggest at least a half-mile  
13 distance.

14 My additional testimony, I have  
15 cited one of the board's regulations, which treats  
16 the hospital and the school the same way as a  
17 residence, as an indication that they should be  
18 treated the same way.

19 And as to the board's authority to  
20 require relocation, I haven't found anything  
21 specific on it, but the board's general authority  
22 with respect to public health and welfare would  
23 support a rule requiring that existing composting  
24 areas be relocated. Thank you.

1           MR. MCGILL: Thank you. If you would like to  
2 proceed.

3           MS. GARRETT: Should he be cross examined  
4 since he has to leave?

5           MR. MCGILL: Let's go off the record for a  
6 minute.

7                                 (Whereupon, a discussion was held  
8 off the record.)

9           MR. MCGILL: Let's go back on the record.

10                                What we are going to do is proceed  
11 with questions for Mr. Handler, who needs to leave  
12 in the next half hour or so.

13                                As I mentioned earlier, if you have  
14 a question, please raise your hand and wait for me  
15 to acknowledge you. When I acknowledge you, if  
16 you would state in a loud and clear voice your  
17 name and any organization that you represent.

18                                Let's go off the record for a  
19 minute.

20                                (Whereupon, a discussion was held  
21 off the record.)

22           MR. MCGILL: Let's go back on the record.

23                                Does the agency have any questions  
24 for Mr. Handler?

1 MS. DYER: The agency has no questions at  
2 this point.

3 MR. MCGILL: Before the board proceeds with  
4 questions, does anyone else have any questions of  
5 Mr. Handler?

6 MS. WHITEMAN: Marian Whiteman from the city  
7 of Lake Forest.

8 Could you please list for me -- you  
9 submitted a letter from Dr. Edberg. Could you  
10 please list for me any studies that Dr. Edberg has  
11 performed in connection with health effects  
12 related to aspergillosis and composting  
13 facilities?

14 MR. HANDLER: Specific studies?

15 MS. WHITEMAN: Yes.

16 MR. HANDLER: I don't have his CV with me, so  
17 I don't know what specific studies he has  
18 performed.

19 MS. WHITEMAN: Do you know any that he has  
20 performed specifically in connection with compost  
21 facilities?

22 Are you aware of any?

23 MR. HANDLER: That he has performed  
24 directly in connection with composting facilities,

1 I do not know.

2 MS. WHITEMAN: When you requested  
3 Dr. Edberg's assistance, what did you send him?

4 MR. HANDLER: I didn't send him anything.

5 MS. WHITEMAN: You didn't send him any copies  
6 of studies that had been performed about  
7 composting facilities?

8 MR. HANDLER: No. I was asking him, based on  
9 his expertise given the field he is in at Yale  
10 University, what he knew about allergic  
11 pneumonitis and whether allergic pneumonitis could  
12 be a result of composting facilities, and what you  
13 see here in the letter is what he sent me back.

14 MS. WHITEMAN: You didn't ask him to review  
15 the New York Department of Health Study that was  
16 performed?

17 MR. HANDLER: I didn't ask him to review any  
18 studies.

19 MS. WHITEMAN: What exactly is Dr. Edberg's  
20 background that you know of?

21 MR. HANDLER: Again, he is a professor in the  
22 School of Medicine at Yale University. If it's  
23 important to the board, I can provide a copy of  
24 his CV. I don't currently have one with me, but I

1 would be happy to obtain one and provide it to  
2 both counsel and the board, if you would like it.

3 MS. WHITEMAN: I think that would be useful.

4 MR. HANDLER: That's not a problem. I will  
5 be happy to do that.

6 MR. MCGILL: Why don't you go ahead and do  
7 that?

8 MS. WHITEMAN: Thank you.

9 MR. HANDLER: Certainly.

10 MR. MCGILL: Are there any other questions  
11 for Mr. Handler?

12 I just had a couple questions.

13 MR. HANDLER: Sure.

14 MR. MCGILL: I just wanted to try to clarify  
15 from the prefiled testimony that came in, is it  
16 your understanding that the proponents are still  
17 requesting that existing landscape waste compost  
18 operations located within the proposed half-mile  
19 setback be relocated?

20 MR. GARRETT: Yes.

21 MR. MCGILL: I was wondering if you could  
22 comment on one particular issue. Do you have any  
23 response to the argument of Land and Lakes that  
24 retroactive application of the proposed setback

1 requirement would result in an unconstitutional  
2 taking of property.

3 MR. HANDLER: I think that relates to what  
4 the board concludes as to the health risk. In  
5 other words, if there is a health risk, the fact  
6 that they are located in a situation where they  
7 are posing a health risk would not, in my opinion,  
8 give them the right to compensation as a taking.

9 If there is a change for economic  
10 reasons or quality of life reasons, then I think  
11 they would have the claim, but if there is a real  
12 health risk there, then I think society's interest  
13 in that would overcome whatever property interest  
14 they have, and they would not be entitled to any  
15 compensation for that change.

16 MR. MCGILL: Thank you.

17 MS. HENNESSEY: You are not proposing that  
18 the setback for residences be changed, right?

19 MR. HANDLER: No.

20 MS. HENNESSEY: Do you have any response to  
21 the argument of the city of Lake Forest, which is  
22 slightly different than the argument of Land and  
23 Lakes?

24 Their argument, as I understand, and

1 they can correct me if I'm wrong, is that the  
2 board lacks authority to adopt a regulation with  
3 retroactive effect; that the statute that  
4 establishes setbacks prohibits the board from  
5 adopting the regulation with retroactive effect.

6 MR. HANDLER: I don't think there is merit.  
7 Again, it relates to -- I think the board could  
8 change the regulation and make it into a taking  
9 issue if it's for non-health reasons.

10 But if it's for health reasons, the  
11 board has, I believe, the ability and the  
12 responsibility to protect the public health and  
13 welfare, and just because, based on a given set of  
14 knowledge at one point, the board adopted a  
15 certain set of regulations and then new knowledge  
16 comes in as to health risks, I just don't think  
17 the board is bound and can't respond to that new  
18 information or even old information that maybe it  
19 was there.

20 I think you clearly can respond to  
21 things that involve the public welfare and  
22 health. You can make changes, and the issue is  
23 really whether it is a compensable taking. That's  
24 the issue.

1 MS. HENNESSEY: Thank you.

2 MR. HANDLER: Thank you.

3 MR. MCGILL: I think we may have another  
4 question.

5 Are there any other questions for  
6 this witness?

7 MS. DYER: My name is Judy Dyer, as I  
8 mentioned earlier, and it's just a procedural  
9 issue. The agency did not receive a copy of the  
10 prefiled testimony of Land and Lakes. We haven't  
11 seen that at all.

12 MS. HARVEY: I represent Land and Lakes. I  
13 can assure you that it was mailed. I can give you  
14 a copy right now if you would like, but I did mail  
15 it to the service list. I'm sorry. My name is  
16 Elizabeth Harvey. I represent Land and Lakes.

17 MR. HANDLER: Thank you.

18 MR. MCGILL: Ms. Garrett, one moment.

19 There weren't any more questions  
20 then for Mr. Handler?

21 Thank you. If you would like to  
22 present your next witness.

23 MS. GARRETT: I'm going to present the next  
24 witness, which would be Gloria Loukas. She also



1 has to leave early, so it's a little bit out of  
2 turn, but in the scheme of things, it all will  
3 come together. So there she is.

4 MS. LOUKAS: I'm Gloria Loukas. I live at 20  
5 North Rue Foret in Lake Forest.

6 In September of 1994, I spoke to the  
7 city council of Lake Forest voicing my concerns  
8 after having substitute taught at the Lake Forest  
9 intermediate school. When I taught there, the  
10 odors were so pungent. I had come to find out  
11 these odors were emanating from the compost  
12 facility next to the school.

13 This was so alarming in that the  
14 odors were beyond words to describe. The children  
15 did not want to play outside at recess because of  
16 the horrific stench. I witnessed children running  
17 to their buses after school holding their noses  
18 and screaming because of the horrible odors.

19 I feel my daughter suffered rashes  
20 on her arms during the two years she attended this  
21 school. She no longer has this problem since  
22 attending junior high school.

23 Many parents feel their children  
24 suffered or had an increase of asthma, allergies,

1 rashes, headaches, blurred vision and similar type  
2 problems. We circulated a petition in which 236  
3 concerns parents and doctors signed wanting this  
4 compost facility shutdown. We have given the  
5 Illinois Pollution Control Board a copy of this  
6 petition.

7                   We live very close to the compost  
8 and smell odors from there, I feel, practically  
9 every day. We don't want our children playing  
10 outside, nor do we want to go outside ourselves  
11 much anymore because of these odors and possible  
12 health hazards.

13                   We keep our windows closed almost  
14 all the time. The odors still seep in, especially  
15 on windy days. I feel I have suffered migraine  
16 headaches because of the compost. We feel this  
17 compost facility not only stinks and compromises  
18 our quality of life, but is dangerous, hazardous  
19 and a health threat, even to the point of life  
20 threatening danger.

21                   I have kept odor logs for months on  
22 end, made phone calls to city officials of Lake  
23 County Health Department and DK Recycling. I have  
24 spent many hours voicing my concerns.

1                   As a teacher, parent and neighbor, I  
2                   have had first-hand experience and know the fears  
3                   and disruption this causes to family and school  
4                   life. There are not even words to express and  
5                   explain how deep and wide the fears are and what  
6                   this has done to our lives. I would not want  
7                   anyone to have to suffer and go through this.  
8                   This has been an ongoing nightmare.

9                   I hope that you will pass a law for  
10                  Illinois to have composting facility at least  
11                  one-half mile from schools, athletic fields,  
12                  hospitals, public parks, and homes.

13                 MR. MCGILL: Thank you.

14                 Ms. Garrett, would you like to make  
15                  a motion to have Ms. Loukas' prefiled testimony  
16                  entered?

17                 MS. GARRETT: I would like to make a motion  
18                  to ask anybody in the audience -- that her  
19                  prefiled testimony be entered into evidence.

20                 MR. MCGILL: As an exhibit?

21                 MS. GARRETT: As an exhibit.

22                 MR. MCGILL: Is there any objection to  
23                  entering as a hearing exhibit the prefiled  
24                  testimony of Gloria Loukas?

1                   Would you hand me a copy of that?

2           MS. GARRETT:  Yes.

3                   (Document tendered.)

4           MR. MCGILL:  I'm holding the prefiled  
5 testimony of Gloria Loukas, which attaches several  
6 news articles and a letter.  Is there any  
7 objection to entering as a hearing exhibit the  
8 prefiled testimony?

9                   Seeing none, I'm marking as Exhibit  
10 Number 6 -- I'm sorry -- Exhibit Number 5 the  
11 prefiled testimony of Gloria Loukas, which  
12 includes as attachment several news articles and a  
13 letter from Kathy Sminkey.

14                   (Hearing Exhibit No. 5 marked for  
15 identification, 9/8/97.)

16           MR. MCGILL:  Because Ms. Loukas has to leave  
17 early today, we are going to ask if anyone has any  
18 questions for this witness at this point in time.

19           MS. WHITEMAN:  Ms. Loukas, I'm Marian  
20 Whiteman again.  When is the last time that you  
21 made a complaint -- filed an odor complaint either  
22 with the Lake County Health Department or the city  
23 of Lake Forest?

24           MS. LOUKAS:  I can't say for sure.

1 MS. WHITEMAN: Would you say --

2 MS. LOUKAS: I didn't bring my odor logs with  
3 me.

4 MS. WHITEMAN: Would you say it's been a  
5 year?

6 MS. LOUKAS: Probably not that long, no.

7 MS. WHITEMAN: Thank you.

8 MR. MCGILL: Does the agency have any  
9 questions for this witness?

10 MS. DYER: The agency has no questions.

11 MR. MCGILL: Does anyone have else have any  
12 questions for this witness?

13 MS. HENNESSEY: I just have one. How far do  
14 you live from the compost facility?

15 MS. LOUKAS: Probably --

16 MR. GARRETT: Less than a half-mile.

17 MS. LOUKAS: Less than a half-mile.

18 MS. HENNESSEY: Thank you.

19 MR. MCGILL: Thank you.

20 MS. LOUKAS: Thank you.

21 MR. MCGILL: Ms. Garrett, if you would like  
22 to present your next witness.

23 MS. GARRETT: I would like to present

24 Dr. Renuka Desai, who will be talking about the

1 health concerns related to commercial composting.

2 DR. DESAI: My name is Renuka Desai. I'm a  
3 board certified pediatrician and a licensed  
4 physician in the state of Illinois of Illinois,  
5 and I would like to thank the Illinois Pollution  
6 Control Board, too, for giving me this opportunity  
7 to speak about my concerns. Since my testimony  
8 was very long, I am going to summarize it.

9 In review of the serious situation  
10 in which we all have a responsibility, as well as  
11 an investment, we have asked for your attention.  
12 I'm referring to the need for a change in the  
13 regulation because health, welfare, and safety of  
14 children affects the entire state of Illinois of  
15 Illinois. This is issue of potential health risk  
16 is a real danger to the public safety.

17 In summary, I have to say this.  
18 There are two points on potential health  
19 associated with composting.

20 First view is that we cannot  
21 scientifically prove that there are health risks.  
22 In fact, all the health studies I have read are  
23 inconclusive.

24 The second view is on the other

1 side, there is enough evidence to support that  
2 there is a possible risk to surrounding  
3 communities, specifically certain individuals who  
4 have allergies, asthma, and whose immune system  
5 has been compromised.

6                   Regarding the first view, those who  
7 do not believe there is a health risk, including  
8 some scientists, they do recommend a buffer zone  
9 between composting operations, hospitals, schools,  
10 and public parks. Health department who claims  
11 they do not have convincing evidence on hand yet,  
12 they do support, and they said there is a  
13 potential health risk; therefore, schools and  
14 hospitals should be protected with homes.

15                   I have provided several documents to  
16 support this. I'm not going to read everything in  
17 detail, but a couple of lines from all the  
18 documents.

19                   This letter I would like to read  
20 because it touched my heart. This letter was  
21 written about a father who had lost his child who  
22 used to live near the compost facility, and this  
23 is what he has to say.

24                   "Dr. Desai, this past week I learned

1 about your concerns regarding the compost site in  
2 your area. Believe me, you certainly should be  
3 concerned. My son, Harry Dobin, worked 1,000 feet  
4 away from a compost site in Islip, New York, or  
5 five years until suddenly he became ill.

6 From July 1991 until June 1992, the  
7 doctors treated him for asthma, arthritis,  
8 Weggener's disease, Lyme disease, kidney  
9 disorders, bronchitis.

10 Finally, in January 1992 when he  
11 could no longer breathe, they performed an open  
12 lung biopsy see and discovered this fungus called  
13 aspergillosis had invaded his lungs. But after  
14 being exposed for such a long period of time to  
15 this compost site, which is a natural breeding  
16 ground for this fungus, which took over my son's  
17 entire body, no antibiotic could stop this  
18 fungus.

19 Every time the doctors thought he  
20 was cured, it showed up somewhere else in his  
21 body, first his lungs. Then he had an aneurysm.  
22 Then in his spine. Then in his lungs, which they  
23 wanted to amputate -- legs, which they wanted to  
24 amputate.



1                   After 15 months, this fungus  
2 destroyed him completely. It finally went to his  
3 heart valve, and at that time the doctors decided  
4 not to remove his legs or replace the heart valve  
5 because -- but we should make his as comfortable  
6 as possible and let Harry pass on and end his  
7 suffering.

8                   On September 23rd, 1992, five days  
9 after this fungus invaded his heart valve and  
10 legs, my son, Harry, died.

11                   From January 1992 until his death,  
12 Harry was hospitalized for the most horrible  
13 illness imaginable. I will never forget his  
14 suffering.

15                   They ask, can we prove my son's  
16 death is linked to this compost site? Yes, we  
17 have documentation from the foremost experts in  
18 this field: Biochemists, infectious disease  
19 doctors from Cornell University, and also the  
20 foremost expert, whose life research is  
21 aspergillosis."

22                   This is a reality, and no child  
23 should suffer the way Harry Dobin did, and that's  
24 why I'm here.

1                   The second letter is from  
2 Dr. Slavin. He's director of the Division of  
3 Allergy and Immunology and professor of internal  
4 medicine at St. Louis University.

5                   He said, "I have done research in  
6 the past showing that compost piles are very rich  
7 sources of aspergillus and other molds. There are  
8 good studies indicating that aspergillus spores in  
9 particular that may be a cause of human disease  
10 may travel fairly long distances. It is therefore  
11 advised that compost facilities not be placed  
12 within a two-mile radius of schools, hospitals,  
13 nursing homes, et cetera."

14                   He was also president of American  
15 Academy of Allergy and Immunology.

16                   The second letter I received from  
17 Dr. Fink, who is a professor of medicine, chief of  
18 allergy and immunology at Medical College of  
19 Wisconsin.

20                   He said, "I participated in a  
21 publication in the American Review of Respiratory  
22 Diseases reporting a case of aspergillosis  
23 attributed to a nearby municipal leaf compost  
24 site. We suggested at that time, based on the

1 microbiologic data in that case, that  
2 consideration should be given to locating  
3 composting sites more than two miles from  
4 residential areas in order to minimize potential  
5 microbial contamination of the lung."

6                   Then I received a letter from  
7 Dr. Hugh Sampson, whose a professor of pediatrics  
8 and chairman of section of allergy and immunology  
9 at Johns Hopkins University. He's also chief of  
10 section of allergy and immunology of American  
11 Academy of Pediatrics.

12                   He said, "Composting units should be  
13 a minimum of two miles from high population  
14 areas. Aerosols of airborne fungal spores can  
15 induce significant respiratory problems in  
16 children with allergic disease, asthma, and other  
17 chronic pulmonary disorders.

18                   In addition, irritant gases and  
19 odors from compost piles may worsen underlying  
20 hyperreactive airways in patients with asthma."

21                   Then he says, "The executive  
22 committee of the section of allergy and immunology  
23 of the American Academy of Pediatrics applauds  
24 your efforts and supports the recommendation of a

1 minimum two-mile radius free of composting  
2 facilities for hospital, schools, and daycare  
3 centers."

4                   There is another letter I received  
5 from Illinois Chapter, American Academy of  
6 Pediatrics, and this letter was written by  
7 Dr. Hatch, who is president of American Academy of  
8 Pediatrics, Illinois Chapter.

9                   He said, "We are aware that the  
10 association of certain medical problems in  
11 children with close exposure to a composting  
12 facility is currently under study. Until such  
13 time as the safety of such exposure is confirmed,  
14 the Illinois Chapter of the American Academy of  
15 Pediatrics recommends that composting facilities  
16 be located a safe distance from schools and the  
17 other facilities."

18                   Then another letter is from Lake  
19 County Medical Society. They are supporting the  
20 two-mile buffer zone. "There is a significant  
21 risk of producing disease in previously healthy  
22 individuals living or working near open air  
23 composting facility, and people all over the  
24 country who are living nearby compost sites have

1 experienced similar symptoms such as recurrent  
2 sinus problems, increase incidence of asthma, skin  
3 and eye irritations, headaches, dizziness,  
4 pneumonia extreme fatigue, and nosebleeds.

5 Many compost facilities are located  
6 within a close proximity of public schools and  
7 residential areas; therefore, the Illinois State  
8 Medical Society encourage legislation prohibiting  
9 municipal or commercial composting facilities  
10 within a two-mile radius of any school or  
11 residential area."

12 Then I received a letter from  
13 Dr. Allen Pollowitz, who is a chairman of  
14 subcommittee of compost sites, environmental and  
15 occupational allergy section, American Academy of  
16 Allergy, Asthma, and Immunology.

17 He said, "Two well-documented case  
18 reports demonstrated this risk. The second case  
19 report concerns a young asthmatic man who  
20 developed bronchopulmonary aspergillosis, a  
21 serious complication of his exposure to  
22 aspergillus fungi generated by the municipal  
23 compost facilities 250 feet away from his home.

24 Recently, I personally participated

1 in a brief sampling study involving a yard compost  
2 facility in Scarsdale, New York. We found counts  
3 of 671 and 1,045 on a residential property 200  
4 yards from the facility. Simultaneous control  
5 counts at a location ten miles away were 373 and  
6 property 200 yards from the facility. I'm sorry.  
7 Simultaneous control counts at a location ten  
8 miles away were 373 and 319 spores.

9 Informal survey of health problems,  
10 especially respiratory conditions such as asthma,  
11 pneumonia, and upper airway conditions appear to  
12 be much higher than expected in residential areas  
13 adjacent to these facilities."

14 Then he said, "Allergic individuals  
15 comprise 20 to 25 percent of the U.S. Population.  
16 They are at greater risk to fungal-related  
17 diseases, especially those patients who have  
18 bronchial asthma. For this reason, I strongly  
19 support your effort to limit the yard compost  
20 facility placement to areas at least two miles  
21 from residences, school, medical facilities, and  
22 recreational areas."

23 Then some said that there are no  
24 reports of illness in the workers. Then the NIOSH

1 has released this warning, and this is what they  
2 had to say.

3 "An estimated 30 percent to 40  
4 percent of works exposed to organic dust will  
5 develop the disease. Yet, despite its common  
6 occurrence, ODTS is not a widely recognized  
7 illness. It is probable that thousands of workers  
8 have been affected by a disease they knew nothing  
9 about, said NIOSH Director Dr. Linda Rosenstock.

10 Moreover, many have been  
11 misdiagnosed and received unnecessary or  
12 inappropriate treatment. Preventing this illness  
13 will be much more likely when workers and  
14 physicians are aware of the syndrome, its causes,  
15 and its symptoms."

16 Susan Garrett has already presented  
17 the letter from Dr. Lumpkin, who also recommended  
18 that schools and hospitals should be protected  
19 with the homes.

20 Then I received this. The Cure  
21 Organization from California, they have sent me  
22 this information. And they said that the New York  
23 health study reveals that the spore can travel up  
24 to 2200 feet, and we can see this clearly on this

1 graph.

2                   Based on these study results, the  
3 New York Health Department has released this  
4 statement, which I'm going to read. Maybe you  
5 can't read it too well, but it says here, "The  
6 increase in aspergillus fumigatus spores more than  
7 1700 feet from the facility leads the Department  
8 of Health to recommend that composting facilities  
9 should not be located close to health care  
10 facilities, which take extra precautions to  
11 prevent serious infections."

12                   And the stories conclusion says  
13 here, "Although the study was not able to evaluate  
14 risk of serious aspergillus fumigatus infection,  
15 its result suggests that extra caution should be  
16 exercised when considering the siting of compost  
17 facilities near certain health care facilities.  
18 Hospitals outbreaks of aspergillosis have been  
19 observed among severely immunocompromised  
20 patients. Hospitals with the most severely  
21 immunocompromised patients must take extra  
22 precautions to prevent this infection in  
23 patients. The composting facility should not be  
24 sited close to the hospital --"



1           MR. MCGILL: Pardon me, Doctor. Could you  
2 just slow down a little. I just want to make sure  
3 we get your comments down for the transcript.  
4 Sorry to interrupt.

5           DR. DESAI: It's all right.

6                         "Composting facilities should not be  
7 sited close to hospitals or other health care  
8 facilities when extra precautions being taken to  
9 prevent infection of severely immunocompromised  
10 patients unless bioaerosol emissions can be  
11 controlled.

12                         The potential for bioaerosols from  
13 compost facilities to trigger or exacerbate  
14 allergy and asthma symptoms needs further  
15 evaluation. Although this study did not find an  
16 association, a number of study limitations warrant  
17 further evaluation, particularly at sites where  
18 more extensive or serious exposure might be  
19 occurring. Studies are needed to better assess  
20 the bioaerosol exposures, and tactics need to be  
21 developed to better estimate bioaerosols."

22                         Then I have said in my testimony  
23 that scientists have recommended the buffer zone,  
24 and that statement was based upon this. This

1 article was presented on aspergillus,  
2 aspergillosis, and composting operations in  
3 California. It was on December 16th, 1993.

4           The scientists recommended that  
5 the -- some scientists, the Millner, Alwar,  
6 Kramer, Diaz, have recommended that buffer zones  
7 may be considered between certain types of  
8 composting facilities and nearby residences,  
9 hospitals, or schools to reduce the risk of  
10 exposure to all odors and air contaminants.

11           Then they also said that one should  
12 recognize that composting facilities do represent  
13 a site where there is a massive culturing of  
14 aspergillus fumigatus organisms in relatively  
15 small areas compared to most natural  
16 circumstances.

17           The existence of hazards from spores  
18 is yet to be demonstrated. The infectivity of the  
19 spore is low. Consequently, any danger posed by  
20 it would be significant only in susceptible  
21 individuals. Nevertheless, prudence indicates  
22 that an open air compost plan should not be sited  
23 in close proximity to human habitations.

24           MS. GARRETT: That's the end of her

1 testimony.

2 DR. DESAI: No. There's a few more lines I  
3 have to say.

4 We almost learned the lesson from  
5 tobacco company, who have suffered economical  
6 impact. The government has lost health dollars,  
7 and several lives have been lost because they were  
8 denying for 30 years that there is no health  
9 risk. I hope the composting industry doesn't do  
10 that.

11 As a board certified pediatrician  
12 and a licensed physician in the state of Illinois,  
13 I sincerely request you to consider this  
14 recommendation which will protect the children and  
15 the public facilities. I request a thorough look  
16 at the facts, which include from the experts who  
17 have over and over and over recommended the buffer  
18 zone between the compost facility, schools,  
19 hospitals, and homes.

20 We have chosen the state of Illinois  
21 as our homes expecting nothing less than to find  
22 community safety is a priority issue. A critical  
23 decision is reached through examination of the  
24 facts and issues, as well as the financial

1 considerations. Let us all agree that importance  
2 of this issue is safety in which we all share  
3 responsibility. Time spent now in reaching a safe  
4 and fair solution will be the best investment any  
5 of can us make. Thank you.

6 MR. MCGILL: Thank you.

7 Ms. Garrett, would you like to make  
8 a motion to have the testimony of Dr. Desai  
9 entered as a hearing exhibit?

10 MS. GARRETT: Yes, I would make that motion.

11 MR. MCGILL: If you would hand me a copy of  
12 that.

13 (Document tendered.)

14 MR. MCGILL: Thank you. Let's go off the  
15 record for a minute.

16 (Whereupon, a discussion was held  
17 off the record.)

18 MR. MCGILL: Let's go back on the record.

19 There has been a motion to enter as  
20 an exhibit prefiled testimony of Dr. Desai. Is  
21 there any objection to entering as a hearing  
22 exhibit the prefiled testimony of Dr. Desai, which  
23 includes as attachments six separate complications  
24 of attachments that are quite numerous that I

1 won't read through, but it appears to be the  
2 prefiled testimony which has been filed by the  
3 proponents? Is there any objection to entering  
4 this as prefiled testimony?

5 MS. WHITEMAN: I don't have an objection, but  
6 I do have what I think are color copies of maps  
7 that she had at the back, and if Dr. Desai could  
8 verify that, maybe we can put those in instead of  
9 black and white copies. She had originally had  
10 two black and white maps, and they just weren't  
11 readable, but we did find color versions.

12 MR. MCGILL: This is from Attachment 6 of  
13 Dr. Desai's prefiled testimony?

14 MS. WHITEMAN: Yes, I believe they are, but I  
15 would like Dr. Desai to verify that.

16 MR. MCGILL: I believe Ms. Whiteman is  
17 referring to these two maps, which we just have  
18 copies of, and your concern is that --

19 MS. WHITEMAN: They are just not very  
20 readable, and we found the colors versions were  
21 attached to the University of Illinois study, and  
22 we had an original of that study, so we were able  
23 get a color version of the maps.

24 MR. MCGILL: This is for the U of C study

1 relating to the Lake Forest compost facility?

2 MS. WHITEMAN: Yes, and I believe that's  
3 where Dr. Desai got those or someplace else.

4 DR. DESAI: Yes.

5 MS. WHITEMAN: But at any rate, the black and  
6 white versions, you just couldn't tell what the  
7 different representations were on the map. So we  
8 do have that.

9 DR. DESAI: They have the study. I got the  
10 information from their studies. I don't know what  
11 is their question.

12 MR. MCGILL: So these maps are from the UIC  
13 studies of the Lake Forest composting facility?

14 DR. DESAI: Uh-huh. I just wanted you to  
15 have an idea of how many facilities are in a small  
16 area. That's all I was trying to say.

17 MR. MCGILL: So are you offering the color  
18 versions for the board?

19 MS. WHITEMAN: Yes, I am.

20 MR. MCGILL: Okay. Thank you. Can you hand  
21 those in?

22 Let's go off the record for a  
23 moment.

24

1                   (Whereupon, a discussion was held  
2                   off the record.)

3           MR. MCGILL:  Let's go back on the record.

4                   Dr. Desai, I believe you have been  
5 handed two color coded maps.  Could you confirm,  
6 do those appear to be the originals of what you  
7 have submitted as copies in your prefiled  
8 testimony?

9           DR. DESAI:  It seems like that.

10          MR. MCGILL:  Okay.  Thank you.

11                   Just for the record, the title of  
12 those maps, the first map is entitled,  
13 "Aspergillosis Cases by Zip Code, Primary or  
14 Secondary Diagnosis 1993 Cases Per 100,000  
15 Population," and the second map is  
16 entitled, "Allergic Alveolitis Cases by Zip Code,  
17 Primary or Secondary Diagnosis 1992 Cases Per  
18 100,000 Population 1993."

19                   I'm going to just restate the  
20 question.  Is there any objection to entering as a  
21 hearing exhibit the prefiled testimony of  
22 Dr. Desai?

23                   Seeing none, I'm marking as Exhibit  
24 Number 6 and entering as a hearing exhibit the

1 prefiled testimony of Dr. Desai, which includes  
2 six complied attachments.

3 (Hearing Exhibit No. 6 marked for  
4 identification, 9/8/97.)

5 MR. MCGILL: Dr. Desai, you are going to be  
6 available this afternoon, as I think the balance  
7 of the witnesses are, so there will be a question  
8 period later on today for the balance of the  
9 proponents' witnesses, so we won't have any  
10 questions at this point in time?

11 DR. DESAI: It won't be later than 3:00  
12 o'clock, right? I didn't know how long it was  
13 going to take.

14 MR. MCGILL: Let's go off the record for a  
15 second.

16 (Whereupon, a discussion was held  
17 off the record.)

18 MR. MCGILL: Let's go back on the record.

19 Ms. Garrett, if you would like to  
20 present your next witness.

21 MS. GARRETT: I would like to present Jack  
22 Darin, a field representative from the Sierra  
23 Club, Illinois Chapter.

24 MR. DARIN: Thank you. I will be brief.



1                   We recognize that composting  
2 operations are a necessary and important part of  
3 Illinois' solid waste disposal programs, but I  
4 think that the proponents have presented some  
5 compelling evidence that we need to revisit the  
6 setback requirement, particularly for large scale  
7 facilities because of the potential health impacts  
8 posed by them.

9                   So we would be supportive of the  
10 proposed setbacks with regard to schools,  
11 hospital, and other public areas, particularly for  
12 large scale facilities.

13                   But I think that the evidence that I  
14 have seen seems to relate primarily, if not  
15 exclusively, to these large scale facilities, and  
16 I would encourage the board to take a look at  
17 delineating between small scale composting  
18 projects and large scale projects.

19                   I think what we would like to avoid  
20 is a situation where we are inhibiting really  
21 small scale model programs, say, as an example,  
22 composting project at a school or in a park  
23 district property that might not be at the  
24 threshold where we have these health impacts that

1       could reduce the overall need for the large scale  
2       facilities that seem to be causing these kind of  
3       health problems.

4                       So we are supportive of revisiting  
5       the setback requirements for large scale  
6       facilities and increasing them, making them  
7       applicable to schools, parks, and hospitals. But  
8       I think we need to revisit how we look at  
9       composting facilities overall and separating large  
10      scale from small scale.

11              MR. MCGILL: Thank you. Would you like to  
12      make a motion to enter the prefiled testimony?

13              MS. GARRETT: Yes. I would like to make a  
14      motion to enter Mr. Darin's testimony into the  
15      record.

16              MR. MCGILL: Could you hand me a copy of  
17      that, please?

18                       (Document tendered.)

19              MR. MCGILL: Is there any objection to  
20      entering as a hearing exhibit the prefiled  
21      testimony of Jack Darin?

22                       Seeing none, I'm marking as Exhibit  
23      Number 7 the prefiled testimony of Jack Darin.  
24      Just by point of clarification, Mr. Darin's

1 prefiled testimony is a letter of August 8th,  
2 1997, directed to Dorothy Gunn, Clerk of the  
3 Illinois Pollution Control Board.

4 (Hearing Exhibit No. 7 marked for  
5 identification, 9/8/97.)

6 MR. MCGILL: Because Mr. Darin needs to  
7 leave, at this point in time I would like to open  
8 it up to any questions that anyone might have for  
9 this witness. Does anyone have any questions for  
10 Mr. Darin?

11 MR. NAATZ: My name is Tom Naatz. I'm  
12 director of parks, forestry, and public works for  
13 the city of Lake Forest. I wondered if Mr. Darin  
14 could clarify what he means by large and small  
15 scale operations.

16 MR. DARIN: Well, I don't have a definite  
17 threshold in my mind. I just -- the evidence  
18 that's been presented seems to relate to large  
19 scale commercial composting facilities, and I'm  
20 just thinking of the sort of small scale  
21 composting projects like you might find in a  
22 community garden plot, for instance, that might be  
23 on park district property, but that might not be  
24 the source of the kind of health problems that

1 these studies are pointing to.

2 I think there needs to be more  
3 research. I think we need to look at some of the  
4 studies that are ongoing to find out exactly what  
5 threshold is, but it seems to me like there might  
6 be a difference between small scale projects,  
7 like, for instance, in a community garden plot and  
8 a large scale commercial facility.

9 MR. SMITH: Scott Smith, Illinois Composting  
10 Council associated with the Illinois Recycling  
11 Association out of Oak Park.

12 Looking at your differentiation  
13 between large scale and small scale, how would you  
14 feel with regards to enclosed self-contained  
15 facilities versus exposed outdoor facilities?  
16 Would you see that same kind of study also needing  
17 to be addressed?

18 MR. DARIN: I think that would be definitely  
19 something to look at. If there is a way to  
20 capture the problem contaminants, that would  
21 certainly be a factor.

22 MR. MCGILL: Are there any other questions of  
23 this witness?

24 Does the agency have any questions?

1 MS. DYER: The agency has no questions of  
2 this witness.

3 MR. MCGILL: I just have one question.  
4 Actually, since several proponents' witness appear  
5 to request that small, noncommercial composting  
6 projects be exempt from setback requirements, the  
7 board's current regulations exempt from part 830  
8 garden compost operations. A garden compost  
9 operation is defined as an operation which has a  
10 little more than 25 cubic yards of landscape  
11 waste, composting material, or end product  
12 composted at any one time and is not engaging in  
13 commercial activity. I was just wondering if you  
14 would comment, is it your understanding that the  
15 proponents are intending to bring that type of  
16 facility to the setback requirements?

17 MR. DARIN: No. That is not my  
18 understanding.

19 MR. MCGILL: Would the fact that this  
20 exemption exists, does that address the concern  
21 that you have?

22 MR. DARIN: I think that that's an important  
23 exemption. I think that it might be revisited  
24 just because it's strictly related to gardening.

1 As you know, there are other items that are  
2 composted, for instance some, food waste and  
3 things like that, and I can definitely envision  
4 examples where, for instance, a school might want  
5 to take ways to reduce its waste stream as a model  
6 for the community. That might include some  
7 non-gardening types of waste. If that were at a  
8 small scale you know, as yet to be determined, I  
9 think that that might be something that the board  
10 should look at distinguishing from a large scale  
11 operation so.

12 I think that it's important -- I'm  
13 glad the precedent is there to exempt those kind  
14 of garden projects, but I think you might want to  
15 look at other types of small scale projects that  
16 could be added to that list or treated  
17 differently, if not granted wholesale exemptions.

18 MS. McFAWN: It's my understanding of the  
19 board's rules right now you can't commingle those  
20 kinds of waste regardless of size.

21 MR. DARIN: Okay. I wasn't aware of that.

22 MR. MCGILL: Are there any other questions  
23 for this witness?

24 MR. PICK: My name is Charlie Pick. I work

1 for Organics Management.

2 My question is would a municipality  
3 that's handling only its own internally generated  
4 yard trimmings; in other words, only from within  
5 its community, fit into your characterization of a  
6 noncommercial operation?

7 MR. DARIN: I think the commercial probably  
8 isn't the key word. It's more of a size  
9 threshold, and I don't pretend to know what the  
10 size is that creates the health problems. But I'm  
11 just trying to create a sense that there is two  
12 ends of the spectrum between very small projects  
13 and these larger projects that these studies seem  
14 to be done on. So I think it would depend on the  
15 size of the operation as opposed to whether it  
16 were a commercial or noncommercial.

17 MR. MCGILL: Are there any other questions  
18 for this witness? Thank you.

19 MR. DARIN: Thank you. I appreciate your  
20 flexibility.

21 MR. MCGILL: Sure.

22 Let's go off the record for a  
23 moment.

24

1                   (Whereupon, a discussion was held  
2                   off the record.)

3           MR. MCGILL:  Let's go back on the record.

4                   I would like to initially rule on  
5           the city of Lake Forest's motion earlier.  The  
6           city of Lake Forest summarized their motion that  
7           was filed on September 3rd to extend the deadline  
8           for submission of prefiled testimony of one of its  
9           witnesses, Karen Strauss, to September 15th and to  
10          delay the appearance of that witness until the  
11          second hearing.

12                   I'm going to grant that motion.  The  
13          city of Lake Forest has explained why Karen  
14          Strauss was unable to meet the prefiled testimony  
15          deadline and why she was unable to be here today.  
16          Her described experience suggests that she will be  
17          able to provide relevant information on an  
18          important issue in this rulemaking.

19                   Also, interested persons will have  
20          several weeks to review this prefiled testimony to  
21          prepare for the second hearing.

22                   What I am also going to do for those  
23          who cannot attend the Springfield hearing, I'm  
24          going to set a deadline for prefiled questions of



1 this particular witness. People can submit those  
2 prefiled questions and have those read at the  
3 Springfield hearing.

4 In addition, if it is requested, I  
5 will schedule a third hearing in this rulemaking  
6 that will be held in Chicago. At this third  
7 hearing, interested persons who provide testimony  
8 in response to the testimony of Karen Strauss.  
9 The response testimony will have to be prefiled by  
10 a date certain that I will establish later by a  
11 hearing officer order, and the prefiled testimony  
12 will be limited to responding to the testimony of  
13 Karen Strauss. So I will issue a hearing officer  
14 order that will set forth the things I have just  
15 described in detail.

16 MS. McFAWN: If I could just interject there,  
17 for those of you not familiar with board  
18 rulemaking, just so you know that what Richard is  
19 outlying -- Mr. McGill has outlined for you is our  
20 approach to do it at hearing is part of our  
21 rulemaking. We also afford an opportunity for  
22 public comments to be submitted to the board,  
23 which is really a written comment which does not  
24 mean you have to answer questions or otherwise

1 appear in person before the board. So there, of  
2 course, will be that opportunity to make your  
3 views known to the board through a public comment  
4 either in response to what happens on October 7th  
5 or otherwise.

6 MR. MCGILL: Thank you.

7 Ms. Whiteman just to clarify, the  
8 mailbox rule will not apply to the filing of Karen  
9 Strauss' prefiled testimony, so the board will  
10 need to be in receipt of that prefiled testimony  
11 by no later than Monday September 15th with  
12 simultaneous mailing or delivery to the service  
13 list.

14 In addition -- and I'm not limiting  
15 the content of Ms. Strauss' prefiled testimony,  
16 but we request that it address and attach the  
17 written report on the Winnetka facility that's  
18 referenced in your motion. Thank you.

19 At this time, I would like to  
20 continue with the proponents' witnesses,  
21 Ms. Garrett

22 MS. GARRETT: I would like to introduce  
23 William Holleman, who will be our next witness  
24 testify.

1           MR. HOLLEMAN: My name is William Holleman.  
2 I'm here today representing an organization,  
3 Illinois Citizen Action. I'm the president of  
4 Illinois Citizen Action, an organization that's  
5 concerned in protecting the health and environment  
6 of Illinois citizens.

7                   I'm also here representing myself as  
8 a long time scientist in the pharmaceutical  
9 industry with experience in microbiology,  
10 virology, and cardiovascular disease. I'm the  
11 author of more than 100 scientific publications  
12 and the owner of four patents.

13                   I have worked my entire career for  
14 Abbott Laboratories. I feel that I'm qualified to  
15 comment on the threats posed by aspergillus  
16 fungus, aspergillus fungal infections relating to  
17 compost sites.

18                   I have submitted prefilled testimony,  
19 which I will be reading from, but in addition, I  
20 will be extemporaneously adding to that. I am  
21 incapable of reading something without adding to  
22 it.

23                   I spent quite a bit of time reading  
24 the literature trying to get a feel for the role

1 of aspergillus fumigatus and respiratory asthma  
2 and other more severe infections related to  
3 composts and concluded, in fact, that this was a  
4 real threat and was a threat that should be  
5 addressed by the Illinois Pollution Control  
6 Board. Therefore, I'm supporting the amendment  
7 that compost sites be located one-half mile from  
8 hospitals, schools, and other public facilities.

9           The presence of aspergillus raises a  
10 distinction possibility that exposure of  
11 susceptible individuals downwind from compost  
12 sites may result in intractable infections, and I  
13 emphasize that word intractable.

14           Current medical literature contains  
15 several references to compost site workers who  
16 have contacted aspergillus fumigatus infections  
17 and other types of disease, and I, in my prefiled  
18 testimony, I referenced articles, and that has  
19 also been referenced by Dr. Desai earlier today.

20           The exact nature of the exposure to  
21 aspergillus and subsequent infective process is  
22 poorly understood; however, it is clear that  
23 aspergillus infection is associated with on-site  
24 exposure to high concentrations of bioaerosol

1 containing aspergillus.

2                   Off-site infections initiated by  
3 aspergillus are also a possibility as aspergillus  
4 spores are small and easily carried by wind  
5 currents of nearby sites downwind from the compost  
6 facility.

7                   Aspergillus infections are very  
8 difficult to treat, some medical people would say  
9 impossible due to the lack of effective drugs, and  
10 this is an area in which I'm an expertise in  
11 having done work looking for drugs to treat  
12 aspergillus. I must say we were, as a research,  
13 not able to find drugs to treat aspergillus.

14                   The drug of choice, amphotericin B,  
15 is very toxic and it only is used as a last  
16 resort. A recent review in the New England  
17 Journal of Medicine, which I mention in my  
18 testimony, states that treatment of aspergillus  
19 fumigatus therapy with amphotericin B, with its  
20 attendant toxicity, is not indicated, and newer  
21 less toxic antifungal agents have not been shown  
22 to be useful.

23                   The point I'm making is when an  
24 individual becomes infected with aspergillus,

1     there is no drugs to treat that, and as the letter  
2     that Dr. Desai wrote on an individual case, there  
3     are other cases similar to that because you can't  
4     kill this fungi. It's essentially resistant to  
5     all known antibiotics except amphotericin B, which  
6     is toxic in itself.

7                     In spite of the potential for  
8     off-site infections caused by aspergillus,  
9     literature does not contain reliable scientific  
10    study verifying high concentration aspergillus in  
11    the vicinity of compost sites. This is not for  
12    lack of trying, but rather is related to the  
13    difficulty in high costs of performing such a  
14    study.

15                    Reliable collection of  
16    microbiological samples is difficult and  
17    subsequent identification of microbiological floor  
18    is costly and very dependent on laboratory  
19    conditions. The reason I mention this is it's  
20    often quoted from various studies that they have  
21    not been able to measure large, high  
22    concentrations off-site, and I'm saying that many  
23    of these studies are flawed and aren't worth the  
24    paper they are written on because it's so

1 difficult to do these types of studies.

2                   Probably the best example of that is  
3 the study that was done at Lake Forest. When you  
4 start looking at that data, doing statistical  
5 analysis on it, the numbers are so varied and so  
6 flexible the only conclusion you could come to is  
7 that the studies are irrelevant.

8                   One of the papers that is quoted and  
9 one of the authors that are quoted by proponents  
10 stating that aspergillus is not a problem is that  
11 by P.D. Millner, who has done a very thorough and  
12 probably a definitive study looking at  
13 aspergillus, and, in fact, Ms. Garrett has  
14 included that article in some of the prefiled  
15 testimony.

16                   But even in this article, Millner  
17 and all state, and let me quote, "Further studies  
18 would be helpful to verify the apparent lack of  
19 adverse health impact from composting facilities."

20                   So what Millner even has said in  
21 that study is that we are not sure that there is  
22 no health problem because a definitive study has  
23 not been done to define that. Until such studies  
24 are conducted, verifying the lack of adverse

1 health effects it is foolhardy to take unnecessary  
2 risks with public health.

3                   In the rest of my prefiled letter, I  
4 refer to some erroneous -- not erroneous, but some  
5 numbers that came out of the study that was done  
6 at the Lake Forest site verifying my earlier  
7 statement that numbers are so variable that it's  
8 almost impossible to draw any conclusions. I  
9 won't go into that other than to say that the  
10 highest readings that were obtained at that study  
11 were found at the fence line, not at the compost  
12 site, not at one meter from the compost site or  
13 ten meters from the compost site, but, in fact,  
14 the highest readings for fungi count were found at  
15 the fence line, downwind fence line, which I find  
16 very interesting. I can't tell you exactly what  
17 the downwind fence line is because it varied from  
18 day-to-day, but the highest readings were  
19 essentially off site.

20                   So in summary, aspergillus is an  
21 infection that's untreatable by current  
22 antibiotics. The cases of aspergillus fungus off  
23 site are limited, but I don't think we should take  
24 a chance of infecting our children, especially in



1 public and hospital situations where their health  
2 may be already compromised with a disease that is  
3 untreatable.

4                   Consequently, I recommended the  
5 half-mile buffer zone in order to be safe rather  
6 than sorry. Thank you.

7           MR. MCGILL: Thank you.

8           MS. GARRETT: I would like to make a motion  
9 to enter Mr. Holleman's testimony into the  
10 record.

11           MR. MCGILL: Any objection to entering as a  
12 hearing exhibit the prefiled testimony of William  
13 Holleman?

14                   Seeing none, I'm marking as Exhibit  
15 Number 8 and entering as a hearing exhibit the  
16 prefiled testimony of William Holleman.

17                           (Hearing Exhibit No. 8 marked for  
18 identification, 9/8/97.)

19           MR. MCGILL: By way of clarification, this  
20 prefiled testimony is a letter of August 11th,  
21 1997, directed to Dorothy Gunn, Clerk of the  
22 Illinois Pollution Control Board.

23                   Ms. Garrett, if you would like to  
24 present your next witness.

1 MS. GARRETT: I would like to present our  
2 next witness, Earl Johnson, who is the executive  
3 director of Illinois Citizen Action, and he's here  
4 today to provide his testimony.

5 MR. JOHNSON: Thank you.

6 I want to thank the Illinois  
7 Pollution Control Board for the opportunity to  
8 speak here.

9 My name is Earl Johnson. I am  
10 currently the executive director of Illinois  
11 Citizen Action. I serve on the public education  
12 committee. Our organization has always focused on  
13 environmental issues that affect people living in  
14 the state of Illinois.

15 Because of my position and  
16 involvement with ICA, I'm well aware of a mounting  
17 resistance to the location of many composting  
18 operations in Illinois. I have written letters  
19 and spoken on behalf of keeping these compost  
20 operations a safe distance from children and away  
21 from all those who suffer from allergies, asthma,  
22 and any respiratory illness.

23 I was asked to speak in support of a  
24 proposed regulation that asks for a distance

1 separating compost operations from schools, public  
2 parks, athletic fields, and hospitals. On behalf  
3 of ICA, and the citizens of Illinois, I offer my  
4 complete support for such a regulation. The time  
5 is long overdue to provide a safety barrier for  
6 those people who should not be exposed to  
7 potential health hazards because they are simply  
8 too close to a composting operation.

9 For your information, I have been  
10 working with the Bedminster Corporation, the maker  
11 of invessel technology, and the Solid Waste Agency  
12 of Lake County. See attached document.

13 Because we know there is a potential  
14 health risk associated with open air composting,  
15 the Bedminster Corporation may be able to  
16 establish invessel composting sites in Northern  
17 Illinois.

18 Invessel technology allows for  
19 composting to be enclosed eliminating the  
20 emissions of unhealthy pathogens and, therefore,  
21 eliminating the health risk associated with  
22 commercial composting.

23 However, until we see invessel  
24 composting facilities in Illinois, I strongly

1 recommend that the Illinois Pollution Control  
2 Board amend the current regulation so that a  
3 reasonable distance from schools, public parks,  
4 athletic fields, and hospitals is included. This  
5 would clearly be a step in preventing undue and  
6 unfortunate health consequences to those Illinois  
7 citizens who deserve to be better protected.

8 Thank you for your attention.

9 MR. MCGILL: Thank you.

10 MS. GARRETT: I request that Mr. Johnson's  
11 testimony be entered into the record.

12 MR. MCGILL: May I have a copy of that,  
13 please?

14 (Document tendered.)

15 MR. MCGILL: Thank you.

16 Is there any objection to entering  
17 as a hearing exhibit the prefiled testimony of  
18 Earl Johnson, which is a letter of August 9th,  
19 1997, directed to the Illinois Pollution Control  
20 Board and which attaches a May 6th, 1997, letter  
21 from Antonin Sterba and also attaches information  
22 on the Bedminster waste recycling evolution?

23 Seeing no objection, I'm marking as  
24 Exhibit Number 9 and entering as a hearing exhibit

1 the prefiled testimony of Earl Johnson with the  
2 attachments I just described.

3 (Hearing Exhibit No. 9 marked for  
4 identification, 9/8/97.)

5 MR. MCGILL: Ms. Garrett, would you like to  
6 present your next witness?

7 MS. GARRETT: I would like to present our  
8 next witness, Cheryl Doros, who is currently a  
9 trustee in the village of Grayslake.

10 MS. DOROS: Thank you. I'm a trustee with  
11 the village of Grayslake, and I believe that it's  
12 a primary responsibility of elected officials to  
13 protect the health of the citizens as best they  
14 can, and that's why I'm here today.

15 As an active member of many  
16 environmentally concerned organizations, I am  
17 painfully aware of the health hazards imposed upon  
18 the public because of unknown or undisclosed  
19 impacts and the financial responsibilities  
20 required to either keep the environment as clean  
21 as possible or to fund clean up.

22 As an elected official, I have a  
23 responsibility to be aware of potential health  
24 problems and to protect the health of our

1 community to the utmost of my ability.

2                   As I'm sure you are aware, human  
3 impact on the environment cannot only wreak havoc  
4 with the natural environment, but also can be  
5 alarmingly disastrous to human life, even an  
6 activity, such as composting, done with the best  
7 of intentions.

8                   Studies report that the airborne  
9 aspergillus fungi emanating from compost sites can  
10 travel far and induce significant respiratory  
11 problems, though especially in children, can even  
12 impact healthy adults.

13                   There is some controversy  
14 surrounding the site location of compost  
15 facilities, which is probably due primarily to  
16 financial concerns. Until safe operation can be  
17 guaranteed, I urge you to adopt the proposed  
18 amendment and allow these facilities to be located  
19 no closer than two miles from schools, hospitals,  
20 residences, other health care facilities, and  
21 areas people frequent for recreation.

22                   Public health and quality of life  
23 are compromised in so many ways that whenever  
24 possible, such as adopting this amendment, we need

1 to take action to protect people from health  
2 risks.

3 Thank you.

4 MR. MCGILL: Thank you.

5 MS. GARRETT: I ask that you accept the  
6 testimony of Cheryl Doros into the record.

7 MR. MCGILL: Is there any objection to  
8 entering as a hearing exhibit the prefiled  
9 testimony of Cheryl Doros, which is dated July  
10 23rd, 1997, and directed to the Illinois Pollution  
11 Control Board?

12 Seeing none, I'm marking as Exhibit  
13 Number 10 and entering as a hearing exhibit the  
14 prefiled testimony of Cheryl Doros.

15 (Hearing Exhibit No. 10 marked for  
16 identification, 9/8/97.)

17 MR. MCGILL: Would you like to present your  
18 next witness?

19 MS. GARRETT: I would like to present our  
20 next witness, Peter Mueller, from Mueller Eyecare  
21 Associates and also a resident of Lake Forest,  
22 Illinois.

23 MR. MUELLER: Good afternoon. On August 6th,  
24 1997, I forwarded a letter to the Illinois

1 Pollution Control Board, and I would like to read  
2 that letter to you at this time.

3 Board members, thank you for having  
4 this hearing related to Section 830.203. I'm a  
5 ten-year resident of Lake Forest, Illinois. The  
6 basis for my interest in this issue arose from a  
7 local Lake Forest issue.

8 As you most probably know by now,  
9 Lake Forest has a compost facility next to one of  
10 its schools and athletic fields. For quite some  
11 time now, many local residents have petitioned the  
12 city of Lake Forest to reconsider their decision  
13 to operate such a facility within such close  
14 proximity to a school only to be told that there  
15 is absolutely no possible health risk and that  
16 they have been in full compliance with state  
17 regulations.

18 Lake County Health Department, state  
19 of Illinois of Illinois EPA, and Lake County Storm  
20 Water Management records will all show that Lake  
21 Forest's compost operation has been out of  
22 compliance and has numerous complaints filed  
23 against it.

24 As to the health issue, experience



1 has taught me that there is no such thing as  
2 absolutely no possible health risk. A study of  
3 Lake Forest's compost operations done by the  
4 University of Chicago also could not rule out  
5 possible health risks.

6                   Being a health care provider, I  
7 exercise universal precautions daily as they apply  
8 to my patients and my care. Universal  
9 precautions, as you know, decrease health risks  
10 significantly.

11                   You are the gatekeepers of what I  
12 perceive as the Illinois pollution control  
13 precautions. It is your charge to protect the  
14 health and well-being of Illinois residents by  
15 decreasing the health and annoyance risks in a  
16 less than perfect arena of pollution and its  
17 by-products.

18                   I am asking that the Illinois  
19 Pollution Control Board amend section 830.230 to  
20 provide the same safeguards that currently apply  
21 to new non-hazardous solid waste landfills.  
22 Locating composting areas away from schools  
23 hospitals, parks, and athletic fields is an  
24 appropriate precaution for the health and

1 well-being of Illinois residents.

2 That's my testimony.

3 MR. MCGILL: Thank you.

4 MS. GARRETT: I move that you accept  
5 Mr. Mueller's testimony into the record.

6 MR. MCGILL: Is there any objection to  
7 entering as a hearing exhibit the prefiled  
8 testimony of Peter Mueller, which is a letter  
9 dated August 6th, 1997, directed to the Illinois  
10 Pollution Control Board?

11 Seeing none, I'm marking as Exhibit  
12 Number 11 and entering as a hearing exhibit the  
13 prefiled testimony of Peter Mueller.

14 (Hearing Exhibit No. 11 marked for  
15 identification, 9/8/97.)

16 MR. MCGILL: If you would like to call your  
17 next witness.

18 MS. GARRETT: I would like to call our next  
19 witness, Edward Grskovich, who is a resident of  
20 Lake Forest, Illinois.

21 MR. GRSKOVICH: My name is Ed Grskovich. I'm  
22 a retired citizen of Lake Forest, Illinois.

23 I have a three-page letter in the  
24 record, or will be in the record. I will simply

1 summarize in the interest of time.

2                   We all have evidence that in a  
3 composting operation there are some undesirable  
4 compounds produced. There is some issue as to the  
5 quantity. There is issue as to timing. There is  
6 no question that these things happen. Some of  
7 them start off as quality of life concerns.  
8 That's the ammonia gases. Many of us are used to  
9 the odor of one wet diaper, but we are not  
10 necessarily comfortable with 1,000 wet diapers  
11 and, so many things of this sort become  
12 particularly objectionable because of the  
13 quantities: Hydrogen sulfide is another sour ache  
14 smell people might be familiar in smaller  
15 quantities, and methane gas, which is a marsh gas,  
16 which is also produced by these microbes.

17                   Like many communities and our  
18 community, the grass clippings are picked up once  
19 a week in tightly packed paper bags. If you are  
20 at the site when they arrive, you will see that  
21 some of them have been sitting in the bag for  
22 almost a week, and therefore, an anaerobic process  
23 has already begun, and that's when it often makes  
24 the worst of the by-products.

1                   The condition of the wind has a  
2 serious effect on who is going to be affected by  
3 it, and sometimes the affected wind is not  
4 necessarily as common sense might make you think.

5                   The only study that I'm aware of  
6 that has been published had to do with mushroom  
7 farming in Pennsylvania, and there they did a lot  
8 of computer modeling -- first of all, a lot of  
9 studies, and then from that they drew computer  
10 models, and they found that the plume extended as  
11 far as 5,000 feet when there was very low wind.  
12 In effect, that meant that these things rose high  
13 up in the air and then drifted the off over a  
14 considerably farther period.

15                   While most studies that are done by  
16 people in the normal context tend to pick a fence  
17 site or something very close, the actual weather  
18 condition might cause the skipping of that area  
19 and much more severe effects farther away.

20                   We run into a situation where even  
21 with the best intentions there is almost no  
22 acceptable compliance management. People don't  
23 know how well the rules are followed even when  
24 there are reasonable rules imposed.

1                   Among the reasons for this is, first  
2 of all, just the cost of doing it, second of all,  
3 the timing. Many things have to be measured when  
4 their conditions are dry. Some things have to be  
5 measured when their conditions are wet, when they  
6 are windy and not windy and so on.

7                   But the bigger issue, I think, has  
8 to do with the fact that risk assessment and  
9 management requires a hazard identification. I  
10 can't find anything in the industry literature,  
11 except for an occasional reference to odor  
12 complaints, where the industry has made a list of  
13 the things that they know compost produces that  
14 are not good for people.

15                   Then having identified these items,  
16 then the next issue is to list the mechanisms by  
17 which these things get created, and third, what  
18 are the conditions under which you are going to  
19 stop creating those things. There isn't this  
20 orderly process: The identification of the  
21 hazard, the conditions under which the hazard is  
22 produced, and then finally, the mechanism by which  
23 you are going to control.

24                   It's a very immature industry at

1 this stage, and therefore, common sense calls for  
2 the protection of people who have even a chance of  
3 being harmed by this.

4           The tests that were -- and I think  
5 in Lake Forest we had an unusual situation where  
6 considerable effort was spent to try to do some  
7 measuring. But even that measuring didn't cover  
8 some of the most serious risks. The aspergillus,  
9 for example, was not covered at all.

10           There were references in there as to  
11 background radiation -- not radiation. I mean,  
12 not background readings. The National Institute  
13 of Health says that these are unreliable. This is  
14 in their Internet page on molds. They said you  
15 cannot use them for a constant guide simply  
16 because of so many variables do to wind, humidity,  
17 fog dew, and rain. The chance of getting that  
18 combination of variables all the same from  
19 day-to-day just doesn't exist.

20           Besides, they say, the readings have  
21 to be taken both day and night. In the case of  
22 the University of Illinois work, their equipment  
23 was valuable. They didn't want to leave it out  
24 there overnight, so they packed it up each day at

1 around 5:00 o'clock and took it away. Well, that  
2 means nobody knows what happens when the sun goes  
3 down, for instance. Is that good or bad from the  
4 point of view of composts? We don't know, not  
5 from the studies that were performed.

6 Some of the residents might tell you  
7 as to whether the odors are worse or bad, and the  
8 odors in many cases are a warning. Nature's way  
9 of warning you that something else bad might be  
10 going on is to give you a bad odor, and so the  
11 odor itself is not just a quality of life issue.  
12 It's a pointer to something more serious,  
13 something that is less wholesome in nature than  
14 you might expect.

15 Clearly the study that was made  
16 called for respiratory protection for the workers  
17 on the site. It would seem like we are not  
18 expecting our students in the athletic fields that  
19 are adjoining the site to have respiratory  
20 protection, so it's hard to explain why we would  
21 encourage them to participate in games in those  
22 areas.

23 The other problem with trying to be  
24 scientific in this area is it's very hard to

1 control what the input is at any particular site.  
2 We talk about land waste, but what we really mean  
3 is those things that people put into very  
4 expensive bags that they have to buy from the  
5 village in order to have the stuff picked up.

6                   If you read any of the literature on  
7 composting on the Internet, there is an  
8 obsession. Once a week at least there is a  
9 posting by somebody who wants to put cat litter  
10 into the compost. It is just a compulsion, and  
11 nobody can tell me that in my community or other  
12 communities that are composting that people are  
13 not, in fact, putting cat litter into the  
14 compost.

15                   It's something about life that makes  
16 them think it's good to do, and the result of that  
17 creates this witch's brew where you get what's  
18 called a multicomponent interaction, and there is  
19 problems there that are beyond any one study where  
20 a scientist in a lab does just the opposite. He  
21 tries to control very carefully what is going into  
22 the process so he can then explain what is coming  
23 out.

24                   The aspergillus was already, I



1 think, well covered, but the only points I could  
2 add is the fungus is particularly troublesome  
3 because it grows well at above 45 degrees  
4 centigrade, which is the composting temperature.  
5 When you are doing it right, you might hit that  
6 temperature. It can survive the composting  
7 temperature, which means you don't have just an  
8 ordinary easy way of getting rid of it letting  
9 nature take its course.

10                   It is also -- we had some testimony  
11 already -- almost impossible, if not impossible,  
12 to treat. It is almost even harder to diagnose.  
13 It is very common for people to assume that this  
14 is an asthma reaction and give the person wrong  
15 medicines, assume it's an infection, and they give  
16 the person antibiotics, which is the wrong  
17 medicine. So we deal with a situation where  
18 people are exposed to some additional harm just in  
19 the treating of the process when they don't have  
20 it properly diagnosed.

21                   We know that -- well, I mean, we  
22 can -- I will say it would appear that between  
23 1980 and 1993 the death rate from asthma has  
24 doubled among children. That's a changed

1 condition, if you believe that's true. I believe  
2 that's true.

3                   So a justification as to why you  
4 would change the rules today from what you had the  
5 last time these rules were made I think ought to  
6 be that there has been a change in the kind of  
7 citizen group that's exposed to this. We have  
8 more children now who have some risk of being  
9 harmed by an aspergillus exposure.

10                   What we also have is many more  
11 people getting chemotherapy these days, which also  
12 makes them very vulnerable. When you are dealing  
13 with schools, you obviously have some students who  
14 have to go to that school. They have no choice.  
15 This is not something where they could decide  
16 whether they are going to have a compost pile in  
17 their backyard or not. They have to go to that  
18 school. They are being exposed, some of them.

19                   Clearly among the adult population  
20 that visits the athletic events are going to have  
21 people who have their immunity challenged by  
22 medicines or other things going on. And what is  
23 even more serious these days becoming a new  
24 interest is the fact that certain very severe

1 illnesses can be caused by a chance that people  
2 have been continuously challenged. When their  
3 immunity system -- they don't have to have their  
4 immunity system suppressed. They may simply need  
5 to have their immunity system challenged  
6 constantly and that exposes them to vulnerability  
7 to certain diseases.

8                   One person recently wrote on the  
9 Internet as to home compost things. She said  
10 help. I live in a very nice neighborhood but my  
11 compost smells like something, expletive deleted.  
12 What can I do?

13                   The answer came from a person who  
14 had previously described themselves as an industry  
15 expert. He said affect an innocent air. And that  
16 I think is the problem we are facing here; that  
17 the defense of some of these obviously bad  
18 behaviors has been to affect an innocent air. We  
19 are only doing what is natural, and I think we owe  
20 our children much more than that. We owe them  
21 protection.

22                   I want to add just another point  
23 that wasn't in my memo, the question as to why  
24 treat residences different than people in schools

1 and hospitals. The obvious one is that the  
2 density of the population is considerably  
3 different, but there is something else, too, which  
4 is that no matter what your regulations say,  
5 residences have the ordinary local political  
6 process available to them on a case-by-case basis  
7 to expand their protection zone. But schools,  
8 most hospitals, and almost all athletic fields are  
9 intended for people who are beyond the local  
10 political jurisdiction. These people can only be  
11 protected by the state. They can't look to their  
12 normal political election process to protect  
13 themselves like a homeowner can.

14 Thank you.

15 MR. MCGILL: Thank you.

16 MS. GARRETT: I make a motion to enter  
17 Mr. Grskovich's testimony into the record.

18 MR. MCGILL: Is there any objection to  
19 entering as a hearing exhibit the prefiled  
20 testimony of Edward Grskovich?

21 Seeing none, I'm marking as Exhibit  
22 Number 12 and entering as a exhibit-hearing the  
23 prefiled testimony of Edward Grskovich.

24

1 (Hearing Exhibit No. 12 marked for  
2 identification, 9/8/97.)

3 MR. MCGILL: Let's go off the record for a  
4 minute.

5 (Whereupon, a discussion was held  
6 off the record.)

7 MR. MCGILL: Why don't we go back on the  
8 record?

9 Ms. Garrett, would you like to  
10 present your next witness?

11 MS. GARRETT: I would like to introduce our  
12 next witness, Mr. Jacob Dumelle, who is currently  
13 on the board of directors of the American Lung  
14 Association in the metropolitan Chicago area, and  
15 he's chairman of the Environmental Health  
16 Committee. Mr. Dumelle, go ahead.

17 MR. MCGILL: I'm sorry. This witness just  
18 arrived. I don't believe you have been sworn in  
19 yet. I apologize. If we can swear in the  
20 witness, please.

21 (The witness was duly sworn.)

22 MR. DUMELLE: The American Lung Association  
23 of metropolitan Chicago concurs with the proposal  
24 submitted by Dr. Renuka N. Desai and Susan Garrett

1       that would require a minimum distance of a  
2       half-mile between composting facilities and  
3       hospitals, schools, athletic fields, and public  
4       parks.  However, we encourage the board to exempt  
5       small composting piles such as those that are  
6       often associated with community gardens from the  
7       setback requirement.

8                       The American Lung Association notes  
9       that a two-mile setback has been recommended by  
10      noted physicians, including Dr. Fink, Dr. Slavin,  
11      Dr. Pollowitz, and Dr. Sampson.  Their  
12      recommendations are based on the fact that mold  
13      spores, irritant gases, and odors generated by  
14      large compost piles may pose a serious health risk  
15      for children, hospital patients, and other  
16      sensitive individuals, even when they are located  
17      more than a half-mile away.

18                      Therefore, the Lung Association  
19      recommends that the board give serious  
20      consideration to a minimal setback greater than a  
21      half-mile for relatively large commercial  
22      composting facilities.

23                      That's the end of my testimony

24                      MR. MCGILL:  Thank you.

1 MS. GARRETT: I ask you to accept the  
2 testimony of Mr. Jacob Dumelle into the record.

3 MR. MCGILL: May I have a copy of that,  
4 please?

5 (Document tendered.)

6 MR. MCGILL: Is there any objection to  
7 entering as a hearing exhibit the prefiled  
8 testimony of Jacob Dumelle?

9 Seeing none, I'm marking as Exhibit  
10 Number 13 and entering as a hearing exhibit the  
11 prefiled testimony of Jacob Dumelle.

12 (Hearing Exhibit No. 13 marked for  
13 identification, 9/8/97.)

14 MR. MCGILL: Why don't you call your next  
15 witness?

16 MS. GARRETT: I would like to call our next  
17 witness, Mary Mathews, who is a resident of Lake  
18 Forest Illinois.

19 MS. MATHEWS: Hi. I'm Mary Mathews, 111  
20 South Waukegan Road. I do not live near the  
21 compost center.

22 I'm here to help rectify a grave  
23 oversight in current regulation concerning the  
24 location standards for landscape waste compost

1 facility.

2 I am a lifelong asthmatic and am  
3 speaking for many others similarly affected.  
4 While I'm sure that you have heard of asthma, some  
5 of you may not know the specifics of the disease.  
6 For a general understanding, I have attached a  
7 copy of the What Is Asthma set of information  
8 sheets from the National Institute of Health.

9 Contrary to a TV ad, asthma does not  
10 go away 15 seconds after one quick breath of an  
11 over-the-counter medicine, and I think you have  
12 those, right?

13 I did not attach a copy of this.  
14 This is just from a doctor. This is what a normal  
15 lung looks like, and this is what an asthmatic  
16 lung looks like. It's closed off a lot.

17 Asthma is a serious and growing  
18 problem. It affects over 10 million Americans,  
19 4.8 million of them children. Asthma care costs  
20 in 1990 were over \$6.2 billion. This does not  
21 include the loss of wages by patients. This also  
22 does not include people who have allergies or  
23 other lung disorders.

24 Now, currently there are location



1 restrictions for composting near residences, but  
2 no siting restrictions for composting near  
3 hospitals, schools, play fields, and parks. Large  
4 compost centers operating in close proximity to  
5 public areas pose a serious health threat to many  
6 people, asthmatics.

7                   To safeguard the health of people  
8 with asthma or allergies and allow them full use  
9 and enjoyment of schools, hospitals, playing  
10 fields, and parks, large composting facilities  
11 should be located a safe distance from these  
12 public use areas. And I would suggest the larger  
13 the composting center, the larger the distance.

14                   The very nature of composting,  
15 concentrated, decomposing, decaying organic  
16 materials that involve molds, fungi, and bacteria,  
17 is especially problematic for asthmatics.

18 Asthmatics are sensitive to airborne particulate  
19 matter, and are also allergic to molds, fungi, and  
20 bacteria. Being allergic and being sensitive are  
21 not the same.

22                   Often odors emanate from compost  
23 piles, and sometimes chemicals are applied to mask  
24 the smell. However, deodorizing the scent does

1 not eliminate the irritants.

2                   Furthermore, both odors and  
3 chemicals exacerbate the problem for some people.  
4 So if you get rid of one problem, that really is  
5 not necessarily solving the problem.

6                   The first step in the treatment of  
7 asthma is the avoidance of those irritants that  
8 trigger an asthma attack. For example, cats,  
9 feather pillows, and carpeting often are  
10 eliminated from asthmatics' homes.

11                   Composting centers, considered an  
12 eyesore, regularly are hidden from sight and  
13 thereby become an invisible hazard. Like a barn  
14 full of hay, if an asthmatic knew a composting  
15 center were close by, it could be avoided.

16                   I do not live near the composting  
17 center. I know that it is there; however, many  
18 people will go near those schools or attend the  
19 schools. They don't know the compost center is  
20 there, and they don't know it's a hazard.

21                   However, a child attending a school  
22 located next to a composting center can not avoid  
23 the daily bombardment of irritants to his lungs,  
24 particularly when he and his family are unaware of

1 the nearby risks. Even if he is not allergic to  
2 the various organic particulates, he is still  
3 sensitive.

4                   During a 2:00 a.m. asthma attack,  
5 which is the normal time, parents will review the  
6 child's previous day to identify any possible  
7 triggers and adjust the child's lifestyle  
8 accordingly. Unfortunately, the analysis probably  
9 will not include the composting center. Out of  
10 site, out of mind, but not out of the air.

11                   Nowadays, many asthmatics are able  
12 to play sports outdoors. They can be seen running  
13 up and down the field, sometimes using an  
14 inhalant. This was not true when I was young.  
15 Physical activity is important for good health.

16                   Unfortunately, when a child is  
17 physically active, his lungs take in more air, and  
18 if that air contains irritants, then he actually  
19 is intensifying the harm to himself.

20                   Asthma is the leading cause of  
21 school absence. Schools should not exacerbate an  
22 illness that will increase their school absences.

23                   For most children, changing schools  
24 usually is not an option. Even with the change of

1 schools, asthmatics can still be exposed during  
2 participation in sports against other schools.

3                   With a school located close to a  
4 composting center, children are more at risk than  
5 in their own home. At home, a parent will close  
6 the windows and get air cleaners, air filters, et  
7 cetera, but at school that's usually not available  
8 to them. At home, they will be more at rest and  
9 so they will not be breathing as heavily. At  
10 school, they are more active and they are running  
11 around, so again, it's going to make things worse  
12 for them. Likewise, an asthmatic parent who wants  
13 to support her child needlessly risks her life to  
14 attend a school located next to a composting  
15 center.

16                   No matter the age of the patient, an  
17 asthma attack remains a serious and scary  
18 occurrence. No one outgrows the feeling of panic  
19 that comes from decreased breathing capabilities.  
20 Unlike pneumonia or bronchitis, asthma is not  
21 cured.

22                   Asthmatics are five percent of the  
23 population or approximately 500,000 in Illinois.  
24 Even more suffer from allergies. Emotional and

1 financial drain, along with lost production,  
2 affect not only families, but also the  
3 communities. The simple solution of siting  
4 restrictions would improve the health of many  
5 children and adults and lessen the strain on  
6 community resources.

7 Illinois needs to protect its  
8 citizens more. As other states do, please amend  
9 the location standard for landscape waste compost  
10 facilities. Sufficient distance is needed to  
11 allow for the dissipation of concentrated  
12 irritants. Restrict to a safe distance the  
13 location of large composting facilities near  
14 schools, hospitals, play fields, and parks.

15 While I'm asking to you make this  
16 change in the regulations on behalf of asthmatics,  
17 this is actually needed for all people. You  
18 should consider asthmatics as the canaries of the  
19 human population. What effects us first and does  
20 us harm actually affects all of you.

21 As the industry is new, there may  
22 not be any definitive studies yet, but common  
23 sense tells you that this problem does exist.  
24 There are molds, fungi, bacteria. It does affect

1 all of us, and I think we need to move the  
2 composting centers.

3 I have gotten a number of studies  
4 off the Internet, as the gentleman down there,  
5 that do discuss this problem. Thank you.

6 MS. GARRETT: I ask that you accept the  
7 testimony of Mary Mathews into the record.

8 MR. MCGILL: There was also reference during  
9 the testimony to a couple diagrams.

10 MS. MATHEWS: I didn't make copies of them.

11 MR. MCGILL: If we could make a copy of that  
12 maybe during the break.

13 MS. MATHEWS: Okay.

14 MR. MCGILL: Could you hand that to me just  
15 so I could describe it?

16 (Document tendered.)

17 MR. MCGILL: Thank you.

18 There has been a motion to enter as  
19 an exhibit the prefiled testimony of Mary Mathews,  
20 which is a letter dated August 10th, 1997,  
21 directed to the Illinois Pollution Control Board,  
22 which attaches a worksheet. I'm sorry. Could you  
23 tell me the worksheet is prepared by whom?

24 MS. MATHEWS: The National Institute of

1 Health.

2 MR. MCGILL: A worksheet prepared by the  
3 National Institute of Health. And also, they wish  
4 to enter as part of this exhibit two diagrams, one  
5 entitled Diagnosis: Chronic Asthma, Diagnosis:  
6 Moderate Asthma. I'm sorry. Which do you refer  
7 to as --

8 MS. MATHEWS: The bottom one is a normal  
9 lung.

10 MS. HENNESSEY: The bottom one and the top  
11 one.

12 MR. MCGILL: Let me restate that there was  
13 reference during the testimony to a document  
14 entitled Diagnosis: Chronic Asthma and then what  
15 is represented as a healthy lung. Is there any  
16 objection to entering the prefiled testimony with  
17 these additional attachments?

18 Seeing none, I'm marking as Exhibit  
19 14 and entering as a hearing exhibit the prefiled  
20 testimony of Mary Mathews with an attached  
21 worksheet prepared by the National Institute of --  
22 I'm sorry. Could you restate that worksheet?  
23 National Institute of Health with two diagrams,  
24 one entitled Diagnosis: Chronic Asthma and

1 another diagram of a healthy lung.

2 (Hearing Exhibit No. 14 marked for  
3 identification, 9-8-97.)

4 MR. MCGILL: If you would like to present  
5 your next witness.

6 MS. GARRETT: I ask that Mr. Dumelle, who has  
7 just testified, be able to be cross examined  
8 because he needs to get back to the hospital where  
9 his wife is at and he will not be able to come  
10 back after lunch, so if we could take a few  
11 minutes, especially since his testimony was so  
12 brief.

13 MR. MCGILL: Okay. Why don't we open it up  
14 then. Actually, let's go off the record for one  
15 moment.

16 (Whereupon, a discussion was held  
17 off the record.)

18 MR. MCGILL: Let's go back on the record.

19 One of the witnesses for the  
20 proponents, Jacob Dumelle, is going to have to  
21 leave shortly, so we are going to open it up to  
22 any questions that anyone might have for  
23 Mr. Dumelle. Are there any questions from the  
24 audience? Any questions of Mr. Dumelle?



1                   Okay. Thank you, Mr. Dumelle.

2                   With that, why don't we continue  
3 with your next witness?

4           MS. GARRETT: I would like to introduce our  
5 last witness, Scott Garrett, who will be  
6 testifying on the economics of amending this  
7 composting regulation.

8           MR. MCGILL: Let's go off the record just for  
9 a moment.

10                   (Whereupon, a discussion was held  
11 off the record.)

12           MR. MCGILL: Okay. Let's go back on the  
13 record.

14           MR. GARRETT: Thank you. I would like to  
15 make some comments on assertions that I have about  
16 the economics of composting.

17                   The opportunity for profitable  
18 commercial composting was created in Illinois in  
19 1989 when legislation banned yard waste from  
20 landfills. Communities were immediately faced  
21 with a dilemma: Provide a local alternative to  
22 landfill disposal or pay to have yard waste hauled  
23 away.

24                   Some municipalities established

1 in-house yard waste businesses within the  
2 communities. The goal was to continue to provide  
3 a yard waste service to residents at a  
4 cost-effective manner.

5                   While service and economics were the  
6 initial reasons for establishing these operations,  
7 it was soon discovered that odor, dust, potential  
8 health risks, and poor management became  
9 significant issues that posed real concerns for  
10 many community members.

11                   Without the proper time to establish  
12 guidelines, nor the opportunity to anticipate the  
13 collateral issues surrounding composting, many  
14 municipalities and private composting firms found  
15 themselves caught in a no-win situation.  
16 Communities wanted to continue to provide the  
17 service of yard waste collection, but found a  
18 whole new set of issues associated with the  
19 composting site itself: Odor, noise, dust, poor  
20 management, and potential health hazards.

21                   We are proposing the consideration  
22 of adding a one-half mile setback between compost  
23 operations and schools, athletic fields, public  
24 parks and hospitals. Our proposed amendment to

1 the regulation includes the addition of one-half  
2 mile setbacks between composting operations and  
3 schools, hospitals, athletic fields, and public  
4 parks.

5           If this part of the amendment is  
6 adopted, the question of economics must be dealt  
7 with in a fair and well-thought outweigh. We have  
8 outlined different approaches that municipalities  
9 should consider in order to save costs and  
10 allocate the costs of yard waste to those using  
11 the service.

12           However, we do not see any reason  
13 for communities or private owners, residents, to  
14 incur additional cost just because the regulation  
15 will include setbacks for schools, athletic  
16 fields, public parks, and hospitals as part of the  
17 criteria for establishing a compost operation.  
18 Compost operations will continue in Illinois, but  
19 with more responsible siting standards.

20           At this point, trying to address the  
21 proposed setbacks on a purely economic basis will  
22 be unnecessary and even futile. If there is an  
23 agreement that the potential health risks and  
24 other negatives such as absenteeism and quality of

1 life issues can be diminished by virtue of the  
2 proposed setbacks, then it must be mandatory for  
3 compost operators to take the new setback criteria  
4 into consideration when establishing sites.

5 As with all EPA clean air standards  
6 that have been initiated during the last 20 years,  
7 the cost of physician and hospital care, medicine,  
8 absenteeism from work or school plays a major role  
9 assessing the overall economics.

10 Aspergillus fumigatus is a very  
11 serious and dangerous pathogen. It can be  
12 devastating physically and economically. We owe  
13 it to ourselves to maintain a clean and healthy  
14 environment free of fear.

15 John Haines, Ph.D., senior  
16 scientist, wrote in Mycology recently, and I  
17 quote, "Whether or not it, commercial composting  
18 causes disease, it can cause absenteeism,  
19 distraction from school or work, visits to health  
20 care facilities, and a diminishment in the quality  
21 of life. For the present, at least, it is these  
22 costs that must be weighed against the benefits of  
23 composting next to a school."

24 It is important to note that current

1 health data show allergies and asthma on the rise  
2 across the United States. By providing a greater  
3 distance between compost operations and schools,  
4 public parks, athletic fields, and hospitals, we  
5 should see a reduced amount of health care for  
6 those susceptible to allergies and asthma, as well  
7 as those infected with respiratory disease.

8           Hundreds of thousands of dollars can  
9 be saved annually through reduced needs for  
10 medical care, less absenteeism by teachers, and  
11 better health for susceptible students attending  
12 school and participating in school-related sports  
13 activities.

14           At the same time, we should see an  
15 increase in the quality of life standards for the  
16 community in general. What this proposed  
17 amendment to the regulation will do is require  
18 that yard waste composting areas be better located  
19 for the health and welfare of citizens.

20           Requiring a greater distance between  
21 compost areas and schools, athletic fields, public  
22 parks, and hospitals will not require additional  
23 funds. It will require instead the proper siting  
24 be a greater priority and included with other

1 criteria when establishing a compost operation.

2                   Joel Schwartz, currently a professor  
3 at Harvard University and previously employed by  
4 the EPA, has been largely credited with the  
5 elimination of lead in gasoline. When Schwartz  
6 began investigating the effects of lead in  
7 gasoline on pollution and consequently on the  
8 health of our population, he asked who is looking  
9 at the health end? And everyone said not me,  
10 boss. Instead, there was enormous pressure to  
11 determine if the economic impact of eliminating  
12 lead from gasoline could be justified.

13                   Eventually, Schwartz was able to  
14 convince people that health care costs were very  
15 expensive and that other benefits could also be  
16 attributed to adopting higher clean air  
17 standards. An article is attached.

18                   Consideration of requiring compost  
19 areas to relocate if they are located within  
20 half-mile of schools, athletic fields, parks, and  
21 hospitals: While the Illinois Pollution Control  
22 Board does not have the authority to adopt a rule,  
23 as I understand it, a rule requiring that existing  
24 composting areas within the proposed setback

1 distance be relocated, we ask that this part of  
2 the proposal be presented to Illinois legislators  
3 for approval.

4                   In this effort to amend the current  
5 regulation, costs will certainly be an issue, but  
6 the cost of relocating a small percentage of 80  
7 compost operations in Illinois will be minimal if  
8 the policies we recommend are adopted by some of  
9 the municipalities.

10                   Savings on health care and reduction  
11 of absenteeism in school and jobs will more than  
12 offset the cost. Businesses who market the end  
13 product of yard waste composting will still be  
14 able to do so.

15                   Relocation does not mean putting  
16 people out of business. It means finding a better  
17 way to handle yard waste and ultimately provide  
18 an end product that will not be subsidized by the  
19 sacrifice of health and quality of life for local  
20 citizens. This proposal represents an opportunity  
21 for all parties to win.

22                   Where current composting facilities  
23 are located less than one half-mile from schools,  
24 hospitals, athletic fields, or public parks, the

1 facilities must be relocated within six months.  
2 Such a relocation should not cause economic  
3 hardship for any community or organization.

4 Furthermore, municipalities should  
5 not shoulder the entire burden of maintaining  
6 and/or relocating these operations. We recommend  
7 the following programs in case of a required  
8 relocation or changes in siting due to adding  
9 distances between compost areas and schools,  
10 athletic fields, public parks, and hospitals.

11 Our recommended programs include;  
12 number one, that municipalities encourage no pick  
13 up and no bagging. Each resident would be  
14 responsible for his own yard waste disposal. This  
15 can be accomplished via backyard composting and/or  
16 mulching lawn mowers that leave clippings in  
17 place. Educational materials are readily  
18 available to promote these practices.

19 Number two, municipalities can  
20 provide yard waste services on a pay-as-you-go  
21 basis. Residents who desire pick up of yard waste  
22 would pay for it. Those who don't use the service  
23 would not pay. Private refuse companies could  
24 contract generally with municipalities or



1 individually with residents.

2                   Currently, residents using  
3 professional landscapers pay for removal of yard  
4 waste directly. In many cases, these same  
5 residents are being double-billed in communities  
6 that also subsidize waste collection or composting  
7 operations that their landscapers, these  
8 residents' landscapers, don't use.

9                   Number three, we further suggest  
10 that municipalities work with their respective  
11 county governments to establish either a small  
12 number of properly located facilities to handle  
13 yard waste or contract on a county-wide basis to  
14 secure a low-cost alternative with a private  
15 refuse company.

16                   End product of composed yard waste  
17 provides the financial incentive at the -- excuse  
18 me.

19                   Incompetent end products of composed  
20 yard waste operations provides for financial  
21 incentives at the expense of municipalities and  
22 their residents. We believe that most  
23 community-based operations are generally  
24 expensive, capital intensive, and require

1 marketing of the end product, as it's referred to,  
2 which means selling the completely decomposed  
3 vegetation as soil enhancement, to generate the  
4 commercial economic benefits of profit.

5 Charles Pick, for example, is in  
6 charge of running DK Recycling in Lake Bluff, Lake  
7 Forest, and North Chicago. He is an executive  
8 officer of Land Restoration Products, Inc., of  
9 Lake Bluff and Organics Management Company, Inc.,  
10 of Chicago.

11 The latter companies make use of the  
12 end product of the composting company, DK  
13 Recycling, or provide consulting services, which  
14 often recommend the use of compost end product.

15 In most cases, the economic benefit  
16 accrues to the commercial partner, and the  
17 municipality is left to deal with the issues,  
18 capital costs, and ill will generated by the  
19 odors, dust, health concerns, and management  
20 issues that clearly emanate from large mounds of  
21 rotting vegetation. Clearly, it is not unusual  
22 for community goals and commercial goals to be in  
23 conflict.

24 In summary, there will be composting

1 operations in the state of Illinois that will  
2 require relocation. This should not create an  
3 economic hardship for citizens of Illinois. Each  
4 of these communities can comply with the proposed  
5 regulation by contracting for the removal of yard  
6 waste and instituting any of the above-mentioned  
7 policies.

8 We believe that when one takes into  
9 account what we have presented, including the  
10 overall rationale of the proposed amendment to the  
11 regulation, health and quality of life concerns,  
12 composting and clean air, and the economic  
13 implications, it is evident that the benefits of  
14 amending the current regulation outweigh and even  
15 eliminate many of the negative issues associated  
16 with many composting areas in Illinois.

17 Cost becomes a non-issue when  
18 improving the quality of life for citizens  
19 improves dramatically.

20 Given that fewer than 20 percent of  
21 Illinois municipalities operate local compost  
22 facilities today, it cannot be a hardship to adopt  
23 a practice currently in use by over 80 percent of  
24 the communities in the state. There are some

1 attachments included.

2 Thank you.

3 MS. GARRETT: I move that you accept the  
4 testimony of Scott Garrett into the record.

5 MR. MCGILL: Is there any objection to  
6 entering as a hearing exhibit the prefiled  
7 testimony of Scott Garrett, which includes his  
8 attachment Agency Analysis of Economic and  
9 Budgetary Effects of Proposed Rulemaking form with  
10 responses thereto? Also included is a letter from  
11 John Haines dated July 14th, 1997, an article  
12 entitled Clearing the Air and then what appears to  
13 be a six-page informational packet on composting.

14 Is there any objection to entering  
15 this prefiled testimony with the exhibits or with  
16 the attachments I described as a hearing exhibit?

17 MS. McFAWN: Before we do that, could you  
18 explain the six-page attachment?

19 MR. GARRETT: I believe it's a brochure that  
20 describes ways that communities can take care of  
21 their yard waste without benefit of a commercial  
22 compost operation.

23 MS. McFAWN: And who offered this brochure?  
24 I mean, you obtained it from the Internet; am I

1 correct?

2 MR. GARRETT: I'm not sure what the exact  
3 source is. We obtained it off the Internet. They  
4 are common sense approaches to dealing with yard  
5 waste.

6 MS. GARRETT: It may even list on the  
7 attached sheets where it came from. I can't  
8 remember.

9 MS. McFAWN: It would be helpful to the board  
10 if you would identify the author.

11 MR. MCGILL: If you would be able to do that,  
12 that would be helpful.

13 MS. GARRETT: Okay.

14 MR. MCGILL: Is there any objection to  
15 entering this prefiled testimony with the  
16 attachments that we have described as a hearing  
17 exhibit?

18 Seeing none, I'm marking as Exhibit  
19 Number 15 and entering as a hearing exhibit the  
20 prefiled testimony of Scott Garrett with the  
21 described attachments.

22 (Hearing Exhibit No. 15 marked for  
23 identification, 9-8-97.)

24 MR. MCGILL: Let's go off the record for a

1 moment.

2 (Whereupon, a discussion was held  
3 off the record.)

4 MR. MCGILL: Let's go back on the record.

5 Were there any other witnesses for  
6 the proponents?

7 MS. GARRETT: There is one that, as you know,  
8 couldn't be here today because she is a professor  
9 and today is her day to teach, so her testimony  
10 will serve as, I guess, a public comment.

11 MR. MCGILL: Very good.

12 MS. McFAWN: What is her name?

13 MS. GARRETT: Mary Wade.

14 MS. McFAWN: Thank you.

15 MR. MCGILL: At this point, we are going to  
16 take a break, and then we will pick up with  
17 questions for the proponents' witnesses as a  
18 panel.

19 Let's go off the record.

20 (Whereupon, a discussion was held  
21 off the record.)

22 MR. MCGILL: Let's go back on the record.

23 At this point, I would like to open  
24 it up to questions for the proponents' witnesses

1 as a panel.

2 Are there any questions from the  
3 audience for any of these witnesses of the  
4 proponents?

5 MS. WHITEMAN: Marian Whiteman from the city  
6 of Lake Forest. Actually, I am going to start  
7 with Dr. Desai, but if you believe that you are  
8 not the appropriate one to answer one of these  
9 questions, let me know, and I will redirect it,  
10 but I'm directing them at Dr. Desai because my  
11 questions involve primarily medical aspects, and  
12 also the letters that you received.

13 So the first question, most of the  
14 letters that you had submitted with your proposal  
15 talk about a two-mile setback provision, but the  
16 ultimate proposal only has a half-mile setback.  
17 What is the reason for the deviation?

18 DR. DESAI: The reason is; number one, I ask  
19 them the same question, why are you recommending  
20 two-mile buffer zone, and the scientists, all the  
21 physicians who have done this study, their  
22 argument was that there are good studies done for  
23 the pollen spores; that they can travel up to two  
24 miles. They believe that their size is 22.5

1 micromillimeter versus aspergillois spores a lot  
2 lighter. The size is 2.5 micromillimeter, and  
3 they can travel even further than that. But right  
4 now, we don't know, so they said two-miles would  
5 be appropriate. That's the basis of two-miles.

6                   Then I had to decide what I should  
7 ask, so I was listening to both sides. I thought  
8 that -- first I saw the New York health study, and  
9 they had recorded the aspergillus spore higher  
10 count up to 2200 feet that was documented. That's  
11 the only evidence I had on my hand.

12                   Then I talked to EPA, and they said  
13 there was an economical aspect also, and maybe it  
14 would be difficult to move all the facilities.  
15 Right now we don't have any other evidence that I  
16 can ask for two miles, even those physicians are  
17 warning. I wish the Pollution Control Board would  
18 listen to the physician rather than just, you  
19 know, just guessing.

20                   Another thing that when I wrote a  
21 letter to U.S. EPA, I wanted to know for myself,  
22 and they said that Illinois EPA is responsible for  
23 making the regulations. Then I read this and I  
24 would like to read this to you. It says here --



1 MS. WHITEMAN: What is it that you are  
2 reading from?

3 DR. DESAI: The letter from Illinois EPA --  
4 I'm sorry. U.S. EPA, United States EPA.

5 MS. WHITEMAN: What is the date on that  
6 letter?

7 DR. DESAI: That's May 5th, 1995.

8 MS. WHITEMAN: And that's directed to you?

9 DR. DESAI: Yes.

10 MS. WHITEMAN: Could that be admitted?

11 DR. DESAI: This is just to answer your  
12 question why I ask for it. That's okay. I can  
13 give it to you. It says here the regulations  
14 require that the landscape waste must be processed  
15 by the end of the operating day on which it was  
16 received if the following conditions exist; one,  
17 compost area is located within one-quarter of a  
18 mile of the nearest off-site residence or  
19 composting area is located within one-half mile of  
20 the nearest platted subdivision or facility  
21 boundaries are located within one-half mile of  
22 more than ten residences. I felt it was  
23 appropriate. If they want to do everything just  
24 on the same day, if all the rest is -- the big

1 subdivision is there, they have to finish the work  
2 the same day. Why? There has to be some reason.  
3 It's either an odor nuisance or it's a health  
4 risk. Either way they are recommending you to do  
5 it if they are within half a mile distance. I  
6 felt it is, based upon the New York health study,  
7 based upon this, I really felt comfortable with  
8 half a mile.

9 MS. WHITEMAN: What regulations were they  
10 reading from?

11 DR. DESAI: This is the regulation that  
12 Illinois EPA has recommended.

13 MS. GARRETT: Can I just add what it is?  
14 It's 830. It's the D part of the regulation.

15 MS. WHITEMAN: Those are the current  
16 regulations?

17 DR. DESAI: Uh-huh

18 MS. WHITEMAN: The two-mile number, again,  
19 let's go back to that a little bit. The experts  
20 seem to have focused on two miles. Were you aware  
21 that there was an 1989 study done by Dr. Fink, one  
22 of the people that you cited, where he proposed 1  
23 two-mile setback?

24 DR. DESAI: Uh-huh.

1 MS. WHITEMAN: What was the basis for that  
2 two-mile setback in his study?

3 DR. DESAI: I think I have an article I can  
4 give it to you. Maybe you can refer to that, but  
5 as I understand, they did measure the spore  
6 count.

7 MS. WHITEMAN: I'm interested in what he  
8 specifically said was the basis for his two  
9 miles.

10 DR. DESAI: Based upon the study he had done  
11 and he had recorded the case. At that time, they  
12 measured the spore level, and I think it was up to  
13 two miles.

14 MS. WHITEMAN: How far did the individual in  
15 that case live from the compost facility, do you  
16 know?

17 DR. DESAI: That individual?

18 MS. WHITEMAN: Yes.

19 DR. DESAI: I think it's 250 feet. That's  
20 what it says. I have to refer to it.

21 MR. GARRETT: Excuse me. I think she  
22 answered the question a while ago. Is this  
23 another question then?

24 MS. WHITEMAN: Yes. That was another

1 question.

2 MR. GARRETT: Oh, okay.

3 MS. McFAWN: Is this still pertaining to the  
4 Fink study?

5 MS. WHITEMAN: Yes, it is.

6 MS. McFAWN: Do we have a copy of that?

7 MR. MCGILL: No.

8 MS. WHITEMAN: I don't believe we do.

9 That study involved only one  
10 individual, is that correct?

11 DR. DESAI: What?

12 MS. WHITEMAN: That study involved only one  
13 individual; is that correct?

14 DR. DESAI: Uh-huh.

15 MS. WHITEMAN: And that really was directed  
16 primarily at anecdotally explaining his situation;  
17 is that correct?

18 DR. DESAI: Uh-huh.

19 MR. MCGILL: So there wasn't an intensive  
20 study of the compost operation around which he  
21 lived, was there, in connection with that study?

22 DR. DESAI: I'm not aware of. Only two  
23 studies I'm aware of. One was done at New York  
24 Health Department, and one was the incomplete

1 study that was done at Lake Forest site. That's  
2 all I'm aware of.

3 MS. WHITEMAN: So at the end of that study,  
4 Dr. Fink, and actually Dr. Kramer is another  
5 individual involved, stated consideration should  
6 also be given to locating compost sites similar to  
7 the present one more than two miles from  
8 residential areas; is that correct?

9 DR. DESAI: Uh-huh.

10 MS. WHITEMAN: And do they provide any  
11 additional support for that other than that  
12 statement?

13 DR. DESAI: They have written a whole  
14 article, and I can give it to you. I don't have  
15 it right now, but yes, they have published the  
16 paper based upon that.

17 MS. WHITEMAN: Just the one paper that we are  
18 talking about, correct?

19 DR. DESAI: Yeah.

20 MR. GARRETT: Could I interject something?  
21 It seems that the question has nothing to do with  
22 the testimony that Dr. Desai gave earlier. Is  
23 that appropriate?

24 MR. MCGILL: I believe the question is

1 relating to a letter from Mr. Fink.

2 MR. GARRETT: But we did not submit it.

3 MR. MCGILL: I believe it was part of the  
4 prefiled testimony. In that letter, I believe  
5 there is a reference to a case study. I think the  
6 questions are relating to that study.

7 DR. DESAI: It is in the medical literature.  
8 I can give you the date and name of the article  
9 and everything. Maybe you can read it.

10 MS. WHITEMAN: Was any study done by your  
11 folks or anybody that you folks dealt with to  
12 define whether the half-mile or two-mile or any  
13 other distance would be an appropriate distance?

14 DR. DESAI: I don't think anybody knows what  
15 is the safe distance. In California, they believe  
16 that 300 feet is safe. In Illinois, they believe  
17 it's 660 feet is safe. In Wisconsin, it's 1,000  
18 feet safe. I don't think anybody knows what is  
19 the safe distance.

20 MS. GARRETT: Can I add something to that, do  
21 you mind?

22 MS. WHITEMAN: Sure.

23 MS. GARRETT: Our proposed amendment to the  
24 regulation is to make it consistent with the way

1 the current regulation already reads, and there  
2 is, as Dr. Desai pointed out, a half-mile distance  
3 already included in part of that regulation.  
4 While we may say or the doctors or scientists may  
5 say two miles would be the best buffer zone, we  
6 can only recommend something -- we think that we  
7 would like to be more consistent with what is  
8 already on the books because we think that that  
9 may have a better chance than being amended.

10 MS. WHITEMAN: What is the current  
11 residential setback, Ms. Garrett, for compost  
12 facilities?

13 MS. GARRETT: One-eighth mile.

14 MS. WHITEMAN: Are you proposing that this  
15 proposal change that?

16 MS. GARRETT: In the current regulation,  
17 there is a one-eighth mile distance between  
18 compost operations and residences, but as  
19 Dr. Desai just read, there is a greater distance  
20 required if there is a platted subdivision. That  
21 greater distance is one half-mile. So there is  
22 sort of this overlap area that we are trying to  
23 include besides the residences: The schools,  
24 public parks, athletic fields, and hospitals.

1           MR. MCGILL: I'm going to just interrupt for  
2 a moment and try to clarify. I believe the  
3 proponents are referring to 35 Ill. Adm. Code  
4 Section 830.203(d), which states that if at the  
5 time the facility permit application is deemed  
6 complete by the agency pursuant to 35 Ill. Adm.  
7 Code 832, the composting area of the facility is  
8 located within one-quarter mile of the nearest  
9 off-site residence or within one-half mile of the  
10 nearest platted subdivision containing a residence  
11 or if more than ten residences are located within  
12 a one-half mile of the boundaries of the  
13 facility. In order to minimize incompatibly with  
14 the character of the surrounding area, landscape  
15 waste must be processed by the end of the  
16 operating day on which the landscape waste is  
17 received into windrows, other piles, or a  
18 contained composting system providing proper  
19 conditions for composting.

20           MS. GARRETT: So its that consistency that we  
21 were working towards.

22           MS. WHITEMAN: Although that particular  
23 provision does not prevent landscape waste compost  
24 facilities from locating within a half-mile of the



1 residence, does it?

2 MS. GARRETT: Correct.

3 MS. WHITEMAN: It just requires processing by  
4 the end of the day?

5 MS. GARRETT: Yes, it does?

6 MS. WHITEMAN: Whereas, your proposal would,  
7 in fact, require facilities to be located beyond  
8 one-half mile from hospitals, schools, et cetera?

9 MS. GARRETT: That's correct.

10 MS. WHITEMAN: But they could still be  
11 located within one-eighth of the residence?

12 MS. GARRETT: Yes.

13 MR. GARRETT: Technically, yes.

14 MS. WHITEMAN: Do you agree, again,  
15 Dr. Desai, that aspergillus is a widespread fungus  
16 associated generally with the decay of organic  
17 matter.

18 DR. DESAI: Yes. I think I already said that  
19 in my testimony. Let me read it to you one more  
20 time to answer this question, if we believe it  
21 appropriate. Here it is.

22 One should recognize that composting  
23 facilities do represent the sites where there is a  
24 massive culturing of aspergillus fumigatus

1 organisms in relatively small areas compared to  
2 most natural circumstances.

3                   So we are talking about -- we are  
4 not talking about ten or 15 spores that you find  
5 in the corner of the library or in the forest, but  
6 we are talking about the fungal factories. These  
7 are bacteria and fungal factories, and that's what  
8 we are talking about, and one must not  
9 misunderstand.

10           MS. WHITEMAN: What I was asking, though, is  
11 that you do agree that, in general, aspergillus is  
12 found basically everywhere?

13           DR. DESAI: Ten to 15 spores, not thousands  
14 of spores.

15           MS. WHITEMAN: Do you agree also with studies  
16 that have been done or catalogues of studies that  
17 have been done by Patricia Millner and the  
18 California Integrated Waste Management Board that  
19 includes the following sources of aspergillus  
20 exposure or that list these? And what I am going  
21 to do is read them off, and when I am done, tell  
22 me which ones you believe are not really sources  
23 of exposure. Soil, construction dust, digging and  
24 earth moving, lawn mowing, particularly with

1 mulching lawn mowers, gardening, home gardening  
2 and landscaping, raking leaves, household plants,  
3 walking through an arboretum or along a nature  
4 trail, animal feces, household pets, contaminated  
5 air conditioners or ventilation systems, house  
6 dust, bathroom mold, basements or crawl spaces,  
7 particularly those with dirt floors, homes with  
8 gas stoves and heating systems, and potted plants  
9 in hospitals. Now, do you disagree that any of  
10 those are sources of this fungus?

11 DR. DESAI: If I have a choice, I can take  
12 care of the certain circumstances like home or a  
13 pet or certain things or the dust, but I don't  
14 have control over the composting facility when  
15 they are not compliance and, therefore, thousands  
16 and thousands of spores in the environment. The  
17 air that I breathe, I don't have control over  
18 that. If it's in the house, yes, I do have  
19 control. I can put, you know, all kinds of  
20 filters, and I can protect myself. Here, no  
21 choice is given to me, and that's why I'm here.

22 MS. WHITEMAN: If your neighbor is --

23 DR. DESAI: And the scientists, they have  
24 already -- Dr. Millner. When you refer to

1 Dr. Millner, I just read her statement. She has  
2 recommended the buffer zone between the residence,  
3 schools, homes, schools, and the hospitals.

4 MS. WHITEMAN: If your neighbor is engaged in  
5 lawn mowing and has a mulching lawn mower, is  
6 there anything you can currently do to stop them  
7 from using that lawn mower?

8 DR. DESAI: No, but it's a small scale.  
9 Still we are talking about gardening is a small  
10 scale versus the commercial composting. There is  
11 a difference, and that's what -- person from the  
12 Sierra Club, he was trying to tell you. You have  
13 to differentiate the large scale versus the small  
14 scale, gardening versus the commercial composting  
15 facility.

16 MR. MCGILL: Let me just interrupt for one  
17 moment. There is a question.

18 MR. GARRETT: Yes. I think the question has  
19 to do with background amounts of infectious  
20 agents, and I think it would be instructive for  
21 the panel, if they are not aware already, to  
22 understand how infections take place. It's really  
23 not a matter of the presence of an infectious  
24 agent. It's a matter of quantity present of an

1 infectious agent. That's why we have an objection  
2 to what we have described as a fungal factory  
3 where thousands of spores are available as opposed  
4 to the background -- the normal background amount  
5 of spores.

6 Everything can be found in nature,  
7 and infectious agents can be found in small  
8 quantities of all kinds and types. And Bill  
9 Holleman may be able to comment on that further,  
10 but I think the issue of background is one that's  
11 a bit of a red herring here.

12 MS. WHITEMAN: Well, along that issue --

13 MS. HENNESSEY: Actually, I appreciate  
14 everyone. She is only asking questions of  
15 Dr. Desai at this point, and you have raised very  
16 good points, but this is really conducted for her  
17 to ask questions of selected witnesses. If there  
18 are things that somebody on your panel has  
19 answered that you would like to amplify, you will  
20 have an opportunity to do that at public comment,  
21 or at the end of today we will allow anybody else  
22 to testify.

23 Just so we can maintain an orderly  
24 proceeding, if you could try to hold your comments

1 until the end.

2 MR. GARRETT: Thank you. That's fine.

3 MS. HENNESSEY: Thank you.

4 MS. WHITEMAN: For purposes of this  
5 discussion, Dr. Desai, at what level would you  
6 believe exposures would become significant?

7 DR. DESAI: Can you repeat the question?

8 MS. WHITEMAN: For purposes of our discussion  
9 today, at what level, what exposure level would  
10 you believe that the concentrations would become  
11 significant?

12 DR. DESAI: I don't know anybody who has the  
13 answer for that, but maybe if you know anything  
14 about it --

15 MR. HOLLEMAN: Can I respond?

16 MS. HENNESSEY: Yes, you can. Certainly the  
17 respondent can certainly defer the question.

18 MR. HOLLEMAN: I looked at a lot of  
19 literature trying to answer that question myself  
20 because that was the first question I asked  
21 myself, what is the toxic level? And as you read  
22 the different studies, New York study, California  
23 study, everyone has different answers to that  
24 question. So there really isn't any scientific

1 answer to that question other than that excessive  
2 levels lead to health problems.

3 But no one has definitely defined  
4 those excessive levels because studies like that  
5 have not been done. From what I can tell, there  
6 aren't any studies in process to look at that.

7 So what you have is a potential  
8 health problem that no one can quite figure out  
9 what the level is except they know there is a  
10 potential health problem. And when you are  
11 dealing with a potential health problem, as I said  
12 in my testimony, better safe than sorry.

13 MS. WHITEMAN: When you say that excessive  
14 levels lead to health problems, what kind of  
15 levels are you talking about there? What have the  
16 studies shown?

17 MR. HOLLEMAN: Well, the two cases that I  
18 reported in my testimony, which were both on-site  
19 infections, they were looking at spore levels on  
20 the order of a few 100,000 per cubic meter.

21 Levels at 100,000 per cubic meter  
22 were measured at the Lake Forest site. So as a  
23 scientist, am I going to call a difference between  
24 100,000 and 500,000, no. The variation on these

1 studies are so broad that you cannot delineate  
2 between 500,000 spores per cubic meter and 100,000  
3 spores per cubic meter.

4 And there were measurements off site  
5 at the fence line in the Lake Forest site of  
6 100,000 spores per cubic -- fungi. I'm sorry.  
7 Not spores, but fungi per cubic meter. Everything  
8 I said was spores I meant to say fungi.

9 MS. WHITEMAN: That's because the Lake Forest  
10 study didn't speciate aspergillus from any other  
11 fungi, did it?

12 MR. HOLLEMAN: They didn't look at that.

13 MS. WHITEMAN: So when you talk about the  
14 levels in that particular study, we really can't  
15 compare that particular level to a level that you  
16 have indicated someplace else for just  
17 aspergillus, correct?

18 MR. HOLLEMAN: Those others were spore levels  
19 as well.

20 MS. WHITEMAN: Now, when you talk about the  
21 100,000 numbers for spores in general, it is true  
22 that the Lake Forest study did talk about  
23 aspergillus and penicillin together, did they  
24 not?



1 MR. HOLLEMAN: Yes.

2 MS. WHITEMAN: So at least we can narrow it  
3 down to that range. We are not talking just about  
4 aspergillus, but we are talking about those two  
5 particular fungal spores together, correct?

6 MR. HOLLEMAN: That's correct.

7 MS. WHITEMAN: What were the levels for  
8 those, do you recall?

9 MR. HOLLEMAN: No, I don't.

10 MS. WHITEMAN: Were those in the 100,000  
11 range?

12 MR. HOLLEMAN: No.

13 MS. WHITEMAN: Dr. Desai, you mentioned  
14 several times and I know in your testimony you  
15 talked about levels in libraries of 10 to 15 CFU  
16 per meter cubed. Were you aware that in homes in  
17 the Midwest in the winter levels as high as 946  
18 CFU per meter cubed had been found?

19 DR. DESAI: It's possible.

20 MS. WHITEMAN: Do you consider that to be a  
21 risk to health?

22 DR. DESAI: To some people it may be. If I  
23 have asthma -- probably for her, yes, it is. For  
24 me, probably not.

1 MS. WHITEMAN: For rooms with visible mold  
2 growth, are you aware that levels have reached as  
3 high as 2600 CFU per matter cube?

4 DR. DESAI: Then that person should take care  
5 of their home environment. There are studies  
6 done, and they recommend they take care of their  
7 homes.

8 MS. WHITEMAN: Are you aware that in 1979 in  
9 Washington D. C. when they colonized aspergillus  
10 fungus in lawns where people had mulched, levels  
11 reached as high as 686 CFU per meter cubed?

12 DR. DESAI: Are you aware of it?

13 MR. HOLLEMAN: I saw those numbers.

14 MS. WHITEMAN: Do you believe that that's  
15 enough to present a risk to human health?

16 MR. HOLLEMAN: Not to the normal, healthy  
17 individual. To the immunocompromised individual,  
18 yes. The one study I stated, which you were  
19 talking about the study by Dr. Fink, the levels  
20 measured there were 18 to 24 aspergillus spores  
21 per cubic meter, again, illustrating that it's  
22 very difficult to put a number on what is toxic  
23 and what isn't toxic because it depends on the  
24 individual who has been exposed. And it's more

1 related to the individual who is being exposed  
2 than the actual concentration.

3                   If you have a susceptible individual  
4 it's not going to take very much. Other people,  
5 like myself, I doubt if I could get an infection  
6 because I have a wonderful immuno system. But for  
7 those who are compromised, yeah, 18 to 24 would do  
8 it.

9                   MS. WHITEMAN: Is there anything in your  
10 proposal that proposes to assist individuals who  
11 may be exposed to these levels unknowingly; in  
12 other words, levels from homes, levels from  
13 mulching lawn mowers next door, levels from  
14 attics, that sort of the thing?

15                   MS. GARRETT: No.

16                   MS. WHITEMAN: Is there anything in your  
17 proposal that proposes to help children that are  
18 exposed to these levels of aspergillus?

19                   MS. GARRETT: No.

20                   MR. MCGILL: We're going to go off the record  
21 for a second.

22                                   (Whereupon, a recess was taken.)

23                   MR. MCGILL: Let's go back on the record.

24                                   I believe Ms. Garrett would like to

1 add to the response she just gave.

2 MS. GARRETT: While we are not prescribing  
3 any remedy or special care for people who are  
4 exposed to abnormal amounts of aspergillus, what  
5 we are asking for instead is equal protection so  
6 they do not have that risk, so they aren't put in  
7 a position where they have no choice; that they  
8 will at least be away from those kinds of harmful  
9 areas. So that is the answer I would like to give  
10 instead.

11 MS. WHITEMAN: Dr. Desai, how many confirmed  
12 cases of aspergillus were recorded in the state of  
13 Illinois last year?

14 DR. DESAI: Last time Dr. Lumpkin brought  
15 that issue up in the Illinois State Medical  
16 Society meeting, and he said there were 11 cases.

17 MS. WHITEMAN: So what year was that?

18 DR. DESAI: I don't know. It just came up,  
19 and I remember the numbers. Maybe you can call  
20 Dr. Lumpkin, and he can answer your question.

21 MS. WHITEMAN: How many of those cases were  
22 diagnosed in Lake Forest?

23 DR. DESAI: This is not a Lake Forest issue,  
24 and the study that was done in Lake Forest was

1 incomplete. This is about the state of Illinois.  
2 This is not about Lake Forest. Lake Forest is a  
3 drop in the bucket.

4 MS. WHITEMAN: I agree it's not about Lake  
5 Forest, but a number of people have raised  
6 testimony today about Lake Forest and the  
7 situation there, and so I have asked how many of  
8 those cases were diagnosed in Lake Forest?

9 DR. DESAI: I think I would recommend that  
10 they would do the further study and they should  
11 have figured it out, but for some reason they  
12 stopped the study in the middle. They shouldn't  
13 have done that. Then we would probably have the  
14 answer for your question.

15 MS. WHITEMAN: So you believe that there are  
16 people who are residents of Lake Forest who now  
17 have aspergillosis and have not been diagnosed?

18 DR. DESAI: I think it's inappropriate here  
19 because we did not complete the study and I didn't  
20 do the study.

21 MS. WHITEMAN: For the cases in Illinois, how  
22 many of those cases have been specifically  
23 attributed to compost operations?

24 DR. DESAI: Can you repeat the question?

1 MS. WHITEMAN: Yes. For the case of  
2 aspergillosis in Illinois, how many of those have  
3 been specifically related to compost operations?

4 DR. DESAI: I do not know. Maybe you can ask  
5 the health department.

6 MS. WHITEMAN: How many yard waste facilities  
7 are located in the United States?

8 DR. DESAI: In one of the letters, it says  
9 it's 3,000 approximately.

10 MS. WHITEMAN: I will go with that number. I  
11 have seen that number, too.

12 How many confirmed reports have you  
13 seen in the literature associating those yard  
14 waste compost operations with some sort of  
15 disease?

16 DR. DESAI: At least two that I mentioned  
17 today.

18 MS. WHITEMAN: That's consistent, isn't it,  
19 with the study Patricia Millner did? She found  
20 three cases, I believe?

21 DR. DESAI: Uh-huh?

22 MS. WHITEMAN: And I believe that's also  
23 consistent with a study that the California  
24 Integrated Waste Management Board did where they

1 found two studies, two situations?

2 MR. HOLLEMAN: What is the question? I  
3 couldn't hear the question.

4 MS. WHITEMAN: How many cases are there in  
5 the literature of aspergillosis related to these  
6 compost facilities nationwide?

7 MR. HOLLEMAN: I was able to find four cases  
8 in the literature I went through; however. I  
9 don't think that's a relevant question because --  
10 it's like I'm reminded of all of the problems that  
11 we have had with E-coli in the meat supply  
12 recently, and if you were to ask that question  
13 before E-coli was identified as the culprit and  
14 had said how many young children have become sick  
15 because of E-coli poisoning, the answer to that  
16 question would have been none.

17 So that's a question that's really  
18 not relevant because the answer to it isn't  
19 known. There could be thousands of cases out  
20 there, and they just haven't been identified. So  
21 I don't really think that you can say there are no  
22 reported cases; therefore, there aren't any  
23 because science doesn't work that way.

24 MS. WHITEMAN: Are aspergillosis or

1 sensitivity pneumonia either newly isolated  
2 diseases? Are these things that science has not  
3 known anything about, things that we're just  
4 discovering that exist?

5 MR. HOLLEMAN: I'm sorry. I'm a little hard  
6 of hearing, and I'm having trouble hearing you.

7 MS. WHITEMAN: Are aspergillosis or  
8 sensitivity pneumonia newly isolated diseases,  
9 diseases that we have never seen before but are  
10 just now emerging?

11 MR. HOLLEMAN: In fact, I have with me a  
12 review article in the New England Journal of  
13 Medicine that was the most prestigious medical  
14 journal in the world that was published in July  
15 essentially identifying some of these as new  
16 diseases, yes.

17 MS. WHITEMAN: So aspergillosis is not a  
18 disease that's previously been recognized?

19 MR. HOLLEMAN: Oh, it's been recognized, but  
20 often misdiagnosed, and the symptoms have been  
21 there, but it very often is misdiagnosed because  
22 physicians aren't aware of it, yes.

23 MS. WHITEMAN: In connection with your  
24 testimony, you presented -- I guess, Dr. Desai, I



1 will direct this one to you. You presented a  
2 letter from Dr. Slavin; is that correct?

3 DR. DESAI: Uh-huh.

4 MS. WHITEMAN: Are you aware that Dr. Slavin  
5 himself has published roughly 100 or more articles  
6 on aspergillus in the last 20 years?

7 DR. DESAI: Uh-huh.

8 MS. WHITEMAN: Did you know that he has only  
9 published one article in 1977 on the relationship  
10 between aspergillosis and compost facilities?

11 DR. DESAI: I didn't know that for sure.

12 MS. WHITEMAN: So you aren't aware that he  
13 had isolated that as an issue 20 years ago?

14 DR. DESAI: (Shaking head.)

15 MS. WHITEMAN: So you weren't aware that he  
16 had isolated that as an issue 20 years ago?

17 DR. DESAI: (Shaking head.)

18 MS. WHITEMAN: Are you aware that he also  
19 concluded in that article that even farmers in  
20 close with composts had no known asthma or other  
21 respiratory effects from aspergillus exposure?

22 DR. DESAI: I don't know, but as far as I  
23 know, all these diseases are rural diseases, and  
24 they have no place in the urban settings because

1 we have enough problems of our own, and we  
2 shouldn't bring the rural diseases in the urban  
3 area.

4 MS. WHITEMAN: With regard to those articles  
5 that have been published, isn't it true that most  
6 experts have linked aspergillosis or sensitivity  
7 pneumonia to exposures in hospital settings?

8 DR. DESAI: Can you repeat the question?

9 MS. WHITEMAN: Isn't it true that most  
10 experts that have published articles in this area  
11 have linked aspergillosis or sensitivity pneumonia  
12 to exposures in hospital settings?

13 DR. DESAI: Probably.

14 MS. WHITEMAN: And as you indicated before,  
15 the New York State Department of Health recognized  
16 this problem and indicated that we needed to be  
17 careful about exposing severely immunocomprised  
18 individuals in those settings; is that correct?

19 DR. DESAI: Right.

20 MS. WHITEMAN: Isn't it also true that the  
21 New York State Department of Health, when it did  
22 its study, did not evaluate the more serious  
23 diseases caused by exposure to aspergillus?

24 DR. DESAI: Yeah.

1 MS. WHITEMAN: Why was that?

2 DR. DESAI: Because I think partly, if you  
3 read the whole study, they didn't have enough  
4 data, and people who were involved in the study in  
5 the middle they left, and they didn't want to do  
6 anything with the study. I think it's a very  
7 lengthy, expensive study and they didn't go into  
8 that. There were several problems, and I cannot  
9 right now tell you. It's in the story.

10 MS. WHITEMAN: Isn't it true that the  
11 individuals who prepared the study said that they  
12 couldn't evaluate those diseases because they  
13 occurred only rarely and could not be adequately  
14 evaluated?

15 DR. DESAI: It does occur rarely, but this  
16 compost industry is a new industry, and as I said,  
17 we know the pathogen, we know the disease, and we  
18 know the outcome. Why should we bring them in the  
19 urban area where the population is very dense?

20 MS. WHITEMAN: Could you name a study that  
21 demonstrates some link between either allergic or  
22 asthmatic adults or children and disease from  
23 compost facilities, either allergic reactions that  
24 were exacerbated or asthma that has been

1 triggered?

2 DR. DESAI: There are none done yet.

3 MS. WHITEMAN: Actually, the study by the New  
4 York Department of Health looked at the issues  
5 specifically of allergic reactions of asthma,  
6 didn't it?

7 DR. DESAI: Yeah, but there were problems in  
8 the study. They couldn't finish it. I think the  
9 people who were involved in the study who were  
10 participating in the middle, they had nothing to  
11 do with the study, and they didn't cooperate at  
12 the end. So I think they had difficulties, so  
13 that's why the study was inconclusive. They  
14 couldn't evaluate the risk.

15 MS. WHITEMAN: Was there a statement by the  
16 individuals that wrote that study which said they  
17 couldn't draw any conclusions because they had an  
18 insufficient sample population?

19 DR. DESAI: I think it's in the New York  
20 Health study, if I remember. I have to look.

21 MS. WHITEMAN: The study itself states they  
22 couldn't complete the study?

23 DR. DESAI: That they had some problems,  
24 yes.

1 MS. WHITEMAN: But did it say they were  
2 unable to draw any conclusions from their study  
3 because they had insufficient participants?

4 DR. DESAI: I think one thing they have  
5 recommended at the end here it says, "Studies are  
6 needed to better assist the bioaerosols." This is  
7 from their conclusion. I'm reading the line.

8 That means that, you know, they want  
9 to do the further study. Then they said, "The  
10 techniques needs to be developed to better  
11 estimate the bioaerosol level." That means they  
12 don't have the technical ability. They have not  
13 assisted the bioaerosol exposure in detail. What  
14 it tells us, you know, based on their data, you  
15 cannot say whether there is a problem or there is  
16 not, and I have already said that study, based on  
17 this reading, it's inconclusive study. When  
18 somebody asks you that you have to do the further  
19 study, or if you don't have the better equipment,  
20 you can't draw the conclusion. They have  
21 limitations.

22 MS. WHITEMAN: On Page 45 of that study,  
23 didn't they actually say that aspergillus and  
24 other mold spores were not observed to be

1 associated with increased allergy and asthma  
2 symptoms reporting; however, the occurrence of  
3 these symptoms was associated with ragweed,  
4 pollen, ozone, temperature? In the time since the  
5 start of the study period, allergy and asthma  
6 symptoms could also have been influenced by  
7 exposures that were not measured and accounted for  
8 in this study period.

9 DR. DESAI: That may be true, but on the  
10 other hand, they also have recommended the buffer  
11 zone.

12 MS. WHITEMAN: For hospitals?

13 DR. DESAI: I'm as much puzzled as you are.

14 MS. WHITEMAN: For hospitals; is that  
15 correct?

16 DR. DESAI: Yes, for the hospitals,  
17 residences, and schools.

18 MS. GARRETT: And schools, too.

19 MR. GARRETT: If I can just interject for a  
20 second, it appears that we are being asked or  
21 Dr. Desai is being asked to provide the position  
22 of an expert on studies that we have submitted for  
23 the purpose of instructing the board. I don't  
24 think any of us pretend to be the authors of these

1 studies or are that familiar with the details of  
2 the studies. We have offered them for your  
3 information to help you make a decision based on a  
4 proposal that we have made to make a consistent  
5 regulation regarding setbacks for residences and  
6 other public property, but if the purpose is to  
7 convene a panel of experts, then we probably  
8 aren't going to be able to fulfill that purpose  
9 today.

10 MR. MCGILL: Let's go just go off the record  
11 for a minute.

12 (Whereupon, a discussion was held  
13 off the record.)

14 MR. MCGILL: Let's go back on the record.

15 The proposal has included at least  
16 references to various studies which you are saying  
17 support the proposed change, so I think it's  
18 reasonable to ask some questions about what those  
19 studies actually stand for and what they say.

20 But I would also just like to say  
21 that in terms of -- I believe you are going to be  
22 presenting some witnesses who could flush out some  
23 of the detail of some of these studies, so let's  
24 try to strike a balance as we move forward.

1                   Why don't we continue then with the  
2 questioning?

3           MS. WHITEMAN: Just a few more questions, and  
4 I will ask them generally.

5                   With regard to the experts from whom  
6 you folks received letters -- and, Dr. Desai, most  
7 of them happen to be addressed to you, so I'm  
8 going to direct them to you. What information did  
9 you send to those individuals and ask them to  
10 review in connection with the letters that they  
11 provided?

12           DR. DESAI: This is the binder. I sent it to  
13 all the physicians. This information was gathered  
14 from some of them from the library, some from the  
15 Cure organization, some from the other physicians,  
16 some information from AMA, and the people. You  
17 know, once I started talking to them, they started  
18 giving me all the information, and it's in the  
19 binder. It was presented to the city of Lake  
20 Forest. I'm sure you can get it from them.

21           MS. WHITEMAN: Is it possible to have that  
22 admitted as an exhibit to this since all of the  
23 letters that were received were based on that  
24 information?



1           MR. MCGILL: Let me just ask a question of  
2 Dr. Desai. These are materials you had forwarded  
3 to doctors and health experts to which they  
4 responded with various letters?

5           DR. DESAI: Uh-huh.

6           MR. MCGILL: Are those materials already a  
7 part of the proposal or other prefiled testimony?

8           DR. DESAI: No, because it's too expensive.  
9 I couldn't afford that. If I have to make 40  
10 copies of this one, I can't do that. I'm sorry.

11          MS. McFAWN: If we make it an exhibit, you  
12 don't have to submit them.

13          DR. DESAI: They make me make 40 photocopies  
14 for so many things. I can't afford it.

15          MR. MCGILL: Why don't we go off the record  
16 for a minute?

17                                 (Whereupon, a discussion was held  
18                                 off the record.)

19          MR. MCGILL: Let's go back on the record.

20                                 There may be several documents that  
21 we would like the proponents to provide a copy of  
22 to the board, and I think what might make sense is  
23 what we will do is reserve exhibit numbers for  
24 some of these, and then when the proponents file a

1 copy with the board, anyone interested in getting  
2 a copy of that can approach the board for a copy.

3 MS. WHITEMAN: That's fine.

4 MR. MCGILL: Why don't we continue with your  
5 questions?

6 MS. WHITEMAN: In addition to the letters  
7 that were contained in the various pieces of  
8 proposal, were there any other experts that you  
9 contacted and requested information from for  
10 letters?

11 DR. DESAI: I had talked to so many  
12 physicians all over the country so many  
13 researchers, I can't give you individual names.  
14 Numbers would be in the hundreds. Specifically, I  
15 can't.

16 MS. WHITEMAN: Did any of these individuals  
17 provide letters to you that you did not include  
18 with your package?

19 DR. DESAI: Maybe. It's possible. It's in  
20 this binder. It may not be.

21 MS. WHITEMAN: So any of the letters that you  
22 received from physicians would be contained in the  
23 binder that you will be providing to the board,  
24 even if they were not included with your

1 proposal?

2 DR. DESAI: If it's in this binder, it will  
3 be given, yes.

4 MS. WHITEMAN: What I am asking, though,  
5 is --

6 DR. DESAI: What specific letter that you are  
7 referring to? Just if you can tell me, I can tell  
8 you. What are you trying to tell me? Which  
9 letter are you interested so I can tell you?

10 MS. WHITEMAN: What I am asking is if you  
11 contacted any experts, any doctors or physicians  
12 or other medical folks and you received a letter  
13 back from them in response to your inquires, but  
14 you did not include them with your proposal.

15 DR. DESAI: It's possible. But if you know  
16 any and if you tell me, then I can confirm that,  
17 yes.

18 MS. WHITEMAN: Well, which ones do you know  
19 of that were not included?

20 DR. DESAI: As I said, I talked to hundreds  
21 of physicians. I can't tell you, but if you know  
22 anybody, just tell me. Give me the name, and I  
23 will tell you.

24 MS. WHITEMAN: Unfortunately, you haven't

1 told me who it was you contacted and haven't  
2 included, so I have no way of knowing which  
3 letters you have omitted.

4 DR. DESAI: Probably you know. That's why  
5 you are asking me the question.

6 MR. MCGILL: Why don't we move on to the next  
7 question?

8 MS. WHITEMAN: Most of the letters that you  
9 put in your proposal were submitted in 1995 and  
10 received in 1995. Have you contacted any of these  
11 folks and asked them for updated views?

12 DR. DESAI: Yes. I did talk to a couple of  
13 physicians, yes, and they said that if you need  
14 any help, we will be happy to do that for you  
15 because they have offered the help, yes.

16 MS. WHITEMAN: What I am asking is did you  
17 contact any of the folks from whom you received  
18 letters and ask them whether they still are  
19 standing by the opinions that they offered in the  
20 letters of 1995?

21 DR. DESAI: Yes.

22 MS. WHITEMAN: Which ones did you contact?

23 DR. DESAI: I talked to Dr. Hugh Sampson. I  
24 talked to him five weeks ago. He's from John

1 Hopkins University. I just told him what is going  
2 on. I talked to Dr. Marinkovich. I talked to  
3 Allergy and Immunology Academy. I talked to AMA.  
4 I talked to American Academy of Pediatrics. Yes,  
5 many people I have talked to.

6 MS. WHITEMAN: Did any of them provide you  
7 with letters reaffirming their positions?

8 DR. DESAI: Why do I need that? They already  
9 said their position. They are not going to change  
10 it. They wouldn't lie.

11 MS. WHITEMAN: One last question about  
12 Dr. Pollowitz' letter. He indicated in his  
13 letter, didn't he, that he was forming a  
14 subcommittee on compost facilities; is that  
15 correct?

16 DR. DESAI: Uh-huh.

17 MR. MCGILL: Do you know what that  
18 subcommittee has done so far?

19 DR. DESAI: I don't know.

20 MS. WHITEMAN: Would it surprise you if  
21 Dr. Pollowitz said that subcommittee hadn't  
22 actually done anything, hadn't taken any action?

23 DR. DESAI: No. It's just guessing. You can  
24 guess it.

1 MS. WHITEMAN: Mr. Garrett, about your  
2 economic analysis, how many compost sites are  
3 there in the state of Illinois?

4 MR. GARRETT: I don't really know.

5 MS. WHITEMAN: How many would be closed by  
6 this proposal?

7 MR. GARRETT: I don't know.

8 MS. WHITEMAN: Did you speak to any of the  
9 compost site operators or owners to find out how  
10 this proposal would affect them?

11 MR. GARRETT: No. My views were towards  
12 municipalities and citizens, not individual  
13 companies.

14 MS. WHITEMAN: Did you speak to any of the  
15 municipalities that are operating these facilities  
16 to find out whether they would be affected?

17 MR. GARRETT: I have been engaged in a  
18 running debate with the city of Lake Forest for  
19 about three years. Other than that, I have not  
20 talked to any of them.

21 MS. WHITEMAN: So you didn't talk to any of  
22 the downstate facilities?

23 MR. GARRETT: No.

24 MS. WHITEMAN: Are you aware of the current

1 capacity of the facilities that would remain  
2 open?

3 MR. GARRETT: No.

4 MS. WHITEMAN: Do you have any idea whether  
5 those facilities could accept the landscape waste  
6 from the facilities that would be closed?

7 MR. GARRETT: No.

8 MS. WHITEMAN: What is the distance in  
9 additional miles that material would have to  
10 travel if these facilities were shutdown?

11 MR. GARRETT: I don't know.

12 MS. WHITEMAN: How much does it cost to open  
13 a new landscape waste compost facility?

14 MR. GARRETT: I don't know.

15 MS. WHITEMAN: How much would it cost to go  
16 through the whole permit zone process?

17 MR. GARRETT: I don't know how long. If you  
18 have any other technical questions, I think I have  
19 established a pattern here.

20 MR. MCGILL: If you would let her finish  
21 posing her question before you respond.

22 MR. GARRETT: Okay.

23 MS. WHITEMAN: How long would it take for a  
24 site operator to begin the closure process for the

1 site?

2 MR. GARRETT: I don't know.

3 MS. WHITEMAN: You have advocated as part of  
4 your postal potential backyard composting. Do you  
5 know what the cost would be to municipalities if  
6 all of its citizens implemented backyard  
7 composting?

8 MR. GARRETT: I could only speculate, so I  
9 don't know.

10 MS. WHITEMAN: Do you know what the cost of  
11 training for individuals for backyard composting  
12 is?

13 MR. GARRETT: No, I don't.

14 MS. WHITEMAN: Can you point to a state  
15 that's had a successful backyard composting  
16 program with no backstop for municipal waste  
17 disposal?

18 MR. GARRETT: No, I can't.

19 MS. WHITEMAN: I think that's everything.  
20 Thank you.

21 MR. GARRETT: You're welcome.

22 MS. McFAWN: I have a question.

23 Mr. Garrett, in your testimony you  
24 made a statement that I thought you were



1       estimating or perhaps stating that there are 80  
2       compost operations in Illinois?

3               MR. GARRETT: I said -- I believe I said  
4       there were over 80.

5               MS. McFAWN: You said by the cost of  
6       relocating a small percentage of 80 compost  
7       operations in Illinois would be minimal. Did you  
8       mean that 80 number to represent the number of  
9       composts operations in Illinois?

10              MR. GARRETT: I think it was an estimate of  
11       how many might be affected by this, but it was  
12       just an estimate.

13                      My assertion was that the cost from  
14       a nuisance, convenience, and potential health  
15       standpoint far outweighed the cost of the small  
16       percentage of compost operations that might have  
17       to be relocated and that there were many  
18       alternatives in addition to backyard composting,  
19       which might or might not be a significant  
20       alternative. There were many alternatives that  
21       could be considered.

22                      I think in one particular instance  
23       the fact that many states have reversed their  
24       rulings for banning the use of -- the inclusion

1 of yard waste in landfill suggestion that that  
2 possibly could be an alternative for the state of  
3 Illinois as well.

4 MR. MCGILL: We have some other questions,  
5 but are there any other questions at this time  
6 from the audience?

7 MR. PICK: Charlie Pick from Organics  
8 management. I just have a quick question for  
9 Mr. Johnson regarding the Bedminster systems.

10 You suggested that an enclosed  
11 system like the Bedminster plant might be a good  
12 alternative to outdoor composting because it  
13 controls the emissions of bioaerosols and other  
14 things to the environment. Just for the benefit  
15 of everybody here, can you speak to the size of a  
16 Bedminster facility in terms of the tonnage per  
17 year and compare that to a facility such as Lake  
18 Forest and then also give a capital cost for  
19 developing such a facility?

20 MR. JOHNSON: I didn't hear the question.

21 MR. HOLLEMAN: I can answer that question.  
22 The question, Earl, was what is the tonnage of the  
23 Bedminster site, how many tons per day are they  
24 handling?

1 MR. JOHNSON: 750 tons per day.

2 MR. PICK: And how would that compare to a  
3 facility such as the Lake Forest site?

4 MR. JOHNSON: It's many times more than the  
5 facility at Lake Forest.

6 MR. PICK: What do you think the capital cost  
7 is to develop a plant of that size?

8 MR. JOHNSON: I don't remember the amount  
9 offhand.

10 MR. PICK: Well, we can leave that.

11 As far as the actual processing of  
12 the materials is concerned, is all of the material  
13 composted indoors until it's removed from the  
14 facility, or is there some composting that occurs  
15 out of doors?

16 MR. JOHNSON: No. It's all indoors, all  
17 invessel.

18 MR. PICK: So the material is composted  
19 completely inside invessel until it's sold or  
20 removed to another facility?

21 MR. JOHNSON: That's correct.

22 MR. PICK: And this is based on your  
23 knowledge of other work in Bedminster facilities?

24 MR. JOHNSON: Yes.

1           MR. HOLLEMAN: There is a facility in  
2 Marietta, Georgia, Cobb County that handles the  
3 waste of 250,000 people, and they plan on making  
4 money on the operation by selling the compost that  
5 comes out of it. So, in fact, the capital costs  
6 will all be recouped by the selling of the final  
7 raw product.

8           MR. PICK: There is no part of the composting  
9 processing that occurs out of doors at that  
10 facility, including curing or storage?

11           MR. HOLLEMAN: Nothing. Absolutely. I  
12 visited the site. Believe me, it's all inside.

13           MR. PICK: Thank you.

14           MR. MCGILL: Are there any other questions  
15 for the proponents' witnesses?

16                           Does the agency have any questions?

17           MS. DYER: The agency has no questions.

18           MR. MCGILL: We have a few questions. I'm  
19 just going to direct these to the panel. Whoever  
20 feels is most appropriate to respond can respond.

21                           On what basis did you decide to  
22 include hospitals, schools, athletic fields, and  
23 public parks for the proposed setback  
24 requirement?

1 DR. DESAI: Is it for me?

2 MS. GARRETT: I will take it.

3 MR. MCGILL: Whoever would like to respond, I  
4 was wondering what the basis was to select those  
5 particular facility relocations.

6 DR. DESAI: Based on the recommendations from  
7 all the physicians we decided.

8 MS. GARRETT: And can I add to that?  
9 Schools -- it goes back to the idea of the state  
10 of Illinois protecting the public health and  
11 welfare. You know, students in schools are  
12 generally in public schools, and they really have  
13 no choice as Mary Mathews pointed out. Sometimes  
14 they don't have an option of what school they go  
15 to, so we believe that the schools should  
16 absolutely have a distance that sets them apart  
17 from composting facilities.

18 The same with public parks, and the  
19 same with athletic fields because generally  
20 athletic schools are connected to schools, and  
21 those schools tend to be public. And hospitals  
22 because of the health issues.

23 MR. GARRETT: May I answer that?

24 MR. MCGILL: Sure.

1           MR. GARRETT: I think it would be appropriate  
2 to add all kinds of other areas where the public  
3 tends to be -- tends to congregate, and our  
4 purpose was to establish some consistency between  
5 protection from at least a nuisance for residents  
6 and homeowners and the general public who might  
7 unknowingly come in contact with that nuisance.  
8 We believe we have covered that sufficiently by  
9 the list of schools, parks, et cetera.

10           MR. MCGILL: Thank you.

11                         What would your view be of having a  
12 one-eighth mile setback for hospitals schools  
13 athletic field and public parks instead of the  
14 proposed half-mile?

15           MR. GARRETT: I think it would be a step in  
16 the right direction, and it may be that we would  
17 be back again at some point with more facts and  
18 more significant evidence suggesting it should be  
19 a farther setback, maybe two miles, maybe half a  
20 mile. But we would be very pleased that these  
21 other public facilities were at least treated  
22 today in the same way that residents are treated.

23           MR. MCGILL: Thank you.

24                         I have got a couple questions that

1 have certainly been touched on, but just for  
2 clarity of the record, is there any scientifically  
3 confirmed evidence that bioaerosols from compost  
4 facilities have caused any adverse health impacts  
5 in persons located off site near compost  
6 facilities?

7 MR. HOLLEMAN: No. All of the cases that are  
8 in the literature are on-site incidents. There  
9 has been no dose effect study done between the  
10 health problems and the fungal concentrations.

11 MR. GRSKOVICH: Can I add to that? In  
12 examining the literature whatever I could find on  
13 the distances of composting sites to the  
14 communities, most communities with a lot of common  
15 sense locate their composting facilities as far as  
16 12 miles out of the city, five miles out of city,  
17 six miles out of the city. The literature is  
18 filled with considerable distances.

19 It's treated as a farming operation,  
20 so you're not testing the effect of composting on  
21 people living nearby because there aren't any  
22 people living nearby. It is the workers who are  
23 working within the facility that are the only, in  
24 effect, test bed for the harm, if any. It's rare,

1 I think, for people to put a composting site right  
2 next to a school.

3 MR. HOLLEMAN: Let me correct myself. The  
4 incidence report in the literature by Dr. Fink was  
5 a resident who lived next to a compost site, and I  
6 referred to that in my testimony, Kramer, Kerub  
7 and Fink. He was very close to the site, 250  
8 feet, according to the article.

9 DR. DESAI: And the letter that I read that  
10 was written by the father of Harry Dobin, he lived  
11 near the compost facility, who died.

12 MR. JOHNSON: 1,000 feet.

13 DR. DESAI: 1,000 feet.

14 MR. MCGILL: I think you have touched on  
15 this, but again, for clarity, are there any  
16 scientifically established concentrations or  
17 durations of bioaerosol exposure which result in  
18 adverse health impacts?

19 MR. HOLLEMAN: There have been studies done  
20 on animals. That has been done, but not in  
21 humans.

22 MR. GARRETT: Again, if I could just  
23 elaborate a bit, everything depends on the  
24 condition of the person who is exposed, and the



1 threshold can be very different depending on the  
2 incompetence and other aspects of the general  
3 state of health of that individual.

4 Chemotherapy patients and AIDS  
5 patients probably being the most susceptible, but  
6 asthmatics and people that just are sensitive to  
7 dust in the air also suffer from the exposure of  
8 what might be described as far less than lethal  
9 effluent coming out of a compost operation.

10 DR. DESAI: Also, it's Dr. Pollowitz, who is  
11 chairman of subcommittee of compost issue, he said  
12 that 25 percent of the U.S. Population had  
13 allergies. That means you are putting 25 percent  
14 of the people at risk. I think that's a large  
15 number.

16 MR. MUELLER: May I address that also? A  
17 person with a subclinical expression of fungal  
18 disease or any other airborne pollutant may very  
19 well not develop the disease that is related to  
20 that underlying or beginning etiology. That  
21 person may end up with a secondary disease which  
22 is quite different. That was recently pointed out  
23 in some research on HIV infections that people who  
24 contract HIV may, in fact, contract it much more

1 easily if their systems have been comprised by  
2 some other organism, pathogen, or parasite.

3                   So in asking that have there been  
4 cases of aspergillosis that are directly related  
5 to off-site exposure, it may not be the total  
6 picture. The total picture may very well be that  
7 other disease entities may have an accelerated  
8 expression in our population based on these  
9 airborne particulate matters.

10                   If I may get back to another  
11 question also, we talked about eighth-mile siting,  
12 and what I find very interesting is that it seems  
13 to me that the half a mile for a platted  
14 subdivision, that came about for some underlying  
15 reason when this was put into the legislation  
16 before. A ten-plat subdivision may very well  
17 entail a population of 30 or possibly 40 people.  
18 A school and a hospital frequently have people in  
19 it that may be in the thousands, and we want to  
20 give them the equal protection that one would have  
21 if they were in a platted ten-house subdivision.

22                   As far as how many would be -- the  
23 question of how many would be affected, how many  
24 of these sites would be affected, I don't think

1 that any of us here are experts on the composting  
2 industry. However, it seems somewhat obvious to  
3 me that the number of sites affected may not be as  
4 significant as we may or may not know.

5           The way I can see it there is only  
6 one community here that is represented by legal  
7 counsel with respect to an impact on their  
8 composting facility, and I would also assume, and  
9 again, this is an assumption, that people who are  
10 in the composting industry were notified of this  
11 hearing and the communities that would be  
12 negatively impacted would probably be here to ask  
13 these same questions. But the only one that I  
14 recognize is the city of Lake Forest with its  
15 legal representative from Sidley and Austin.  
16 Thank you.

17           DR. DESAI: As far as the economical impact  
18 when I talked to Mr. Dobin, he told me that the  
19 expense for his son's treatment was \$1.8 million.  
20 I don't think relocating these facilities is going  
21 to cost \$2 million.

22           MS. MATHEWS: At one point, everybody seemed  
23 to want to establish figures for when is it too  
24 much, too much mold, what are the figures. From a

1 personal point of view, I could say this I know  
2 from lots of other asthmatics, perhaps a lot of  
3 asthmatics could walk past the compost heap and it  
4 wouldn't bother them. If they ran, it would  
5 bother them. If they ran in cold, it would bother  
6 them a lot sooner. There are too many different  
7 variables that you cannot really put a figure to  
8 it.

9 MR. MCGILL: Thank you.

10 If you would, perhaps this is  
11 Dr. Desai or anyone else who would like to respond  
12 to this, but please explain the basis of your  
13 position that children are at risk from exposure  
14 to bioaerosols from these composting facilities.

15 DR. DESAI: The reason is children's immune  
16 system is not mature, and this is the reason they  
17 are very susceptible and they get sick a lot.  
18 Everybody who gets exposed to strep throat or  
19 cold, you know, they don't get these kind of  
20 infections easily, where children, they get it a  
21 lot, and the reason is because their immune system  
22 is very weak. It's not mature. So why put them  
23 at risk when their immune system cannot fight  
24 back?

1 MS. HENNESSEY: Are there any studies that  
2 have been specifically focused on children and  
3 exposure to bioaerosols that you are aware of?

4 DR. DESAI: No, but I can find out for you.

5 MR. MCGILL: There has been some discussion  
6 of this, but again, I will just state it for  
7 clarity. Is there any scientific evidence  
8 confirming that off-site locations downwind of  
9 compost facilities have bioaerosols present in  
10 concentrations above background levels?

11 MR. GRSKOVICH: In my report, I do give  
12 a reference to a -- I think this was related to  
13 mushroom farming, but it was an attempt to  
14 identify the movement of these various particles  
15 through the air.

16 American Society of Agricultural  
17 Engineers paper number 94-4546, it's trying to  
18 model using a computer modeling system the  
19 dispersion plume from a compost operation under  
20 both very stable wind conditions and very heavy  
21 wind conditions, and the results were, in effect,  
22 surprising in the sense that stable winds caused  
23 more of a problem. It went farther and affected  
24 more people simply because it got up and then went

1 away -- went farther.

2                   The other thing that it also showed,  
3 though, in the various studies is that wind has an  
4 effect of concentrating the plume, so measuring  
5 devices that are just placed in certain random  
6 locations may not get any of the plume for a  
7 month, but the area where it's actually going will  
8 get a very heavy dose because of the concentration  
9 that's caused by the way the wind works.

10                   Since I had a measuring device from  
11 the University of Illinois in my backyard for part  
12 of this other study that was reported on, I also  
13 observed something else, which is any description  
14 in the study as to what was happening under any  
15 certain wind directions was meaningless because  
16 what happens is the direction device -- there is a  
17 gust of wind, which moves this thing to the south,  
18 and then the wind dies down, but continues to show  
19 south on this pointer.

20                   Unless this study tells you the air  
21 speed, the direction means nothing because all it  
22 tells you is where was the last time any  
23 particular gust blew this particular measuring  
24 device, and yet the report came out and indicated

1 as if they knew when it was coming to the north  
2 and the south. What was really happening and I  
3 could see it happening was small gusts of wind  
4 would turn this thing one way and would sit there  
5 for a half hour, and then another gust would come  
6 and turn it the other way. In the meantime, it  
7 was giving us a reading as if there had been wind  
8 all that time in a different direction.

9 So the science here is very crude so  
10 far. Obviously, it will get better over time, but  
11 we are not dealing with very precise data.

12 MR. MCGILL: Thank you.

13 MR. GARRETT: In terms of just observations,  
14 clearly the bioaerosols travel generally in the  
15 same direction as the odors, and obviously, the  
16 odors coming from a compost operation are far in  
17 excess of many background that any of us would  
18 imagine. We have all experienced, most of us that  
19 live near the operation or have kids at the school  
20 near the operation.

21 MR. MUELLER: And not to make this solely a  
22 Lake Forest issue, but on-site versus off-site in  
23 Lake Forest is not a very significant issue. They  
24 are almost one in the same. The Lake Forest

1 compost windrows go right -- the abut a school  
2 property. So to make a differentiation between  
3 on-site and off-site in Lake Forest is nearly  
4 impossible.

5 DR. DESAI: The problem that we faced in our  
6 situation -- this is not about Lake Forest, but  
7 still I just have to bring it up. We were told by  
8 EPA that the only reason they cannot do anything  
9 about this is because the school is not in the  
10 regulation, so they don't have to comply with the  
11 distance and everything. It's only the homes, and  
12 I didn't understand what is the difference between  
13 the homes and the school. And if the school were  
14 in the regulation already, it wouldn't have been a  
15 problem.

16 MS. MATHEWS: I don't have a study. I have  
17 educational information. This came from the  
18 American Environmental of Health Foundation. It  
19 says where does mold live? It lists some places  
20 in compost piles.

21 What can mold do to you? Mold can  
22 cause allergy and illness. Molds far outnumber  
23 pollens as part of the total airborne allergy  
24 count. There are many different molds. The most



1 common are alternaria, aspergillus, and then two  
2 other ones.

3 I mean, it's recognized as a  
4 problem. It's just not aspergillus, but mold  
5 period and in composting heaps.

6 MR. MCGILL: Thank you.

7 Just a clarification, was there  
8 anything else responding to my last question?

9 MR. MUELLER: In reference to the school  
10 issue that we just talked about, I think the  
11 definition that really needs to be looked at here  
12 in a very significant fashion is that of residency  
13 and what is a residence.

14 Hospitals have people who live in  
15 them, who sleep in them, but that is not  
16 considered a residence. There are many schools  
17 that have dormitories where people live. That is  
18 not considered a residence.

19 There are schools where children  
20 matriculate on a daily basis, but spend no time  
21 overnight. That is clearly not a residence, but  
22 people do live there and are exposed to the same  
23 environment that a person in a residence would be  
24 exposed to.

1                   It seems to me that the safety that  
2 is guaranteed to an individual in a residency  
3 should be the same safety that is guaranteed to  
4 someone in a school, hospital, or play lot.

5           MR. MCGILL: Thank you.

6                   Just to clarify, are the proponents  
7 proposing any changes to the performance or  
8 operational requirements for landscape waste  
9 compost facilities?

10          MS. GARRETT: No. No.

11          MR. MCGILL: Is it the position of the  
12 proponents that landscape waste compost facilities  
13 pose a public health risk regardless of whether  
14 they are operated in compliance with existing  
15 state regulations?

16          DR. DESAI: Yes.

17          MS. GARRETT: Can we just go back and could  
18 you ask that question about the public?

19          MR. MCGILL: I will just repeat the last  
20 question. Is it the position of the proponents  
21 that landscape waste compost facilities pose a  
22 public health risk regardless of whether they are  
23 operated in compliance with existing state  
24 regulations?

1           MR. GARRETT: It's our position that they  
2           pose a potential health risk and certainly create  
3           a significant nuisance and a health risk to  
4           certain individuals who may be asthmatic or  
5           otherwise compromised in their general health, and  
6           we believe that a setback is the best way to  
7           minimize that health risk -- potential health risk  
8           and nuisance.

9           DR. DESAI: Bad odor itself is a problem  
10          because it can cause headaches and nausea, and  
11          that's a health risk.

12          MR. MCGILL: I just have a question that's  
13          relating to Mr. Holleman's testimony. There was  
14          reference in your prefiled testimony regarding the  
15          UIC study at the Lake Forest compost facility.  
16          You indicated that the UIC investigators had  
17          missed the fact that the highest concentrations  
18          and total fungal counts were at the downwind fence  
19          line.

20          MR. HOLLEMAN: Apparently that's the case,  
21          yeah.

22          MR. MCGILL: You had indicated that the five  
23          highest counts of all were at that location, I  
24          believe, and that the two were --

1           MR. HOLLEMAN: That is an error. It is five  
2 out of the seven highest counts. Of seven was  
3 left out of that sentence.

4           MR. MCGILL: Okay.

5           MR. HOLLEMAN: Of the seven highest counts,  
6 five of them were at the downwind fence line.

7           MR. MCGILL: And you indicated that two of  
8 those were considered a health hazard?

9           MR. HOLLEMAN: They were around the 100,000  
10 level, which others have considered to be at the  
11 level where health problems were possible, yes,  
12 the 100,000 fungi per cubic meter. One was 94,000  
13 and the other was the high 80s.

14           MR. MCGILL: Just so I understand, you are  
15 indicating that those concentrations pose a danger  
16 to the school children in the immediate vicinity?

17           MR. HOLLEMAN: Yes.

18           MR. MCGILL: Was that your testimony?

19           MR. HOLLEMAN: Uh-huh.

20           MR. MCGILL: This is directed toward  
21 Mr. Garrett, but if anyone else would like to help  
22 out, you are welcome to.

23                           Are all landscape waste compost  
24 facilities owned by or operated on behalf of

1 municipalities?

2 MR. GARRETT: I doubt it, but I don't know.

3 MR. JOHNSON: No. They are all operated by  
4 corporations, they are incorporated, and they are  
5 under business -- operated as a business.

6 MR. MCGILL: Are they all operated on behalf  
7 of a municipality?

8 MR. JOHNSON: Well, they can be located in  
9 unincorporated areas, or they can be located in a  
10 municipality. According to the planning and  
11 zoning permit of the agency, if they are permitted  
12 to site there, that's where the problem lies, in  
13 the siting of it.

14 If they are cited in an area where  
15 they will interfere with the persons who are in  
16 activities or living near them, that's where the  
17 problem lies in the permitting process of the  
18 planning and zoning.

19 If DK in this case had not been  
20 permitted to start-up there, they wouldn't -- Lake  
21 Forest wouldn't have a problem.

22 MS. HENNESSEY: Mr. Johnson, your statements  
23 about how these facilities are owned and operated,  
24 are you basing that on any particular document?

1           MR. JOHNSON: No. We don't have a document.  
2 I don't know how the planning and zoning arrives  
3 at a decision as far as interference with  
4 population. I think it's a matter of hauling  
5 distance. It's logistics to try to keep down the  
6 cost of hauling, and that's where the problem  
7 starts in trying to come up with an economic  
8 decision rather than a decision based on health.

9           MR. MCGILL: Thank you.

10          MR. GARRETT: I know that there was at least  
11 one facility that was operated by Waste  
12 Management, and it would appear that had no direct  
13 link to a municipality. I think that one is  
14 closed now, but I don't know.

15          MR. MCGILL: Just as a follow-up, have you  
16 calculated any economic impact of relocation of  
17 private compost companies?

18          MR. GARRETT: No.

19          MR. MCGILL: Mr. Garrett, what is the basis  
20 for stating that the proposed half-mile setback  
21 can save hundreds of thousands of dollars annually  
22 through reduced needs for medical care and less  
23 absenteeism?

24          MR. GARRETT: That's my assertion based on

1 the number of children that appear to be absent  
2 from school due to asthma or other symptoms that  
3 could be associated with a compost facility. It's  
4 very, very hard to quantify, and so it would be  
5 more a hypothesis, in fact, at this point.

6 But, in fact, there is 25 percent of  
7 the population that's susceptible to airborne  
8 pollutants, and if you put that population in  
9 close proximity to the source of airborne  
10 pollutants, then clearly there are going to be  
11 some consequences. Those consequences result from  
12 absenteeism from school, from work, et cetera.

13 I think it's a difficult thing to  
14 quantify, but probably not so different from the  
15 debate that went on regarding lead in gasoline  
16 over the years and even the effluent that came  
17 from steel mills in northern Indiana not too many  
18 years ago. It really comes down to a preference  
19 by the population to not locate things that cause  
20 bad odors or effluent their children and near  
21 large segments of the population.

22 MR. MCGILL: This is just a question for  
23 clarification. From where at a landscape waste  
24 compost facility would the proposed halfway

1 setback be measured?

2 MS. GARRETT: Property line to property  
3 line.

4 MR. MCGILL: From the property line of the  
5 landscape waste compost facility to the property  
6 line of the hospital or school?

7 MS. GARRETT: Yes.

8 MR. MCGILL: Another clarification, do you  
9 propose any change to 35 Ill. Adm. Code  
10 830.106(a)4 which sets forth setback requirements  
11 relating to on-farm landscape waste compost  
12 facilities?

13 MR. GARRETT: No, only if they would encroach  
14 upon a school or hospital, public place.

15 DR. DESAI: Highly populated area, I don't  
16 want to put those facilities in a congested area,  
17 in the farm.

18 MR. MCGILL: Just so I understand, at this  
19 point you are not proposing any change to that  
20 language?

21 MS. GARRETT: No.

22 MR. MCGILL: Similarly, do you propose any  
23 change to Section 830.203(d) which imposes certain  
24 additional operational requirements on facilities



1 based on proximity to residences at the time of  
2 permit application?

3 MS. GARRETT: No.

4 MR. MCGILL: Let's just go off the record for  
5 a moment.

6 (Whereupon, a discussion was held  
7 off the record.)

8 MR. MCGILL: Let's go back on the record.

9 Dr. Desai needs to leave, so I just  
10 wanted to open it up. Is there anyone who has any  
11 questions for Dr. Desai?

12 MR. PICK: I'm Charlie Pick from Organics  
13 Management. One last question. As part of your  
14 basis for your proposed ruling, you said a couple  
15 of times that you looked at the current  
16 regulations and that they were processing by the  
17 end of the operating day if the facility is within  
18 a half-mile of certain subdivisions or population  
19 density. You said that's one part of your basis.  
20 Do you know for certain that the agencies intent  
21 when they made that rule was to protect public  
22 health, or was it on the basis of a nuisance such  
23 as odors?

24 DR. DESAI: We don't know. Maybe you can ask

1       them.

2               MR. MCGILL: I just had some questions  
3 relating to documentation that perhaps you can  
4 provide the board. At Page 1 of your prefiled  
5 testimony, which I believe now is Exhibit 6, there  
6 is reference to various reported cases on adverse  
7 health impacts by Kramer and Drs. Vincken, Brown,  
8 Patterson, King, Johanning, and Young. Would the  
9 proponents be able to provide a copy of these  
10 reports to the board?

11              DR. DESAI: Yes.

12              MR. MCGILL: We would appreciate if you would  
13 do that.

14              DR. DESAI: Sure.

15              MR. MCGILL: Also, at Pages 5 and 6,  
16 Dr. Desai, of your prefiled testimony, there is  
17 reference to a letter from Rita Messing and also a  
18 December 16th, 1993, article. Would the  
19 proponents be able to provide a copy of those  
20 documents to the board?

21              DR. DESAI: Which one is the other one?

22              MR. MCGILL: I'm sorry?

23              DR. DESAI: One is the Rita Messing?

24              MR. MCGILL: Right. There is reference to a

1 letter. If you could provide that letter and then  
2 the reference to December 16th, 1993, article.

3 DR. DESAI: Okay. It's already, I think, in  
4 their testimony. EPA has submitted the  
5 testimony. The whole article is there.  
6 Aspergillus, aspergillosis and the composting  
7 facility, the EPA has submitted that whole article  
8 there.

9 MR. MCGILL: The December 16th, 1993, article  
10 that you were referring to?

11 DR. DESAI: Yeah.

12 MR. MCGILL: So the actual article is  
13 actually in the --

14 DR. DESAI: The EPA testimony.

15 MR. MCGILL: And the Rita Messing letter, you  
16 can provide that?

17 DR. DESAI: Yeah. I will try to provide it,  
18 yeah.

19 MR. MCGILL: Attached to the prefiled  
20 testimony of Dr. Desai is an April 23rd, 1995,  
21 letter from James Pollowitz that refers to a  
22 Scarsdale, New York, study. Would the proponents  
23 be able to provide a copy of that report?

24 DR. DESAI: I think the city of Lake Forest

1 has -- did you put the New York health study  
2 because I received it from somebody? It's already  
3 in there.

4 MS. WHITEMAN: The New York State study we  
5 provided, but Hollowitz' study --

6 DR. DESAI: He got that information from the  
7 New York health study, so the health study is  
8 already provided, I think, by --

9 MR. MCGILL: Right. There is the Islip  
10 study, but then separate from that he refers to  
11 having --

12 DR. DESAI: His own study?

13 MR. MCGILL: Right, a Scarsdale, New York,  
14 study. If you can, provide that.

15 DR. DESAI: Sure.

16 MR. MCGILL: This is an attachment to the  
17 prefiled system of Steven Handler, which is now  
18 Exhibit 3. Attached is a January 31st, 1995,  
19 letter from Jordan Fink. That refers to a  
20 reported case of aspergillosis. Would the  
21 proponents be able to provide a copy of that  
22 report?

23 DR. DESAI: Yes. I can provide the whole  
24 article where he has published the case, which is

1 all the labs and everything about the patient.

2 MR. MCGILL: Thank you.

3 Dr. Desai, earlier you had referred  
4 to a U.S. EPA letter that was directed to you. If  
5 you could also --

6 DR. DESAI: It would be in the binder.

7 MR. MCGILL: Okay. That was my next question  
8 is that the binder you're referring to that was  
9 sent out to various doctors and health experts,  
10 you could submit a copy of that to the board.

11 DR. DESAI: Yes.

12 MR. MCGILL: And, Dr. Desai, I'm not sure if  
13 this was in your testimony or not, but there is  
14 reference to 25 percent of the --

15 DR. DESAI: U.S. population.

16 MR. MCGILL: -- U.S. population being  
17 allergic. I think that was your testimony.

18 DR. DESAI: That information was given to me  
19 by Dr. Pollowitz who is involved with American  
20 Academy of Allergy and Immunology, but I can  
21 certainly ask him to bring me a copy of that  
22 study.

23 MR. MCGILL: Thank you.

24 I believe the last item I have for

1 Dr. Desai is in your prefiled testimony, there is  
2 a one-page document from I believe it's the  
3 Illinois State Medical Society. It appears to be  
4 a resolution perhaps of some sort. Was that a  
5 final adopted resolution by the society?

6 DR. DESAI: No. This one was done by the  
7 Lake County Medical Society that was resolved, and  
8 with the Illinois Medical Society we are still  
9 working on it. It has not been resolved. It was  
10 resolved by the County Medical Society.

11 MS. HENNESSEY: So they adopted this as a  
12 resolution?

13 DR. DESAI: Yes.

14 MS. HENNESSEY: And then they have  
15 recommended it to the entire state?

16 DR. DESAI: Yes, but it takes time. It  
17 doesn't happen overnight.

18 MR. MCGILL: Thank you.

19 MS. HENNESSEY: Is that everything we have  
20 for Dr. Desai so we can let her go?

21 MR. MCGILL: Yes. Thank you.

22 In Mr. Grskovich's testimony, he  
23 referenced a -- I believe he said it was a  
24 mushroom study that discussed downwind bioaerosol

1 plumes and that immediately downwind of such  
2 facilities concentrations may not be elevated, but  
3 then they become elevated further away. Could you  
4 provide a copy of that?

5 MR. GRSKOVICH: What I have come on the  
6 Internet, and so I can give you whatever was  
7 there, and maybe I can get more than that. I  
8 don't know, but I can give you the Internet  
9 posting. It was at least two pages. Those are  
10 some charts, and they weren't included in my  
11 report, if I remember, because they were in color,  
12 and I don't have a color printer. The significant  
13 data, you have to see the color.

14 What's the easiest thing for me to  
15 do is if any of your staff has access to the  
16 Internet -- I can give them the actual -- not  
17 right now I can't, but I can call and give you the  
18 posting on the Internet, and they can get the  
19 color chart on their screen.

20 MS. HENNESSEY: Well, we actually have to  
21 have it. We are still in the stone ages. We need  
22 to have it. We have access to the Internet, but  
23 for our record, we actually have to have physical  
24 copies of things.

1 MS. McFAWN: If you can provide it to us, it  
2 assists us, and then it gives more weight to your  
3 testimony. While we can download it, that's not  
4 the same as you giving us a paper exhibit and you  
5 telling us that this is the entire document that  
6 you relied on when you made your testimony. We  
7 would be making a lot of assumptions just to go  
8 ahead and download it ourself as an exhibit. Do  
9 you understand?

10 MR. GRSKOVICH: Among the things that was, at  
11 least at one time, offered was the actual computer  
12 program to do it on your own computer if you  
13 wanted to. I don't know if you have any interest  
14 in that.

15 MS. McFAWN: Well, our mechanical staff would  
16 probably be fascinated with it, but they couldn't  
17 use it as part of this record.

18 MR. MCGILL: You had also referenced a  
19 study -- and maybe this is the same one. You said  
20 number 94-4546. Is that a separate --

21 MR. GRSKOVICH: That's the same one.

22 MR. MCGILL: That's the same study.

23 MR. GRSKOVICH: I think that's the original  
24 study, and then it's referenced by somebody else.



1 MS. McFAWN: You might want to ask your  
2 library to assist you.

3 MR. MCGILL: I believe you said it was a  
4 NIOSH study about background bioaerosols, and that  
5 background -- I think the gist of it was  
6 background --

7 MR. GRSKOVICH: I have an Internet  
8 reference. She might have it.

9 MR. MCGILL: That's the actual report?

10 MS. GARRETT: Yes.

11 MR. MCGILL: Okay.

12 MS. HENNESSEY: If you could give us a copy.

13 MS. GARRETT: Yes.

14 MS. HENNESSEY: Thank you.

15 MR. MCGILL: Mr. Grskovich, in another point  
16 you had indicated that there were more susceptible  
17 people in the population, and you were referring  
18 to people who are asthmatic, maybe children who  
19 are asthmatic being on the rise or chemotherapy  
20 patients. Do you have any underlying report on  
21 that, this rise in susceptible people in the  
22 population?

23 MR. GRSKOVICH: I don't show here the  
24 reference. I think there is something in the

1 Internet from the International Commission on  
2 penicillium aspergillus, which is definitely on  
3 the Internet, but the number -- there is an  
4 asthma home page also that I don't know what it is  
5 here, so I would have to print that out. Unless I  
6 gave it to Susan, I don't remember.

7 MS. GARRETT: I don't have it.

8 MR. GRSKOVICH: I will print it up.

9 MS. MATHEWS: I have some facts and things  
10 like that from the Internet, different -- the  
11 NIAIV. That's the National Institutes of  
12 Health -- that's allergy, and I don't remember  
13 what all it is.

14 MR. HOLLEMAN: National Institutes of  
15 Allergies and Infectious Diseases.

16 MR. MCGILL: So you do have some  
17 documentation on that indicating the source?

18 MS. MATHEWS: Uh-huh.

19 MR. MCGILL: Okay, because I believe  
20 Mr. Garrett also indicated that allergies were on  
21 the rise, and if you could provide some underlying  
22 documentation on that, we would appreciate it.

23 MS. MATHEWS: Okay.

24 MR. MCGILL: Mr. Mueller, I think you had

1 indicated that five percent of the population is  
2 asthmatic, or maybe that was another witness.

3 MS. MATHEWS: I believe I did at one point.

4 MR. MCGILL: Do you have any underlying  
5 documentation to support that?

6 MS. MATHEWS: Uh-uh.

7 MR. MCGILL: You can disregard that last  
8 request.

9 Just one other question. You were  
10 reading from the blue document, blue sheets  
11 there. AEHF I think can you described them?

12 MS. MATHEWS: Right. American Environmental  
13 Health Foundation.

14 MR. MCGILL: Right. If you could provide us  
15 with a copy of that, I would appreciate that.

16 MS. MATHEWS: Okay.

17 MS. HENNESSEY: I had a follow-up question  
18 for Mr. Mueller. You referred in your testimony  
19 to a University of Chicago study, but is it the  
20 same study as the Lake Forest study at the  
21 University of Illinois at Chicago?

22 MR. MCGILL: The University of Illinois at  
23 Chicago, right. It's the same thing.

24 MS. HENNESSEY: Okay. Thank you.

1           MR. MCGILL: Let's go off the record for a  
2 moment.

3                           (Whereupon, a discussion was held  
4 off the record.)

5           MR. MCGILL: Let's go back on the record.

6                           The various documents that I have  
7 just requested I'm going to reserve exhibit  
8 numbers for, but the board may treat these  
9 documents as public comment.

10                          At this point, were there any other  
11 questions for proponents' witnesses?

12                          I want to thank you for your  
13 participation.

14                          Let's go off the record for a  
15 moment.

16                          (Whereupon, a discussion was held  
17 off the record.)

18           MR. MCGILL: Let's go back on the record.

19                          Ms. Dyer, if you would like to begin  
20 your presentation on behalf of the agency.

21           MS. DYER: Good afternoon. I introduced  
22 myself this morning, but that was a long time ago,  
23 so I will reintroduce myself. My name is Judy  
24 Dyer. I'm here today on behalf of the Illinois

1 Environmental Protection Agency.

2 We have one witness to my right,  
3 Joyce Munie testifying this afternoon. My  
4 co-counsel I also introduced, but I will  
5 reintroduce as Valerie Puccini.

6 I think we will have Ms. Munie give  
7 a summary of her testimony, if that would be all  
8 right, and then to move evidentiary issues.

9 MR. MCGILL: That's fine. Why don't we go  
10 ahead and have her sworn in then?

11 (The witness was duly sworn.)

12 MS. MUNIE: Hello. My name is Joyce Munie.  
13 I'm a licensed professional engineer in the state  
14 of Illinois.

15 To summarize my testimony that has  
16 been prefiled, it was just the administrative  
17 costs to the agency that would be incurred if that  
18 rulemaking would go forward as written.

19 Basically, if there is additional  
20 setback included into the existing location  
21 standards, it would not cause any additional cost  
22 to the agency. However, a retroactive setback  
23 that would require facilities to close would add  
24 some additional administrative costs to the

1 agency. These costs are laid out, they are  
2 summarized, and they are also just based on  
3 anecdotal experience. They are not on specific  
4 numbers.

5 We do not have any of the  
6 information that could be used to go through our  
7 files to determine exactly which facilities would  
8 be impacted by retroactive setback.

9 That's it.

10 MS. DYER: I would move at this time to have  
11 Ms. Munie's prefiled testimony entered into the  
12 record as if read. Do you need a copy of that?

13 MR. MCGILL: Please.

14 (Document tendered.)

15 MR. MCGILL: Is there any objection to  
16 entering into the record as read the prefiled  
17 testimony of Joyce Munie of the Illinois  
18 Environmental Protection Agency, which attaches  
19 Ms. Munie's CV?

20 Seeing none, I'm marking as Exhibit  
21 Number 30 and entering into the record as if read  
22 the prefiled testimony of Joyce Munie, which  
23 includes the attachment I just described.

24

1 (Hearing Exhibit No. 30 marked for  
2 identification, 9-8-97.)

3 MR. MCGILL: Just to remind you, I have  
4 reserved Exhibit Numbers 16 through 29 for various  
5 filings we have requested from the proponents.  
6 This will be Exhibit 30. Are there any questions  
7 for Ms. Munie

8 MR. GARRETT: Ms. Munie, do you have any --

9 MR. MCGILL: If you would first state your  
10 name, please.

11 MR. GARRETT: Scott Garrett.

12 Ms. Munie, do you have any estimate  
13 or basis for an estimate of how many facilities  
14 might be relocated?

15 MS. MUNIE: My basis for estimate would be  
16 purely from talking to my reviewers, from their  
17 experience of the facilities that are out there,  
18 and what they believe is probably around each and  
19 every facility out there.

20 MR. GARRETT: Do you have a rough guess as to  
21 how many facilities would be impacted?

22 MS. MUNIE: Well, anywhere from one that we  
23 know of to 100 percent. We estimate that there  
24 are two for sure that would not be closing. The

1 other -- the rest of the 68 are in question.

2 MR. GARRETT: So there are 70 to be concerned  
3 with?

4 MS. MUNIE: There are. Right now there are  
5 68 operating facilities in the state of Illinois.  
6 There are over 80 that are permitted, but the  
7 remainder of those facilities are not operating  
8 currently.

9 MR. GARRETT: Thank you.

10 MR. GRSKOVICH: Edward Grskovich. Is there a  
11 difference in the effect on when you say retro  
12 between somebody who has an active permit that  
13 still has time to run on it versus someone who had  
14 a permit but requires a renewal?

15 MS. MUNIE: If someone had a permit that  
16 needs a renewal, they will be part of the existing  
17 facilities, the existing permitted facilities, so  
18 there would be no difference between those  
19 numbers.

20 MS. GARRETT: I'm Susan Garrett. Regarding  
21 the 68 operating compost facilities in Illinois,  
22 do you know how many are at least partly owned or  
23 part of a business, or are all of them just part  
24 of a municipal service? Is there a distinction



1 that you know of?

2 MS. MUNIE: There is definitely a  
3 distinction. They are not all municipally owned  
4 nor operated. There are some that are purely  
5 commercial run by a business, owned by a  
6 business. There are some that are municipally  
7 owned and then operated by a consulting firm.  
8 There are some that are maniacally owned and  
9 operated.

10 MS. GARRETT: And do you know how many?

11 MS. MUNIE: No, I don't.

12 MR. GARRETT: Scott Garrett again. Does a  
13 list exist that delineates the ownership and  
14 operation of the principals for each of the 80  
15 permitted composting sites?

16 MS. MUNIE: A list does not exist. The  
17 information would be available by going through  
18 our files of the existing 80-some facilities.

19 MR. MCGILL: Are there any other questions?

20 MR. MUELLER: In your estimation --

21 MR. MCGILL: If you would just state your  
22 name, first.

23 MR. MUELLER: Peter Mueller. In your  
24 estimation of dealing with operators, if that's

1 what you do, or your agency deals with operators  
2 of these facilities, do you tend to think that if  
3 there was a vested interest in this legislation or  
4 in this Act changing the boundaries, do you think  
5 that they would be at a public hearing to discuss  
6 this? And this is just asking for your own  
7 opinion here so that we get a feel since you are  
8 unable to provide us with the exact numbers of who  
9 would be impacted. Does that give you any feel as  
10 to how many facilities would genuinely be impacted  
11 by changing boundaries?

12 MS. MUNIE: Actually, a facility that would  
13 have a vested interest may not want to personally  
14 show up. There are many associations and other  
15 facilities that would be part of the same  
16 associations that they may ask them to voice a  
17 specific question or a specific position for  
18 them. Most facilities and types of facilities,  
19 landscape waste compost facilities being one of  
20 them, have numerous associations or other  
21 businesses or business interests that would be  
22 able to express their concerns.

23 MR. MCGILL: If you would just state your  
24 name again.

1 MS. GARRETT: Susan Garrett. So would it be  
2 fair to say then that since there is one community  
3 here that we know of that's being represented --  
4 and the composting council I know there is  
5 somebody here as a representative, but that group,  
6 that organization has not delivered any testimony  
7 to oppose or amend our proposed amendment to the  
8 regulation. I mean, it seems clear, I guess, that  
9 there is a pattern here that there aren't a lot of  
10 associations or organizations or even  
11 municipalities or private owners of compost  
12 operations in the state of Illinois who have even  
13 submitted prefiled testimony in opposition to what  
14 we are saying. So I guess even though you are  
15 reporting that there are organizations and  
16 associations, they still aren't here either.

17 MS. MUNIE: And I really could not speculate  
18 on someone's motivation or to tell you exactly  
19 which association would be representing who.

20 MS. GARRETT: But they would know about it,  
21 wouldn't they? These other compost operations,  
22 would they be familiar with this proposed  
23 amendment?

24 MS. MUNIE: They should be; however, looking

1 at the service list, it's not clear to me that all  
2 the composting facilities out there were served.  
3 So although I will assume the composting  
4 facilities would know about this particular  
5 rulemaking, that's speculation. I really couldn't  
6 say for sure.

7 MR. MCGILL: Are there any other questions?

8 MR. MCGILL: I just had a couple questions.  
9 In your prefiled testimony, you refer to the 68  
10 existing facilities, and now from your recent  
11 comments, are you referring to there are 80  
12 permitted landscape waste compost facilities and  
13 that among that universe of facilities there are  
14 68 that are operating?

15 MS. MUNIE: There are over 80 facilities that  
16 are currently permitted in the state of Illinois;  
17 however, last year 68 reported as accepting and  
18 composting waste.

19 MR. MCGILL: And those 68, they are permitted  
20 facilities?

21 MS. MUNIE: Yes. They are the only ones that  
22 have to report.

23 MR. MCGILL: Since on-site landscape waste  
24 compost facilities and on-site commercial

1 landscape waste compost facilities are permit  
2 exempt, but nevertheless are subject to the  
3 location standards of Section 830-203, has your  
4 cost analysis taken these facilities into  
5 account?

6 MS. MUNIE: Actually, my cost analysis was  
7 just based on the cost to the agency, and the  
8 agency doesn't deal with permit-exempt  
9 facilities. Although they are subject to location  
10 standards, it's not through a permit, and it's not  
11 an administrative cost to the agency.

12 MR. MCGILL: And you had discussed  
13 informational meetings or seminars?

14 MS. MUNIE: Right. Any informational meeting  
15 would be one that would be open to the public, and  
16 although these facilities might come or might send  
17 representatives, additional people would not cost  
18 us additional money.

19 MR. MCGILL: Do you have any idea how many  
20 facilities there are that fall into this category  
21 of on-site landscape waste compost facility or  
22 on-site commercial?

23 MS. MUNIE: No, I do not.

24 MR. MCGILL: Again, referring to your

1 prefilled testimony, based on certain assumptions,  
2 you have estimated that 35 new landscape waste  
3 compost facilities would arise to make up for the  
4 existing landscape waste compost facilities that  
5 would close due to the proposed setback. Does  
6 your cost analysis include IEPA time for reviewing  
7 permit applications for these new facilities?

8 MS. MUNIE: Yes. That's entirely the cost.  
9 That's one of the costs that are included in  
10 there.

11 MR. MCGILL: Okay. Thank you.

12 Are there any other questions?

13 MS. McFAWN: I had a question. In prior  
14 landscape waste composting, we had testimony by, I  
15 think, the village of Naperville. Did you know if  
16 their facility is still operating?

17 MS. MUNIE: I don't believe so, but I can't  
18 say for sure. I know that the person who  
19 testified is no longer there with the village.

20 MS. McFAWN: Okay.

21 MR. PICK: It's closed.

22 MS. MUNIE: That's what I would suspect.

23 MS. McFAWN: Would you let the record reflect  
24 that Mr. Pick answered the question for me? Thank

1 you.

2 MR. MCGILL: Are there any other questions  
3 for this witness?

4 Thank you. I'm sorry. I didn't see  
5 you. Go ahead. State your name.

6 MR. SMITH: Scott Smith, Illinois Composting  
7 Council. Joyce, if I can just clarify, you do not  
8 know how these rulemaking proposed changes were  
9 announced through the state?

10 MS. MUNIE: I am aware of the service list.  
11 I have seen the service list, but I'm not aware of  
12 how else it was publicized.

13 MR. SMITH: Thank you.

14 MS. MATHEWS: Mary Mathews. Did you assume  
15 or come up with the idea that there would have to  
16 be a new one in Lake Forest or Lake County if the  
17 one in Lake Forest had to close?

18 MS. MUNIE: Actually, I didn't assume any  
19 specification facilities. I just assumed that 50  
20 percent as being a safe assumption since most of  
21 my reviewers reflected that they suspected that  
22 quite a few of them would have to close.

23 MS. MATHEWS: Isn't there a new one in  
24 McHenry County that's supposed to take waste from

1 both McHenry and Lake County?

2 MS. MUNIE: A new one?

3 MS. MATHEWS: Yeah.

4 MS. MUNIE: I don't think it's new. I think  
5 there is a proposed expansion; however, that  
6 expansion has not been permitted yet. It's an  
7 existing facility and it's existing and  
8 operating. I do not know their service community;  
9 in other words, who they're receiving waste from.  
10 They don't have to tell us that. I don't know  
11 that.

12 MS. MATHEWS: Wasn't it proposed to service  
13 all of McHenry and all of Lake County, though?

14 MS. MUNIE: It could be. They are not  
15 required to tell me who they are going to  
16 service.

17 MS. MATHEWS: I thought I read that in the  
18 paper.

19 MS. MUNIE: And that might have been a  
20 reporter.

21 MS. GARRETT: Susan Garrett. Mr. McGill, how  
22 did the Illinois Pollution Control Board  
23 communicate information regarding the hearing that  
24 we are at today? I mean, what I am trying to say



1 was this also communicated in journals and other  
2 trade papers where people who are associated with  
3 the compost operations would --

4 MR. MCGILL: I would be happy to talk about  
5 that generally. Board members and staff are not  
6 subject to questioning during these hearings, but  
7 I believe we put out information through  
8 newspapers of general circulation of the county  
9 where these hearings were to be held. I believe  
10 there is also information provided through the  
11 board's Web page and our environmental register.

12 MS. HENNESSEY: Which is a monthly  
13 publication sent to, I guess, whoever is  
14 interested in receiving it.

15 MR. MCGILL: Right. That's also on the Web  
16 page.

17 MS. McFAWN: It's also published in the  
18 Illinois Register, I believe, on a semiannual  
19 basis when our rulemakings will be in the upcoming  
20 months, and I think this one was noticed up in the  
21 last six-month report. We have requirements under  
22 the Administrative Procedure Act, as well as the  
23 Illinois Environmental Protection Act as far as  
24 notifying the public.

1                   This is considered a statewide  
2 regulation. That's why we are having these  
3 hearings in Chicago and also in Springfield.  
4 Pretty much the way Ms. Munie was going with this,  
5 we assume that trade associations also notify  
6 their members because we don't have access to  
7 those types of lists.

8           MR. MCGILL: Thank you.

9                   Seeing no other questions for the  
10 agency, we are going to move on to testimony of  
11 Land and Lakes. We are going out of order a  
12 little bit, but we have worked that out. That's  
13 okay with the city of Lake Forest.

14           MR. MCGILL: Get sworn in.

15                   (The witness was duly sworn.)

16           MS. HARVEY: My name is Elizabeth Harvey.  
17 I'm an environmental attorney, and I represent  
18 Land and Lakes Company in this matter. I'm in the  
19 somewhat unaccustomed position today of actually  
20 presenting testimony on a limited issue on behalf  
21 of Land and Lakes.

22                   I have also prefiled testimony on  
23 behalf of Land and Lakes that I will move to have  
24 admitted as an exhibit, but I want to provide just

1 a summary of what the testimony was.

2 Land and Lakes Company has five  
3 permitted composting facilities in the Chicago  
4 metropolitan area, at least some of which are  
5 potentially affected by this proposal. Land and  
6 Lakes opposes the proposed change to the location  
7 standards to landscape waste compost facilities.  
8 The proposed change is not technically feasible or  
9 economically reasonable and is unconstitutional as  
10 applied to existing facilities.

11 There is no method by which an  
12 existing facility can comply with the proposed  
13 regulation, no control equipment or operational  
14 change the facility could use to comply. This  
15 could force the state of Illinois to pay millions  
16 of dollars as compensation for regulatory taking.  
17 Regulations which substantially interfere with the  
18 value of property create an impermissible  
19 regulatory taking under the 5th and 14th  
20 Amendments to the U.S. Constitution.

21 A company operating a properly  
22 located and permitted composting facility has a  
23 vested property right in that facility. The  
24 Williamson County and Browning Ferris cases, which

1 are cited in my prefiled testimony, analyze this  
2 testimony of a taking by examining the amount of  
3 the restriction imposed on the property right  
4 rather than by the governmental good, if you will,  
5 of the restriction.

6 In other words, contrary to what was  
7 suggested this morning, the issue of whether or  
8 not a health risk is found is not necessarily the  
9 dispositive issue in whether or not there was a  
10 regulatory taking.

11 The application of the proposed  
12 setback to existing facilities would result in an  
13 unconstitutional taking requiring either the state  
14 to pay compensation to those existing facilities  
15 or could result in an invalidation of the  
16 regulation entirely.

17 There are other ways to address any  
18 proven concerns about the health effects of  
19 airborne substances, including enforcement  
20 proceedings against a particular facility or  
21 stricter air pollution regulations.

22 Additionally, the proposed half-mile  
23 setback will make it extremely difficult and very  
24 expensive, if possible at all, to develop new

1     composting facilities in urban areas. It is  
2     illegal in the state of Illinois to put landscape  
3     waste in landfills. Thus, it is essential that  
4     there are sufficient composting facilities  
5     available in urban areas with the large  
6     concentrations of people.

7                     The proposed setback would make it  
8     harder and more expensive to dispose of landscape  
9     waste. Testimony presented earlier this morning  
10    alleged that there shouldn't be any economic  
11    hardship where composting facilities might be  
12    required to relocate. However, this system, as I  
13    understood it, addresses only the alleged lack of  
14    hardship on a particular community and fails to  
15    address the economic effects on compost operators  
16    or on individuals.

17                    Even assuming that this proposed  
18    setback, as applied to existing facilities, does  
19    not create an unconstitutional taking, it would  
20    clearly impose a great economic hardship on  
21    operators to be forced to relocate if that  
22    relocation isn't even feasible.

23                    Additionally, communities which opt  
24    not to operate their own composting facility still

1 need somewhere to dispose of the landscape waste.  
2 Thus, the contention that it can't be a hardship  
3 to adopt a practice used by 08 percent of the  
4 communities misses the point that the proposed  
5 setback would apply to all composting facilities.

6 In sum, the board is required to  
7 consider the technical feasibility and economic  
8 reasonableness of a proposed regulation in  
9 deciding whether to adopt the proposal. The  
10 proposed setback, as applied to existing  
11 facilities, is neither technically feasible or  
12 economically reasonable and would result in the  
13 unconstitutional taking of a vested property  
14 right.

15 Land and Lakes Company urges the  
16 board to refuse to adopt the proposal, and I would  
17 move that my prefiled testimony be admitted as a  
18 hearing exhibit.

19 MR. MCGILL: Thank you. Is there any  
20 objection to entering as a hearing exhibit the  
21 prefiled testimony of Elizabeth Harvey?

22 Seeing none, I'm marking as Exhibit  
23 31 and entering as a hearing exhibit the prefiled  
24 testimony of Elizabeth Harvey.

1 (Hearing Exhibit No. 31 marked for  
2 identification, 9-8-97.)

3 MR. MCGILL: Are there any questions for  
4 Ms. Harvey?

5 MR. GARRETT: I'm Scott Garrett. Just a  
6 couple of questions to clarify. There are five  
7 permitted facilities that Land and Lakes  
8 operates. Are they all in operation?

9 MS. HARVEY: I can't speak directly to  
10 whether they are all in operation. At least three  
11 of them are in current operation. I would have to  
12 defer to my client for actual up-to-date  
13 information on whether they are all operating.

14 MR. GARRETT: The three that are certainly in  
15 operation, of those three, does Land and Lakes  
16 actually own the land that they are operating on?

17 MS. HARVEY: I don't know.

18 MR. GARRETT: And if you don't know, is it  
19 possible that that land is owned by  
20 municipalities?

21 MS. HARVEY: I can tell you that Land and  
22 Lakes does not operate any of those facilities on  
23 behalf of a municipality, if that answers what you  
24 are asking me.

1 MR. GARRETT: But they don't own the land?

2 MS. HARVEY: I don't know if they own the  
3 land. It is not uncommon in certain areas of  
4 waste disposal to perhaps lease the land. It may  
5 not be from a municipality. I can't speak to how  
6 they own the facility, no.

7 MR. GARRETT: You don't know whether it's  
8 leased or owned?

9 MS. HARVEY: No, I don't.

10 MR. GARRETT: Well, I would be very  
11 interested to know what the situation is of the 68  
12 operating facilities that clearly would account  
13 for all the industry economic hardship that might  
14 be graded by this proposed amendment, and maybe  
15 it's going to require that we go back and look at  
16 some of the files that were referred to by  
17 Ms. Munie earlier to find out if there really  
18 would be a regulatory taking involved here or  
19 not. Theoretically, if none of them are owned by  
20 private operations, then there would no regulatory  
21 taking.

22 MS. HARVEY: I can assure that the operation  
23 operates on a piece of property under the  
24 direction of Lands and Lake. Whether they have a



1 freehold interest in the property, I can't tell  
2 you, but they certainly have an ability to operate  
3 on this piece of property whether it's through a  
4 long term lease.

5 MR. GARRETT: If, for example, the lesser was  
6 a municipality that could provide land that in all  
7 ways was as attractive as the land they're  
8 currently on, then I would think that would not  
9 constitute regulatory taking.

10 MS. HARVEY: The cost involved in operating  
11 and siting a permitted composting facility are not  
12 solely related to the cost of land acquisition is  
13 the best I could respond to that at this point.

14 MR. GARRETT: Do you know whether in the case  
15 of Land and Lakes the capital improvements on the  
16 land that they operate was paid for by Land and  
17 Lakes or paid for by municipalities, for example?

18 MS. HARVEY: It's my understanding that they  
19 were all paid for by Land and Lakes.

20 MR. MUELLER: Peter Mueller. You mentioned  
21 that your company has five sites and that, to the  
22 best of your knowledge, that three sites are  
23 currently accepting waste. You also mentioned  
24 that this change in regulation would have a

1 material impact on your client and their ability  
2 to operate. Could you tell me what the current  
3 setbacks are of your clients' properties that  
4 would allow you to make such a statement?

5 MS. HARVEY: I can tell you that all of the  
6 facilities permitted or operating, all five  
7 facilities, comply with the current requirements  
8 and state regulations. We have not gone out and  
9 measured completely all of the possible hospitals  
10 schools, parks, or athletic playgrounds around  
11 each of our facilities, no.

12 MR. MUELLER: If I may follow-up on that, are  
13 there any hospitals adjacent to any of your  
14 facilities?

15 MS. HARVEY: No

16 MR. MUELLER: Are there any schools adjacent  
17 to any of your facilities?

18 MS. HARVEY: There may be -- adjacent, no.

19 MR. MUELLER: Are there any schools that  
20 would be within a half a mile distance?

21 MS. HARVEY: I don't know.

22 MR. MUELLER: Are there any parks that are  
23 within a half a mile distance?

24 MS. HARVEY: There may be.

1 MR. MUELLER: Are there any play lots?

2 MS. HARVEY: There may be.

3 MR. MUELLER: Thank you.

4 MS. GARRETT: Susan Garrett. Where are these  
5 and how many exactly do you have of these  
6 composting facilities? Where are they located in  
7 the state of Illinois?

8 MS. HARVEY: They are all in the Chicago  
9 metropolitan area: One in Wheeling, one in  
10 Romeoville, and three in the south suburbs.

11 MS. GARRETT: And all five, you said, could  
12 potentially be affected, but all five you are not  
13 saying for sure are in operation?

14 MS. HARVEY: Some of them may potentially be  
15 affected.

16 MS. GARRETT: As far as the cost to Land and  
17 Lakes, if they don't own the land, they possibly,  
18 you said, lease the land, what are they leasing  
19 the land for, what dollar amount?

20 MS. HARVEY: Let me be clear. I'm not saying  
21 that they are or they aren't leasing. I'm telling  
22 you that I don't have personal knowledge whether  
23 Land and Lakes owns all of those facilities in fee  
24 simple, in an ownership interest. I can't tell

1 you whether they do or not. I don't know.

2 MS. GARRETT: It's just hard to understand  
3 the financial impact if those numbers aren't  
4 available.

5 MS. HARVEY: For example, if they leased  
6 it -- I'm not sure I'm understanding what you are  
7 asking me.

8 MS. GARRETT: Let's say in one of the  
9 locations in Chicago, the land is not owned by  
10 Land and Lakes, but it is leased. They must lease  
11 it for a certain amount of money. I'm just  
12 wondering what kind of dollars Land and Lakes is  
13 putting out to lease the land.

14 MS. HARVEY: And I would be speculating  
15 because I don't know for sure if any of it is  
16 leased. All I'm telling you is I can't tell you  
17 for positive they own all of the land on which  
18 they compost, but they have a right to compost on  
19 that land that they have at some point paid for.

20 MR. MUELLER: Peter Mueller. I would like to  
21 do a follow-up on the question that I just asked  
22 you previously.

23 In your testimony, you stated that  
24 there would be a material impact on your client,

1 and in the questions that I just asked you, you  
2 were not able to tell me whether any of your  
3 clients' facilities would be affected. You  
4 weren't able to tell me whether a hospital was  
5 within a half a mile distance, a school was within  
6 a half a mile distance, a park or a play lot.  
7 Yet, in your testimony before this hearing, you  
8 went and said that it would have a material impact  
9 on your client. I'm not quite sure I understand,  
10 and I'm wondering if you could explain this to  
11 me.

12 MS. HARVEY: I will be happy to. Land and  
13 Lakes believes that more than one of their  
14 facilities would probably be impacted by the  
15 proposed requirement to impose a half a mile  
16 setback. For a number of reasons, Land and Lakes  
17 has not gone out and measured each specific  
18 distance. So whether it's three-tenths or a mile  
19 or whether it's six-tenths of a mile, I can't tell  
20 you for sure. That's why I can't tell you for  
21 positive if any our facilities are for sure  
22 impacted by the proposed regulation or the  
23 application, but we have a belief at this point  
24 that at least one of them would indeed be within a

1 half a mile of one of those four categories.

2 MR. MUELLER: If I could just follow-up on  
3 that, is this belief an absolute belief? It seems  
4 to me --

5 MS. HARVEY: Yes.

6 MR. MUELLER: -- that there is a little play  
7 here in that not being able to state whether the  
8 facility actually will be affected or will not be  
9 affected, so it would be your understanding that  
10 absolutely at least one of the facilities would be  
11 affected?

12 MS. HARVEY: Yes.

13 MR. MUELLER: Thank you.

14 MR. GRSKOVICH: My name is Ed Grskovich. On  
15 the issue of the unconstitutional taking, you  
16 clearly raised the issue in regard to a change in  
17 the regulation. What about the existing  
18 regulation? Were they, in effect, an  
19 unconstitutional taking? I'm talking about the  
20 eighth of a mile and the half-mile for platted  
21 subdivision.

22 MS. HARVEY: No, and that's something that is  
23 discussed in my prefiled testimony that I didn't  
24 summarize. When the legislature, which is the

1 body, that imposed originally the eighth of a mile  
2 setback, when they imposed that, they made that to  
3 only go forward in time; in other words, the  
4 eighth of a mile setback became effective only on  
5 the day that the regulation -- or that the  
6 legislation went into effect.

7                   So it only applied to facilities  
8 that were either newly permitted or an expansion  
9 of an existing facility after the date of the  
10 legislation, so there was no taking in that  
11 sense.

12           MR. GRSKOVICH: What if there was a renewal  
13 of a permit after that statute, do you know what  
14 the effect of the statute was?

15           MS. HARVEY: It's my understanding that if  
16 the renewal was simply a renewal of an operating  
17 permit without an expansion of the size of the  
18 facility that the setback does not apply. It  
19 applies only to new facilities and to expansions  
20 of existing facilities.

21           MR. GRSKOVICH: And what, if anything,  
22 happened to permitted but not yet operational, did  
23 it make a difference whether a property was  
24 operationally a facility or not?

1 MS. HARVEY: If it had a permit --

2 MR. GRSKOVICH: Is it an unconstitutional  
3 taking to, in effect, remove a permit that hasn't  
4 yet nullified, in effect, the permit?

5 MS. HARVEY: What the case law says is that  
6 you get a vested property right by having a  
7 properly located and permitted facility. It  
8 doesn't speak to the issue of operation, so I  
9 don't know.

10 MR. GRSKOVICH: Somewhere in your list of  
11 things, you mentioned the technical feasibility,  
12 and I'm not quite -- I don't remember now  
13 exactly -- can you fair praise that section again  
14 for me because I think I have a question on it?

15 MS. HARVEY: Sure. Our position is the board  
16 is required to consider -- when they look at any  
17 regulation, they are required to consider whether  
18 the regulation is economically reasonable or  
19 technically feasible. Our position is that in  
20 this case, the application of the setback to  
21 existing facilities is neither technically  
22 feasible because there is nothing an existing  
23 facility could do on that existing facility to  
24 comply with the regulation, and it's also not



1 economically reasonable for that same reason.  
2 There is no control equipment or change in  
3 operational practices that an existing facility  
4 could put into place to comply with this  
5 regulation, so it's not technically feasible.

6 MR. GRSKOVICH: So to continue, if the  
7 regulation created certain technological  
8 conditions that if a site conformed to them; for  
9 instance, inclosing everything and a number of  
10 other -- invessel composting, then it's possible  
11 that at least that objection could be removed, the  
12 technical feasibility objection?

13 MS. HARVEY: It's possible, yes, but in this  
14 case, there is no way for an existing facility to  
15 comply with that setback.

16 MR. GRSKOVICH: You could buy the hospital  
17 and close it down. Thank you.

18 MS. MATHEWS: Mary Mathews. I thought you  
19 had said two of the facilities would be impacted.  
20 Is it two or one?

21 MS. HARVEY: I can tell you that there are at  
22 least two that I believe would be impacted by  
23 this. There may be more.

24 MS. MATHEWS: Is that two of the three that

1 are operating or two of the five total?

2 MS. HARVEY: Two of the three that are  
3 operating.

4 MS. MATHEWS: But you don't know if you all  
5 own that property?

6 MS. HARVEY: I know that we own the right to  
7 compost on that property, yes.

8 MS. MATHEWS: I don't really know that much  
9 about composts centers, but it seems to me that  
10 capital improvements aren't really permanent.  
11 They're not attached to the land. It's a big  
12 machine you could move. Are there permit  
13 attachments, or could one move this easily by  
14 putting it on wheels?

15 MS. HARVEY: There it depends upon the  
16 facility, and the issue is it's not only the issue  
17 of capital improvements, but it's other costs  
18 associated with permitting and operational  
19 aspects.

20 MS. MATHEWS: Is Land and Lakes a public or a  
21 private company?

22 MS. HARVEY: It's a family-owned business.

23 MR. MCGILL: Are there any further  
24 questions?

1 MS. GARRETT: I'm sorry. Susan Garrett. I  
2 guess I'm confused. We started out with five  
3 potential sites, and then you said for sure one  
4 site would be affected. So regarding that one  
5 site, how would that site be affected?

6 MS. HARVEY: I think what I have just said in  
7 response to Ms. Mathews' question --

8 MS. GARRETT: I guess what I am asking is it  
9 located near what, a school? Is there any  
10 specific thing you can point to?

11 MS. HARVEY: Our concern in at least two of  
12 the instances is the park and athletic field.

13 MS. GARRETT: Are those facilities less than  
14 a half-mile?

15 MS. HARVEY: As I said before, we have not  
16 gone out and measured the exact distances. We  
17 believe that at least two of the facilities are  
18 probably within a half a mile of either a park or  
19 an athletic field. There may be -- of the other  
20 three permitted facilities, they may also be  
21 impacted.

22 MS. GARRETT: It seems that since we had to  
23 provide such technical information, as technical  
24 as we could make it, regarding the health effects

1 associated with the compost facilities that it's  
2 only fair, I think, that we would have a better  
3 understanding of how Land and Lakes would be  
4 affected financially and that at this point you  
5 would have clear understanding of how that effect  
6 would take place. Would it be because the site is  
7 within a half-mile or what?

8 MS. HARVEY: That's our allegation is that at  
9 least two, if not all of our sites, would be  
10 required to relocate; in other words, they  
11 couldn't exist. They could not operate on the  
12 piece of property in which they are located now.  
13 That would present a regulatory taking of Land and  
14 Lake's business.

15 MR. MUELLER: Peter Mueller. One last  
16 question from me. If the proposed regulation did  
17 not include parks and athletic fields, would your  
18 company oppose the setback?

19 MS. HARVEY: Our position is we believe it's  
20 not technically feasible or economically  
21 reasonable for new facilities as well. Our major  
22 concern, however, in presenting testimony today is  
23 the application to an existing facility, so I  
24 can't tell yes or no.

1           MR. MUELLER: In terms of plain English, what  
2 was the answer to that question? Would your  
3 company oppose -- would they oppose this change in  
4 language if it only were to include a hospital and  
5 a school?

6           MS. HARVEY: I can't tell you the answer to  
7 that question because we are on record as being  
8 opposed to the -- I'm not sure that I'm  
9 understanding what you are asking me. Maybe I'm  
10 answering a different question. Try it one more  
11 time, please

12          MR. MUELLER: I was just trying to get a  
13 feeling from you being the legal representative of  
14 your company as to what your position would be  
15 hypothetically if you claim that you are only  
16 being affected by play lots and athletic fields or  
17 parks, then if this change in the wording would be  
18 just for hospitals and schools, would your company  
19 still oppose the setback if it only applied to  
20 hospitals and schools?

21          MS. HARVEY: Let me reiterate what I think I  
22 said earlier. Our major concern is the play lots  
23 and the parks. I cannot tell you for sure that  
24 there are no schools within a half a mile of any

1 of our permitted facilities, so therefore, I can't  
2 tell you whether we would oppose it, and you are  
3 asking me a hypothetical question that as a  
4 representative of a company I can't answer because  
5 it's hypothetical.

6 MR. GRSKOVICH: Ed Grskovich. I don't  
7 believe I heard any testimony from you as to  
8 whether your organization believes that it is  
9 creating any ammonia, hydrogen sulfide methane,  
10 various molds and funguses, especially  
11 aspergillus. Has your organization ever said that  
12 they might be producing any of those, or are you  
13 silent on that?

14 MS. HARVEY: We are certainly willing to  
15 admit that we produce compost. We perform a  
16 composting operation, which gives off many  
17 by-products. We are also on record as saying we  
18 are in full compliance with all the state  
19 regulations and rules on how those composed  
20 facilities are operated.

21 MR. GRSKOVICH: So at least in the process of  
22 creating compost, there is a number of  
23 by-products, including some of those that I  
24 listed, I believe and you admit that you do make

1 those as anybody else who creates compost. Do any  
2 of those escape the boundaries of your property?

3 MS. HARVEY: I don't know. I can tell you  
4 that we operate within the regulations and rules  
5 in compliance with those rules.

6 MR. GRSKOVICH: Which permit the escape of  
7 these beyond the boundaries, so it's possible that  
8 your organization is creating these and they are  
9 escaping the boundaries of your property.

10 My last point, does your  
11 organization have an opinion as to whether these  
12 can be to anybody harmful?

13 MS. HARVEY: We have not taken a position one  
14 way or the other on the harm or whether or not we  
15 have these pathogens, if you will, escaping our  
16 property. We recognize that in the composting  
17 process there are things that occur as part of the  
18 natural process, but we certainly haven't taken a  
19 position on that, and my appearance here today is  
20 limited to the issue of we don't think it's  
21 economically reasonable, we don't think it's  
22 technically feasible, and we think it's an  
23 unconstitutional taking of our property right.

24 MR. GRSKOVICH: But can it be a

1 unconstitutional taking if, in fact, there is  
2 knowingly a dangerous, harmful product being  
3 created that is affecting other people?

4 MS. HARVEY: What case law says is that if  
5 you have a properly located and permitted  
6 facility, which Land and Lakes has, you have a  
7 vested property right in that interest, and the  
8 analysis into whether it rises to the level of an  
9 unconstitutional taking looks at the amount of the  
10 impact of the restriction on the property.

11 MR. MCGILL: Are there any other questions  
12 for this witness?

13 MS. DOROS: Cheryl Doros. Since it was  
14 mentioned before composting is fairly new and a  
15 lot of these things that humans invent and that we  
16 do, as we go down the line, find out more, which  
17 seems to be what's happening with composting,  
18 someone mentioned we took the lead of the  
19 gasoline, wouldn't you think it would be in the  
20 best interest of everyone to be -- I don't really  
21 know how to pose the question -- to consider the  
22 effects that were not considered before when this  
23 regulation was made and that you are abiding by?  
24 There wasn't as much knowledge about the impact.



1 MS. HARVEY: And yes, and that's the reason  
2 that part of my testimony is there are other ways  
3 to address any health concerns that can be proven;  
4 for example, compliance proceedings against a  
5 facility that's not in compliance, stricter air  
6 pollution regulations, different operational  
7 standards, but our position is you are using a  
8 location -- you are attempting to use a  
9 restriction on the location of a facility and an  
10 attempt to address what is, in essence, an alleged  
11 problem with the operation of the facility.

12 MS. DOROS: Therefore, if instead of  
13 addressing it the way we are, we wanted to enforce  
14 a stricter air pollution and close the facility  
15 down, that would be feasible?

16 MS. HARVEY: I can't answer your question  
17 based on a --

18 MS. DOROS: I mean, that's how, you know --

19 MS. HARVEY: Land and Lakes position is that  
20 the proper way to address proven health effects  
21 would be either through compliance proceedings for  
22 a particular facility if there is one facility  
23 that's causing the problem or through stricter air  
24 pollution regulations, which could include

1 operational changes, yes, not through a location  
2 standard that imposes a half a mile setback for  
3 those facilities which may or may not address the  
4 air pollution or the health effects that are  
5 alleged in this proceeding.

6 MR. MCGILL: Are there any other questions  
7 for this witness?

8 MS. McFAWN: I have one. Setting aside the  
9 legal argument that you presented for us,  
10 Ms. Harvey, which it is unusual for a lawyer to  
11 testify in legal issues, I was wondering what Land  
12 and Lakes' position would be if the setback was  
13 one-eighth mile as opposed to a half a mile?

14 MS. HARVEY: Without conferring with my  
15 client, my understanding based on informal  
16 conversations is that we would not have the same  
17 objection that we do at this point. However, the  
18 problem is if you apply it to an existing  
19 facility, you may have the same issues; in other  
20 words, it would still be a regulatory taking.

21 MS. McFAWN: I understand that. I'm just  
22 wondering in the practical sense, is an eighth of  
23 a mile a problem for the facilities that Land and  
24 Lakes operates in Illinois?

1 MS. HARVEY: Possibly.

2 MS. McFAWN: Could you determine that and let  
3 the board know?

4 MS. HARVEY: Yes

5 MS. McFAWN: As well perhaps the half?

6 MS. HARVEY: Sure.

7 MR. MCGILL: Any other questions?

8 Thank you very much. Let's go off  
9 the record for a minute.

10 (Whereupon, a discussion was held  
11 off the record.)

12 MR. MCGILL: If you would like to begin.

13 MS. WHITEMAN: The city of Lake Forest would  
14 like to present the testimony of Tom Naatz, the  
15 director of parks, forestry, and public works, and  
16 then the testimony of Charles Pick, who is  
17 currently vice-president of business development  
18 for Organics Management.

19 MR. MCGILL: Let's swear in the witnesses.

20 (The witnesses were duly sworn.)

21 MR. NAATZ: My name is Thomas J. Naatz.  
22 Since January of 1990, I have served as director  
23 of parks, forestry, and public works for the city  
24 of Lake Forest. My position is that of an

1 executive staff position that reports directly to  
2 Robert Keily, Junior, city manager of Lake  
3 Forest.

4 In my position, I perform  
5 administrative and technical work necessary to  
6 coordinate activities which provide daily public  
7 works services for the residents of Lake Forest.  
8 My prior work history educational background has  
9 been presented in my prefiled testimony.

10 As director of public works, I  
11 oversee the day-to-day operations of the landscape  
12 waste compost facility located on Route 60 Lake  
13 Forest, Illinois. Lake Forest has contracted with  
14 DK Recycling to operate the compost operations  
15 since 1989, and I have worked with DK to  
16 coordinate these activities.

17 I'm also responsible for resolving  
18 issues regarding operation or management of the  
19 facility on behalf of the city to ensure that  
20 operations at the site comply with state  
21 requirements, a state requirement review of  
22 routine inspections by Lake County Health  
23 Department, receiving and investigating complaints  
24 that may be filed about the facility. I have also

1     been involved with major decisions concerning the  
2     compost facility since January of 1990.

3                     In my prefiled testimony, I have set  
4     forth the permitting history of Lake Forest  
5     compost facility. As that testimony illustrates,  
6     the facility has held various development and  
7     operating permits issued by Illinois Environmental  
8     Protection Agency since July 11th, 1989. The  
9     current permit expires on July 17th, 2002.

10                    In reliance on these permits, Lake  
11     Forest has expended significant sums from 1989 to  
12     the present to develop and operate the facility in  
13     accordance with applicable management standards.  
14     Since 1993, the city has invested in excess of  
15     \$120,000 towards improvements at the site to  
16     include preparation and site creating of a  
17     four-acre expansion, performance of topographical  
18     studies and soil sampling, installation of  
19     drainage improvements and an access road, clean up  
20     of areas of the site not associated with  
21     composting operations in response to requirements  
22     from the Lake County Storm Water Management  
23     Commission, permit fees and engineering costs.  
24     The list of expenditures does not include

1 additional capital outlays for site development  
2 between 1989 and 1993.

3           The regulatory proposal to modify  
4 location standards of preexisting landscape waste  
5 compost facilities would require Lake Forest to  
6 close its compost waste facility because the  
7 facility is located within a half-mile of an  
8 athletic field and school.

9           Such a shutdown would significantly  
10 increase the cost incurred by Lake Forest and its  
11 residents to manage their landscape waste.  
12 Presumably, similar costs could be expected in  
13 other communities affected by this regulation.

14           In 1990, the state of Illinois  
15 banned and prohibited disposal of landscape waste  
16 in sanitary landfills. If a regulatory shutdown  
17 were to occur at the Lake Forest facility, the  
18 city would be required to either locate the  
19 facility to another site either within the city or  
20 out or utilize another permitted compost facility  
21 to accept Lake Forest landscape waste.

22           In light of proposed setbacks,  
23 another suitable occasion or compost facility  
24 could not be found within Lake Forest or close

1 proximity, as stated in a 1996 compost facility  
2 siting study, which was prepared by private  
3 consultants, Thompson, Dyke, and Associates.

4           The city then would be required to  
5 transport its landscape waste to another facility  
6 outside of city boundaries. Lake Forest has  
7 estimated that transport of landscape waste to a  
8 facility located outside of boundaries and related  
9 expenditures would require outlays of  
10 approximately \$100,000 per year in excess of  
11 current landscape waste management costs. These  
12 expenditures do not include costs for additional  
13 manpower and equipment if so required to haul the  
14 landscape waste further distances toward, nor do  
15 they take into account the need to accommodate for  
16 the operating hours of these facilities and the  
17 potential limitations on capacity at the new  
18 disposal facilities.

19           Moreover, this estimate assumes that  
20 the city could use a facility in a reasonable  
21 proximity to Lake Forest. If such facilities are  
22 also required to close because of this proposal or  
23 if a disposal capacity shortage is created, the  
24 cost to Lake Forest would further increase.

1                   By comparisons, benefits to be  
2                   attained for enacting the regulatory proposal  
3                   appear to minimal and unquantifiable. There is no  
4                   scientific evidence to substantiate that Lake  
5                   Forest compost facility poses a health threat to  
6                   neighboring residents.

7                   For most of its history, the Lake  
8                   Forest compost facility has operated without  
9                   significant incident or complaint. Prior to 1994  
10                  and from 1995 until the present, the facility has  
11                  complied with applicable operating permit  
12                  requirements and has received only eight odor  
13                  complaints in the year 1996, and to date the year  
14                  1997 has received zero odor complaints from the  
15                  Lake County Health Department.

16                  During the spring and summer of  
17                  1994, the city did receive a number of complaints  
18                  from residents about odors emanating from the  
19                  site. Residents expressed concerns about  
20                  potential health effects from these odors on them  
21                  and on children attending Lake Forest Intermediate  
22                  School. These residents and school attendees  
23                  circulated a petition requesting that the city  
24                  close the facility. The signatures on this



1 petition were submitted as supporting signatures  
2 for this rulemaking proposal.

3           The city has also received  
4 notification from Lake County that between March  
5 17th, 1994, and September 23th, 1994, the facility  
6 had allegedly violated its operator permit by  
7 creating oversized windrow in excess of permitted  
8 dimensions, maintained unprocessed material  
9 on-site, and allowed woodchips or debris to fall  
10 into a nearby drainage stream or ditch.

11           Lake Forest and DK took two steps to  
12 address these issues; first, determined that odor  
13 complaints started after the processing method  
14 used at the site had been modified and the volume  
15 of landscape waste at the site had increased  
16 significantly.

17           The city and DK Recycling then  
18 abandoned the new processing method in favor of  
19 the old procedures that had previously worked  
20 successfully and instituted certain operational  
21 controls and reduced the volume of material to be  
22 accepted at the site.

23           The facility's August 4th, 1994,  
24 supplemental operating permit incorporates these

1 modifications into the daily operations. These  
2 modifications have allowed the facility to achieve  
3 continued compliance with its permit and have  
4 virtually eliminated resident odor complaints.

5           Second, in response to concerns  
6 about potential health affects from the compost  
7 facility, the Lake Forest City Council  
8 commissioned the bioaerosol emissions study  
9 performed by the Great Lakes Center for  
10 Occupational and Environmental Safety from the  
11 University of Illinois Chicago under the  
12 supervision of Dr. Daniel Hryhorczuk.

13           The report was reviewed prior to  
14 public release by the Illinois Department of  
15 Public Health, and it is attached as Exhibit 1 in  
16 my prefiled testimony.

17           This study identified bioaerosol  
18 species emitted from the facility over a  
19 three-month period and tested spore and dust  
20 levels, including fungi spores, bacteria,  
21 endotoxins, and glucans both on and off site.

22           Recognizing that the individual  
23 constituents of bioaerosols found in composts are  
24 ubiquitous in the environment, the study

1 determined that off-site concentrations of  
2 bioaerosols were comparable to and not elevated  
3 above levels in other sample communities in the  
4 midwest, including communities like Lake Forest  
5 where open space and rural areas predominate.

6 The study also determined that  
7 bioaerosol concentrations were highest in the  
8 middle of the site where the compost piles are  
9 actively turned and sink and decrease  
10 significantly with distance.

11 Consequently, the study recommends  
12 that workers involved in activities that generate  
13 compost dust should use respiratory protection.  
14 However, the study does not recommend protection  
15 for neighboring residents or school children  
16 because bioaerosols emitted from the compost  
17 facility during periods of activity do not raise  
18 off-site bioaerosol levels.

19 The city also received  
20 correspondence in 1995 from Patricia D. Millner,  
21 research leader at the Department of Agriculture  
22 concerning a national study of health effects  
23 attributable to compost operations. Ms. Millner  
24 had been contacted by area residents for

1 information about any correlation between  
2 asthmatic episodes and composting operations.

3 The city's correspondence with  
4 Ms. Millner and the national report on health  
5 effects of composting are attached as Exhibit 2 in  
6 my prefiled testimony.

7 Ms. Millner indicated in her letter  
8 that without substantive documentation of hazard,  
9 there is no reasonable basis for concluding that  
10 Lake Forest's compost facility poses a health  
11 risk. According to Ms. Millner, documentation of  
12 hazard requires; one, airborne concentrations of  
13 bioaerosols that are significantly above  
14 background and concurrent; and two, evidence that  
15 the pulmonary or irritated membrane responses of  
16 neighborhood residents are specifically directed  
17 toward the agents or group of agents in the air  
18 transported from the compost site.

19 Since the study performed by the  
20 Great Lakes Center for Occupational Environmental  
21 Safety found that bioaerosol levels off-site from  
22 the Lake Forest facility were consistent with  
23 concentrations in comparable communities, the city  
24 of Lake Forest has taken the position that

1     composting is not creating a health hazard for  
2     neighboring residents or school children.

3                     Based on these findings, the Lake  
4     Forest City Council has chosen to continue  
5     operations at the compost facility in accordance  
6     with the operating as set forth in the applicable  
7     permit. It is the city's position that this  
8     decision is supported by a majority of Lake Forest  
9     residents and will be reaffirmed by resolution at  
10    an upcoming city council meeting.

11                    Despite the solid operating records  
12    established by the Lake Forest facility since 1949  
13    and the positive health findings contained in the  
14    bioaerosols emissions study, a small group of  
15    residents have persevered, most recently through  
16    this rulemaking attempt, to close the facility.  
17    In response, Lake Forest asks the Illinois  
18    Pollution Control Board whether the alternative  
19    requested by these proponents in terms of  
20    restrictions on landscape waste management  
21    locations and higher costs to be borne by all Lake  
22    Forest -- pardon me -- by all Illinois residents  
23    is justifiable when compared to personal opinion  
24    and inconclusive data. Based on this comparison,

1 I believe that it is unnecessary and prudent to  
2 require IEPA permitted compost facilities to  
3 terminate their operations.

4 MS. WHITEMAN: I would ask that the prefiled  
5 testimony of Tom Naatz, and I would ask that the  
6 two color maps which are versions of the map  
7 attached to Exhibit A of the bioaerosol emissions  
8 study performed by the University of Illinois also  
9 be admitted as an exhibit.

10 MR. MCGILL: Is there any objection to  
11 entering as a hearing exhibit the prefiled  
12 testimony of Thomas Naatz, which includes as an  
13 attachment a report entitled Final Report: Health  
14 Hazard Evaluation 96-001, Environmental  
15 Characterization of Bioaerosol Emissions from DK  
16 Recycling Systems, Inc.; composting facility in  
17 Lake Forest, Illinois, April 15th, 1996, prepared  
18 by University of Illinois of Chicago.

19 Also attached is a letter of January  
20 12th, 1995, to Robert Keily, city manager, city of  
21 Lake Forest, from Patricia Millner.

22 Also attached is a report entitled  
23 Bioaerosols Associated With Composting Facilities  
24 dated autumn 1994.

1                   Also attached is a letter to  
2 Mr. Robert Keily, city manager of city of Lake  
3 Forest, dated January 16th, 1995, from Eliot  
4 Epstein.

5                   Is there any objection to entering  
6 as a hearing exhibit this prefiled testimony with  
7 the attachments I have just described?

8                   I have also been handed two  
9 color-coded maps. One is entitled Aspergillosis  
10 Cases by Zip Code, Primary or Secondary Diagnosis  
11 1993 Cases Per 100,000 Population. The second is  
12 entitled Alveolitis Cases by Zip Code, Primary or  
13 Secondary Diagnosis 1993 Cases Per 100,000  
14 Population. And I understand that these are  
15 simply color-coded versions of maps that are  
16 already present in what we referred to as the UIC  
17 report.

18                   Is there any objection to entering  
19 as a hearing exhibit these color-coded maps?

20                   Seeing none, I'm going to mark as  
21 Exhibit Number 32 the prefiled testimony of Thomas  
22 Naatz with the various attachments I have  
23 described and include in that exhibit these two  
24 color-coded maps I have just finished describing.

1 (Hearing Exhibit No. 32 marked for  
2 identification, 9-8-97.)

3 MR. MCGILL: If you would like to present  
4 your next witness.

5 MS. WHITEMAN: Charles Pick, who is president  
6 of business development for Organics Management.

7 MR. PICK: Hi. My name is Charles Pick, and  
8 for the past several months I have served as  
9 vice-president of business development for  
10 Organics Management Company, which is a national  
11 developer of composting and compost-related  
12 businesses. In my position, I assist the company  
13 to evaluate and acquire compost-related  
14 operations.

15 Prior to this, I worked for seven  
16 years as the vice-president and general manager of  
17 DK Recycling Systems where I handled development  
18 and permitting for the company's composting  
19 facilities. I also managed some of the operations  
20 directly, the daily operations, promoted, marketed  
21 and sold the company's products and equipment, and  
22 performed public relations.

23 For the record, my current employer  
24 has no relationship whatsoever with the city of



1 Lake Forest, with DK Recycling Systems, or with  
2 Land Restoration Products, which have been  
3 referred to by other witnesses.

4                   In both my former and current  
5 capacities, I have addressed many of the  
6 operational, public health, and business issues  
7 faced by new and existing landscape waste  
8 composting facilities. Based on this experience,  
9 I have concluded that the regulatory proposal that  
10 we are discussing today would needlessly abolish  
11 the majority of existing commercial and municipal  
12 composting sites in northern Illinois, if not  
13 across the entire state, without providing any  
14 viable landscape waste disposal alternative for  
15 urban and suburban state residents and  
16 businesses.

17                   Rural residents often process their  
18 own landscape waste on-site in manners that are  
19 approved by the state. Consequently, most of the  
20 landscape waste that's processed commercially and  
21 municipally is generated in urban and suburban  
22 areas with high population density.

23                   To minimize transportation costs,  
24 these landscape waste compost facilities are

1 typically developed in close vicinity to where the  
2 material originates, and by necessity -- not by  
3 necessity, but frequently these operations are  
4 located within a half a mile of hospitals,  
5 schools, athletic fields, or parks.

6                   The regulatory proposal would  
7 require all of these facilities to terminate  
8 operations, including all of DK Recycling's  
9 Illinois facilities. Shutting down DK's  
10 facilities alone, that's not including other  
11 facilities located in northern Illinois, would  
12 eliminate annual capacity for over 100,000 cubic  
13 yards of landscape waste material.

14                   In advancing their proposal,  
15 proponents evade the pivotal question, which is  
16 how will residential and commercial generators of  
17 landscape waste manage their materials when the  
18 current disposal locations have be shut down.  
19 Simply put, the proposal leaves no viable  
20 cost-effective option for municipal and commercial  
21 handling of landscape waste.

22                   By law, generators may not dispose  
23 of landscape waste in sanitary landfills. This  
24 law was enacted in June of 1990. Thus, generators

1 must rely on some other process, namely compost  
2 facilities, to manage this material.

3           The proposal allows currently  
4 operating composting facilities to relocate;  
5 however, relocation would be virtually impossible  
6 in the high population density areas that I  
7 referred to earlier. The cost of land alone for a  
8 typical industrial property in a high density  
9 population area often exceeds \$200,000 per acre.

10           Facilities would also be required to  
11 meet the setback requirement contained in the  
12 proposal, as well as the other applicable location  
13 standards that are embodied in the current  
14 regulation, and I will not go through those in  
15 detail because they are already in the Act.

16           Additional local zoning and siting  
17 requirements would also apply to a facility  
18 whether they be local zoning ordinances or county  
19 conditional use permits or both. With all these  
20 cumulative standards affecting siting and zoning,  
21 it would be extremely difficult to find a suitable  
22 location for landscape waste composting facilities  
23 in Illinois with any kind of reasonable proximity  
24 to the source of the raw material.

1                   If such a location were to be found,  
2 facilities would be required to expend  
3 considerable sums of money to complete the lengthy  
4 and expensive site development and permitting  
5 process only to wonder whether the board or  
6 legislature by new regulation enacted in the  
7 following year would require these relocated  
8 facilities to be shut down again.

9                   Speaking from experience, I believe  
10 that most of the existing composting facilities  
11 would likely forego this considerable financial  
12 uncertainty rather than endure arduous and  
13 expensive relocation and repermitting process.

14                   Those facilities that did  
15 successfully relocate would be situated  
16 significant distances from landscape waste sources  
17 and would incur greater transportation costs to  
18 reach those more remote sites.

19                   Transportation expenditures are  
20 currently a very large portion of a given  
21 landscape waste disposal budget for a community or  
22 for a private contractor such as a landscaping  
23 company. Thus, requiring composting operations to  
24 locate significant distances from sources of raw

1 materials would make yard waste disposal very  
2 expensive for generators.

3                   This direct relationship between  
4 facility location, transportation costs, and  
5 disposal costs explains why many landscape waste  
6 composting operations are necessarily located in  
7 urban or suburban settings. Considering the high  
8 risk, difficulty, and cost of relocating  
9 facilities under the proposed regulations -- under  
10 the proposed rule, the remaining sites or the  
11 replacements are likely to be very large with  
12 built-in buffer zones to accommodate the  
13 setbacks.

14                   These would be necessarily owned by  
15 a smaller group of larger companies who would have  
16 the resources necessary to develop these kinds of  
17 large sites, and as a result, you would have a  
18 fewer number of large enterprises dominating  
19 marketplaces, and they would set their prices  
20 accordingly.

21                   Another important point to consider  
22 is that there are additional transportation costs  
23 for the end product compost, which is produced by  
24 a composting facility. In the composting

1 business, the profit margins rely heavily, as  
2 Mr. Garrett referred to, on the sale of end  
3 product, and therefore, transportation distance  
4 for compost becomes a critical selling point.

5 Other alternatives such as peat moss  
6 or wood mulches or other competitive soil  
7 amendments would become more competitive, which is  
8 to say compost would become less competitive  
9 because the distance that the material would have  
10 to be hauled to get back to the urban and suburban  
11 markets where the consumers buy the material.

12 Current profit margins on the sale  
13 of compost would not allow operators to slash  
14 prices significantly to overcome these cost  
15 increases. Because tipping fees for compost  
16 facilities generally only cover operating  
17 expenses, financial viability in composting  
18 depends on product sales.

19 In this scenario, private operators  
20 would have little incentive to start over and  
21 accept lower margins. A disposal capacity vacuum  
22 would likely result.

23 Proponents suggest several  
24 unrealistic options to fill this capacity vacuum,

1 but none of these options confronts the economic  
2 reality faced by the industry or the  
3 administrative headaches that would be endured by  
4 municipalities to comply.

5                   Solution number one, the proponents  
6 advocate backyard composting without providing any  
7 substantive estimates of the start-up,  
8 administrative, or enforcement costs associated  
9 with this option. Envision every household within  
10 the city of Chicago setting up its own backyard  
11 composting operation. The city has been unable to  
12 encourage residents in the city of Chicago to  
13 achieve more than ten percent compliance or  
14 participation in their Blue Bag Program. How  
15 could it ever hope to enforce a requirement that  
16 all residents must properly compost their yard  
17 waste without creating nuisances and waste piles?

18                   In a similar vein, the proponents'  
19 second and third programs would have  
20 municipalities contracting with private refuse  
21 companies to remove the landscape waste. Where  
22 would these private companies go is the important  
23 question. Where would they deposit the material  
24 after most of the facilities will have been shut

1 down? Even these companies would be subject to  
2 the location standards that would have forced most  
3 other compost operations out of business.

4 Finally, proponents never  
5 demonstrated that any of these options would have  
6 the capacity to handle all landscape waste managed  
7 by existing facilities.

8 Last but not least, there is the  
9 issue of the marketplace. The simple truth is  
10 that if fewer facilities remained, they would  
11 opportunistically raise their prices. This is the  
12 way capitalism works, generally speaking.

13 It's a double whammy because you  
14 have higher disposal rates for the people  
15 generating the material, and you have higher  
16 transportation costs to get to more remote  
17 facilities that have been relocated. Ultimately,  
18 the taxpayer is going to have to pick up the  
19 burden for these additional costs.

20 Even if the proponents chose to  
21 ignore the economic reality of their proposal, the  
22 board must not adopt such a cavalier approach.  
23 Instead, it must weight the severe dislocation  
24 expected in the industry and the waste disposal



1 burden that would be placed squarely on municipal,  
2 residential, and commercial landscape generators  
3 against the minimal health benefits, if any, to be  
4 gained from the proposal.

5 By this measure, the proposal fails  
6 to meet any standard for regulatory rationality or  
7 fiscal prudence. Thank you.

8 MS. WHITEMAN: I would move that the prefiled  
9 testimony of Charles Pick be admitted as an  
10 exhibit to this hearing.

11 MR. MCGILL: Is there any objection to  
12 entering as a hearing exhibit the prefiled  
13 testimony of Charles Pick?

14 MS. GARRETT: I have a question. Susan  
15 Garrett. Is the prefiled testimony that was just  
16 submitted by Charles Pick the same prefiled  
17 testimony that we received?

18 MR. PICK: Substantially the same.

19 MS. GARRETT: The reason I bring that up is  
20 that you, in fact, responded to some of the  
21 economic information that we provided in our  
22 prefiled testimony, which was sent out the same  
23 time yours was, so I'm just wondering how you  
24 could have responded to that in your prefiled

1 testimony.

2 MR. PICK: Actually, the prefiled testimony I  
3 read it as is. I made a couple of additional  
4 points based on some testimony today, as had some  
5 of the other witnesses that were presenting their  
6 proposal. I guess I should have stated that  
7 explicitly.

8 MR. MCGILL: Let's just take one thing at a  
9 time here.

10 Is there an objection to entering  
11 the prefiled testimony?

12 MS. GARRETT: Yes, there is.

13 MR. MCGILL: What is your objection?

14 MS. GARRETT: The objection is that when we  
15 submitted our prefiled testimony, we included our  
16 economic implications to the closing or relocation  
17 of compost facilities or change in the current  
18 regulation. The information that we provided in  
19 our prefiled testimony was sent at the same time  
20 that Mr. Pick's prefiled testimony was sent out,  
21 and today, while he's saying he's reading his  
22 prefiled testimony, he has responded to our  
23 prefiled testimony on the economics. Do you see  
24 what I am saying? He's responding to something

1       that he shouldn't have known about when he  
2       submitted his prefiled testimony.

3               MS. McFAWN: Let me just interject here. I  
4       have been doing rulemakings for quite a while in  
5       different capacities at the board, by now being a  
6       board member, I know what we do with prefiled  
7       testimony, or at least some of us.

8               The prefiled testimony is a comment  
9       to the board. They are part of the record in that  
10      they are filed with our clerk. What Mr. McGill is  
11      now doing is having them assigned exhibit numbers,  
12      and I have noticed with your testimony, as well as  
13      with other testimonies, it has often been read  
14      verbatim. In some cases in rulemakings then, we  
15      don't accept it as an exhibit. Instead it appears  
16      strictly in the transcript.

17              Through the course of today's  
18      hearing, we have been allowing them to be read and  
19      then given an exhibit number as well. So in  
20      essence, the prefiled testimony has been entered  
21      twice; once in the transcript and once as a  
22      separate document as an exhibit.

23              We do in rulemakings encourage  
24      participants to respond to one another so that we

1 get a full picture for the entire board to  
2 consider. So the fact that you have augmented or  
3 supplemented some of your testimony is noted on  
4 record. Board members will read that and note  
5 your objection, and I will not rule on behalf of  
6 our hearing officer today, but I just want you to  
7 know that that's what we do with exhibits.

8 MS. GARRETT: I appreciate that.

9 MS. HENNESSEY: And also, anything that he  
10 has raised that's new can certainly be addressed  
11 through a public comment.

12 MR. MCGILL: Did you want to respond to the  
13 objection?

14 MS. WHITEMAN: No.

15 MR. MCGILL: I'm going to admit this as an  
16 exhibit. Earlier today, the proponents had  
17 additional testimony that they added to their  
18 prefiled testimony. I believe -- and Mr. Pick can  
19 correct me if I'm wrong, but most of the testimony  
20 you provided that was in addition to your prefiled  
21 testimony were, I guess, responses to some of the  
22 prefiled testimony of the proponents.

23 MR. PICK: Some was. Some was just to  
24 clarify what I had written.

1           MR. MCGILL: Okay. So I think at this point  
2 in time what I would like to do is enter as an  
3 exhibit the prefiled testimony of Charles Pick as  
4 Exhibit Number 33.

5                                 (Hearing Exhibit No. 33 marked for  
6                                 identification, 9-8-97.)

7           MR. MCGILL: At this point in time, I would  
8 like to open it up for questions to these two  
9 witnesses. Is there anyone in the audience who  
10 would like to pose a question?

11           MR. GARRETT: A couple of questions regarding  
12 the economics. It appears that most of the  
13 testimony we just received has to do with economic  
14 impact. First, Mr. Naatz, how do neighboring  
15 communities in your area handle yard waste, do you  
16 know?

17           MR. NAATZ: There are some adjacent  
18 communities that handle it very similar to the way  
19 we do, there are others who contract it out.

20           MR. GARRETT: And do you think that the taxes  
21 would be significantly higher or lower in those  
22 that contract it out than the taxes in those that  
23 handle it themselves?

24           MR. NAATZ: I can't comment whether the taxes

1 would be significantly higher or not.

2 MR. GARRETT: Okay. Well, do you know how  
3 many of the neighboring communities in our area  
4 contract versus do on-site composting?

5 MR. NAATZ: Many municipalities in our area  
6 do not have in-house refuse collection let alone  
7 yard waste, so a lot of it is by private  
8 contractor.

9 MR. GARRETT: So they somehow make ends meet  
10 even though they don't have --

11 MR. NAATZ: There are different alternatives  
12 to the collection.

13 MR. GARRETT: When yard waste was taken to  
14 the landfills, do you recall whether the costs of  
15 the city were significantly higher at that time  
16 than they are now?

17 MR. NAATZ: I'm sorry. Could you say that  
18 again?

19 MR. GARRETT: Before the advent of commercial  
20 composting, before the state legislature was  
21 convinced that yard waste no longer belonged in  
22 landfills, was the cost of disposing of yard waste  
23 significantly higher than it is today?

24 MR. NAATZ: Actually, significantly lower

1 just because of the tipping fee associated in  
2 landfills.

3 MR. GARRETT: It's significantly lower today  
4 than it was at the time before it was actually  
5 thrown into the landfill? It's lower today?

6 MR. NAATZ: I believe it's higher today.

7 MR. GARRETT: It's higher today.

8 MR. NAATZ: I cannot say what it was back in  
9 1989 prior to the mandate.

10 MR. GARRETT: You're guessing it was probably  
11 lower then and higher today?

12 MR. NAATZ: Say that again.

13 MR. GARRETT: You are assuming that it was  
14 probably lower back in 1985 --

15 MR. NAATZ: 1989.

16 MR. GARRETT: 1989 than it is today because  
17 it was all taken to the same landfills?

18 MR. NAATZ: That would be an assumption on my  
19 part.

20 MR. GARRETT: Wouldn't you also assume then  
21 that the transportation costs associated with the  
22 same tonnage of yard waste that was trucked out to  
23 the landfills would be about the same as the  
24 transportation costs that would be required to

1 truck it out to a big composting facility that was  
2 located right next to a landfill, for example?

3 MR. NAATZ: No.

4 MR. GARRETT: Why not?

5 MR. NAATZ: Obviously, fuel costs are  
6 different. Obviously, tipping fees are  
7 different. Obviously, labor is different. It may  
8 require additional trucks and equipment to make  
9 the haul.

10 MR. GARRETT: The only reason I bring it up  
11 is that it would appear to me that similar  
12 industries where transportation costs might seem  
13 significant at first turn out to be not so  
14 significant, including regular garbage removal,  
15 regular trash removal where we don't hear a lot of  
16 arguments for having municipally located landfills  
17 in Highland Park or Deerfield or Lake Forest, but  
18 the transportation cost argument could be used  
19 just as readily for household garbage as it could  
20 for yard waste.

21 In addition, there are other  
22 industries like -- I don't know -- the slaughter  
23 house industry where you could say gee, we can  
24 save a lot of money if we had a slaughter house



1 located within the municipal boundaries because we  
2 aren't transporting the food in and out, but I  
3 think society has come to the point where they  
4 realize that some things are just a nuisance and  
5 don't belong in a municipality, and therefore, the  
6 cost of transportation in a lot of other  
7 industries has proven not to be a definitive  
8 issue.

9                   So I'm wondering if there is a real  
10 basis for assuming that this transportation cost  
11 is high, or whether this is basically just maybe  
12 an educated guess. Have estimates been done?

13           MR. NAATZ: We have done statements in 1995,  
14 as well as staff estimates this current year to  
15 take a look at where would we have to go.  
16 Obviously, if the new law went into effect, we  
17 don't know where we could go. A lot of variables  
18 aren't known at this point in time.

19           MR. GARRETT: For example, where does  
20 Highland Park go?

21           MR. NAATZ: I do not know where Highland Park  
22 goes.

23           MR. GARRETT: Well, they are right next store  
24 to Lake Forest. Wouldn't you have taken --

1 MR. NAATZ: They're a private contractor.

2 MR. GARRETT: And that would be probably  
3 where you would go.

4 MR. NAATZ: If we had that private  
5 contractor.

6 MR. GARRETT: But there are alternatives  
7 available. I guess that's the point.

8 MR. PICK: If the proposed rule were adopted,  
9 there would not be many alternatives available in  
10 northern Illinois. That's the point of my  
11 testimony. And then the transportation costs  
12 would be incurred by a simple function of mileage  
13 travel to get to the remaining facilities or the  
14 relocated facilities

15 MR. GARRETT: Do you know how many of the 68  
16 operating compost facilities would be forced to  
17 relocation?

18 MR. PICK: No. I don't. Chicago is a  
19 representative market. I can be fairly sure that  
20 at least 50 percent of the composting sites in the  
21 state would have to be closed. Given the north  
22 suburban market, the city of Lake Forest, the  
23 village of Winnetka, the village of Lake Bluff,  
24 the city of Evanston, LDK composting, the

1 Botanical Gardens. Land and Lakes has alluded to  
2 other facilities that may be affected. They  
3 didn't identify which ones, but we could speculate  
4 that they are in the Chicago area. If you look at  
5 the number and the capacity of the facilities  
6 affected, it's pretty clear that there would be a  
7 significant percentage of the capacity taken away  
8 in one fell swoop.

9 MR. GARRETT: Is this your guess, or is this  
10 based on fact?

11 MR. PICK: This is based on fact.

12 MR. GARRETT: Is the Botanical Gardens still  
13 operating a compost operation?

14 MR. PICK: Technically, they don't call it a  
15 composting operation. They call it a mulching  
16 operation, but it's serving only the village of  
17 Glencoe.

18 MR. GARRETT: I think it would be interesting  
19 to get the facts on how many of the 68 would  
20 actually technically be within a half-mile of  
21 this.

22 MR. PICK: I think it would be, too. I'm  
23 going based of my knowledge of the northern  
24 Illinois market and I have done since I have in

1 this business toured the sites and looked at the  
2 setbacks. Based on my permitting activities, I am  
3 very familiar with the type of land uses around  
4 these facilities.

5 MS. GARRETT: Susan Garrett. Mr. Pick, you  
6 had just mentioned some compost facilities that  
7 you feel would have a problem staying in  
8 operation: LDK, city of Lake Forest, village of  
9 Lake Bluff. Who was the provider for composting  
10 for those three facilities that you just  
11 mentioned, those three communities?

12 MR. PICK: Well, the sites all have different  
13 land owners. The operator is DK Recycling  
14 Systems.

15 MS. GARRETT: So it's one particular company  
16 that most likely would be affected, the ones of  
17 the examples you just cited?

18 MR. PICK: Serving multiple communities and  
19 multiple landscape contracting companies.

20 MS. GARRETT: And Winnetka. I'm sorry.

21 MR. PICK: And Winnetka and Evanston, which  
22 is not our facility and Land --

23 MS. GARRETT: I --

24 MR. MCGILL: Excuse me. If you would take

1 turns speaking here for the court reporter.

2 MS. GARRETT: So in other words, the majority  
3 of the sites that you just cited are owned by one  
4 particular composting company; am I correct?

5 MR. PICK: Some of the sites I cited are  
6 owned by -- are operated by one company.

7 MS. GARRETT: Would you say a majority are?

8 MR. PICK: No, not in terms of tonnage  
9 capacity.

10 MS. GARRETT: Let me go through this again.  
11 There is Winnetka. There is the city of Lake  
12 Forest. There is the village of Lake Bluff, and  
13 you also mentioned LDK.

14 MR. PICK: Uh-huh.

15 MS. GARRETT: Those are DK, aren't they?

16 MR. PICK: Uh-huh.

17 MS. GARRETT: And then Evanston, I have never  
18 heard any relationship, but four out of the  
19 five --

20 MR. PICK: There is Lands and Lakes Company.  
21 There is Neiland Sand and Gravel. There are other  
22 operations out there that would be affected by  
23 this.

24 MS. GARRETT: Since they are not here

1       testifying, I'm just --

2               MR. PICK:  As far as the specific facilities  
3       that I mentioned because of my background with  
4       that operating company, yes, I'm privy to specific  
5       knowledge about those facilities.

6               MS. GARRETT:  A couple of things.  When we  
7       first met you, you were vice-president, I think,  
8       of DK Recycling.  On the service list, you were  
9       listed twice, and I can't remember the two  
10       companies, but are you now with a different  
11       organization?

12              MR. PICK:  Yeah.  I'm not employed by DK.

13              MS. GARRETT:  On the service list, just  
14       refresh my memory, what are the two  
15       organizations -- we sent you the packets, and I'm  
16       just wondering where we sent them to.

17              MR. PICK:  One was Organics Management  
18       Company.  That's my current employer.

19              MS. GARRETT:  And then the other one was?

20              MR. PICK:  I'm not sure.

21              MS. GARRETT:  I think it's something  
22       Restoration Products?

23              MR. PICK:  I don't recall.

24              MS. McFAWN:  For the purposes of clarifying

1 the record on this, it's Land Restoration  
2 Products, and then the second one is your company,  
3 Organics Management Company.

4 MS. GARRETT: And the current address of  
5 where you work now is?

6 MR. PICK: It's in Chicago. It's my home  
7 address.

8 MS. GARRETT: It's your home address. And  
9 Land Restoration Products, you were not employed  
10 there ever?

11 MR. PICK: No.

12 MS. GARRETT: Okay.

13 MS. McFAWN: Would you like to take this  
14 opportunity maybe to clarify, if you know, why the  
15 service list would be incorrect then?

16 MR. PICK: It's not incorrect. Land  
17 Restoration Products is a product marketing branch  
18 of the sites. It markets a certain portion of the  
19 products to certain customers, certain portions of  
20 the compost produced by the DK companies, and that  
21 was one of the companies that I was involved with,  
22 but I was never employed by them.

23 MS. GARRETT: Okay. It's just a little  
24 confusing.

1 MR. PICK: I understand that.

2 MS. GARRETT: And so your current company  
3 that you are with has, as you say, no relationship  
4 with DK, but you are here testifying on behalf of  
5 the city of Lake Forest for this new company, or  
6 is it DK and the city of Lake Forest? I'm just  
7 asking that.

8 MR. PICK: I'm not testifying on behalf of my  
9 new company. The city, because of my knowledge of  
10 this situation and my knowledge of the northern  
11 Illinois market and of composting, asked me to  
12 file testimony with regard to this proposed file,  
13 and I did so.

14 MS. GARRETT: Okay. Regarding the economics  
15 on this, I think Mr. Naatz stated that if, in  
16 fact, the current location in Lake Forest was shut  
17 down, it would be a burden of an additional  
18 \$100,000 to the city of Lake Forest to have this  
19 yard waste hauled to Wheeling or someplace else.

20 MR. NAATZ: I didn't say where.

21 MS. GARRETT: The reason I said Wheeling is  
22 because I have been at meetings and you have  
23 mentioned Wheeling, so I'm just -- given the  
24 \$100,000, where would the yard waste be hauled to



1 since you have that number?

2 MR. NAATZ: I truly don't know. We did a  
3 survey of the tipping fees of the area compost  
4 facilities. It's a question; A, can they handle  
5 our capacity, and what is the best deal for the  
6 city of Lake Forest?

7 MS. GARRETT: Could that yard waste be hauled  
8 to Wheeling? I think it's a Land and Lakes  
9 facility.

10 MR. NAATZ: Could it, yes, if they would  
11 accept it, if an agreement could be struck.

12 MS. GARRETT: Let's for all practical  
13 purposes pretend that agreement could be struck,  
14 so financially the city of Lake Forest will be out  
15 \$100,000 if, in fact, you are asked to relocate.  
16 Has the city of Lake Forest ever asked the people  
17 who actually had their yard waste taken to the  
18 yard waste facility in Lake Forest to pay for that  
19 particular service other than purchasing the  
20 bags?

21 MR. NAATZ: Have they asked the residents?

22 MS. GARRETT: Have they required the  
23 residents, as what we talked about in our  
24 recommendations, pay as you go?

1           MR. NAATZ: No, just the bag purchase, which  
2 offsets the cost.

3           MS. GARRETT: So currently, as Lake Forest as  
4 an example, all of the taxpayers are subsidizing  
5 this particular yard waste business. Those people  
6 who don't use it basically are still subsidizing  
7 it through their current taxes -- their current  
8 property taxes?

9           MR. NAATZ: It's considered part of the  
10 refuse collection program for the city of Lake  
11 Forest, yes.

12          MS. GARRETT: If the city of Lake Forest asks  
13 the residents who, in fact, use the yard waste  
14 service to pay as they go, as they -- as currently  
15 Highland Park does ask its resident and many other  
16 municipalities in northern Illinois, as well as  
17 southern Illinois, do you think that would be a  
18 problem?

19          MR. NAATZ: I don't understand the question.

20          MS. GARRETT: Currently, the city of Highland  
21 Park, for instance, requires that residents who  
22 have yard waste picked up at the end of the street  
23 pay for their bags, but they also pay for the  
24 service. Through extensive research, we have

1 found that many, in fact, most municipalities do  
2 ask the residents to pay for their own particular  
3 yard waste pick up and removal. Why hasn't the  
4 city of Lake Forest asked its residents to pay as  
5 they go regarding the yard waste service?

6 MR. NAATZ: I cannot speak on behalf of the  
7 city council, but all I can say is  
8 philosophically, that has been the program that  
9 has been in place.

10 MS. GARRETT: Is it a possibility that if  
11 Lake Forest had to relocate its current compost  
12 operation or even close it down for that matter  
13 and they still wanted to provide the service and  
14 the people who really needed to use that service  
15 were asked to pay for it, do you think that would  
16 be a problem with residents of Lake Forest?

17 MR. NAATZ: I don't know. Is it an  
18 alternative, yes, but do I know would it be a  
19 problem with residents, I don't know.

20 MS. GARRETT: So we don't know that. We are  
21 saying that there is a 100,000 additional cost  
22 that's going to be incurred, but we don't know if  
23 that \$100,000 additional cost can be, in fact,  
24 picked up by the residents of Lake Forest?

1           MR. NAATZ: That number was based on the  
2 current program?

3           MS. GARRETT: Right, and would that same --  
4 not having anybody from Lake Bluff here, could, in  
5 fact, Lake Bluff implement that same kind of a  
6 program as Highland Park and other north shore  
7 communities asking residents who have yard waste  
8 to pay for that particular service?

9           MR. NAATZ: It's a contractual arrangement  
10 that the community has come up with and if  
11 that's -- it's a possibility.

12          MS. GARRETT: But it's not unrealistic since  
13 other communities do it that it could be, in fact,  
14 implemented in some of these communities that we  
15 have already talked about today?

16          MR. PICK: I think it's very important to  
17 consider this, and this is to support what you are  
18 saying, is that you can change collection  
19 scenarios to get people who are generating to pay  
20 for their -- to pay for the waste that they are  
21 throwing out. That's a concept that certainly  
22 makes sense, but the bottom line is that  
23 somebody -- if it's put out at curbside, somebody  
24 is going to collect it whether it's a

1 municipality, private contractor, or a  
2 landscaper.

3                   The point of my testimony was to  
4 point out that once it's collected, it needs to go  
5 somewhere and that your proposal would change the  
6 distance and the mix of facilities available to  
7 receive that material.

8           MS. GARRETT: Yes, it would, and I know that  
9 other municipalities are also faced with that kind  
10 of a challenge, but it seems as if, other than  
11 those DK communities that we are talking about,  
12 other municipalities have handled this without too  
13 much of a problem.

14           MR. NAATZ: If I may add, it's a very  
15 different situation in Lake Forest due to the  
16 character of our streets, the size of our lots.  
17 It's difficult sometimes to make comparisons  
18 between us and even Lake Bluff.

19                   Many of our roads larger Packer  
20 trucks could not get down, so the scooter system,  
21 which many private contractors do not have in  
22 place, I don't know if it's a fair comparison of  
23 apples to apples just to say they do at Lake  
24 Bluff.

1 MS. GARRETT: I'm just saying there's that  
2 possibility, and I just wanted to make that  
3 apparent.

4 I don't know if it was Charlie Pick  
5 or Tom Naatz. Somebody had submitted a letter  
6 from Patricia Millner in the testimony. The  
7 letter that Ms. Millner attached or you attached  
8 to your prefiled testimony, do you recollect that  
9 in the study that Ms. Millner participated in that  
10 while she couldn't scientifically prove that there  
11 were any health risks associated with compost  
12 operations, she did also, along with two other  
13 scientists, clearly recommend buffer zones between  
14 compost operations, hospitals, and schools?  
15 I just want to make sure we are talking about the  
16 same Patricia Millner.

17 MR. NAATZ: I'm sure we are talking about the  
18 same Patricia Millner about the buffer zone. I  
19 cannot speak to that. I don't know off the top of  
20 my head.

21 MS. GARRETT: Maybe Mr. Pick would know  
22 that.

23 MR. PICK: No. I don't know that.

24 MS. GARRETT: Well, Sidley and Austin, your

1 law firm, I think, has submitted that particular  
2 study attesting to that with the recommendation  
3 from Patricia Millner regarding the buffer zones.  
4 That's all I have right now.

5 MR. MUELLER: Peter Mueller. Mr. Naatz, is  
6 the city of Lake Forest the operator of a compost  
7 facility or the owner of a compost facility?

8 MR. NAATZ: Currently are the owner.

9 MR. MUELLER: And the operator is?

10 MR. NAATZ: DK Recycling.

11 MR. MUELLER: And to the best of your  
12 knowledge today, how close is the Lake Forest  
13 facility to a park?

14 MR. NAATZ: It's adjacent, but it's up to on  
15 the south end to a park/school site.

16 MR. MUELLER: And athletic fields would --

17 MR. MCGILL: Why don't we go off the record?

18 (Whereupon, a discussion was held  
19 off the record.)

20 MR. MCGILL: Why don't we go back on the  
21 record. I believe we were in the middle of a  
22 question.

23 MR. MUELLER: And in terms of setback then,  
24 you are right adjacent to a school, a park, and an

1 athletic field; is that correct?

2 MR. NAATZ: That is correct, but I guess one  
3 clarification, it is not a park/school site. The  
4 property is owned by Lake Forest High School,  
5 which is leased to Lake Forest District 67 Grade  
6 School. So the high school property is not  
7 construed as a park per se as far as the city is  
8 concerned.

9 MR. GARRETT: But there are athletic fields?

10 MR. NAATZ: But there are athletic fields  
11 there, yes.

12 MR. MUELLER: And you presented some research  
13 and some technical paper in your testimony that  
14 would attest to the healthworthiness of composting  
15 next to facilities such as -- that would state  
16 that there is limited impact to schools, athletic  
17 fields, and/or parks; is that correct?

18 MR. NAATZ: That's what the UIC study  
19 intended to do.

20 MR. MUELLER: And to the best of your  
21 knowledge, the testimony that you have given  
22 today, is your testimony on the health aspect of  
23 composting limited to those two submitted texts,  
24 or do you have other research on which you base



1 the safety features or the health features of  
2 composting operations?

3 MR. NAATZ: I'm sure we are all aware that  
4 there are many articles out there. Several years  
5 ago, the city, as well as many of the residents in  
6 this room, exchanged papers and studies, which  
7 really in turn prompted the UIC study because that  
8 was when city council decided how can we  
9 specifically determine if there is a specific  
10 health issue at our site.

11 MR. MUELLER: And as a representative of the  
12 city of Lake Forest with counsel here today, is it  
13 your feeling that the health issue has been  
14 adequately addressed and that the population for  
15 not only Lake Forest citizens, but residents of  
16 Illinois, that the health risk is minimal or  
17 nonexistent?

18 MR. NAATZ: The report as stated to city  
19 council, which is what they have endorsed, states  
20 in the UIC study that there is no imminent danger  
21 from the composting operations to the residents.

22 MR. MUELLER: And the term imminent danger,  
23 does that suggest to you that there is no health  
24 risk, a slight health risk, or is there a degree

1 of a health risk associated with a composting  
2 operation such as that of the city of Lake  
3 Forest?

4 MR. NAATZ: It doesn't suggest anything to  
5 me, quite frankly.

6 MR. MUELLER: Maybe I don't get this. The  
7 research that you have that was done for the city  
8 of Lake Forest suggests that -- it doesn't suggest  
9 anything to you?

10 MR. NAATZ: I said what it suggested and the  
11 city's position. Let me clarify and answer your  
12 question again. Maybe I misinterpreted it. Could  
13 you repeat your question?

14 MR. MUELLER: I asked you if you felt that  
15 based on the research that there was no health  
16 risk to people adjacent to the Lake Forest  
17 composting facility based on the research that you  
18 have or that the city of Lake Forest has, and you  
19 responded by saying that there was no imminent  
20 health risk. My question to you is what does  
21 imminent health risk mean to you or no imminent  
22 health risk? Does it mean that there is no health  
23 risk? What exactly does that mean and is that the  
24 basis of your belief?

1           MR. NAATZ: To me, it means a situation that  
2 requires an action to be taken to correct. Do I  
3 believe one exists at this facility based on the  
4 information that's been presented to city council,  
5 no. Can I say absolutely, no.

6           MR. MUELLER: And for Mr. Pick, if I may, the  
7 business that you are in now, is it my  
8 understanding that you sell the end product of  
9 composting operations?

10          MR. PICK: No. That's not my current  
11 business. Organics Management is a company that  
12 was formed recently to go out and consolidate the  
13 organics industry.

14          MS. MATHEWS: What does that mean?

15          MR. PICK: In plain English, that means we  
16 are going to go out and buy organics companies and  
17 put them together into a national network.

18          MR. MUELLER: And did you not just use the  
19 argument that what would happen in the composting  
20 industry in Illinois if this regulation went into  
21 effect would be that there would be fewer  
22 operators and price would go up?

23          MR. PICK: Uh-huh.

24          MR. MUELLER: And my question to you is is

1 that not the business that you are currently  
2 engaged in?

3 MR. PICK: Well, you are asking whether or  
4 not I would be interested in going into Illinois  
5 under your proposed rule because of the market  
6 conditions it would create, and the answer is  
7 that's a very good suggestion, which I didn't  
8 consider, unless I'm misunderstanding your  
9 question.

10 MR. MUELLER: No. My question was that you  
11 gave in your testimony specifically that one of  
12 the negative impacts to the state of Illinois  
13 would be that if this regulation went into effect  
14 that there would be a consolidation of compost  
15 operators in this state and that small operators  
16 would find it more difficult to exist in this  
17 environment, and you also stated that that is the  
18 business that you are involved in.

19 MR. PICK: Uh-huh.

20 MR. MUELLER: I'm not sure I understand the  
21 basis of your testimony.

22 MR. PICK: The basis of the testimony is that  
23 there would be fewer, larger players involved.  
24 Whether or not my company would participate in

1 that is completely an unknown at this point.

2 My point and my testimony was simply  
3 to state that there would be a reduction in the  
4 number of facilities. There would tend to be  
5 fewer and larger players remaining. They would  
6 charge a higher market price, which would  
7 ultimately impact the taxpayer.

8 MR. MUELLER: And one last question to you  
9 Mr. Pick. You stated that you were familiar with  
10 the operations of composting over the United  
11 States, especially in Illinois, and you stated  
12 that it was your opinion that 50 percent of the  
13 existing composting operations would be adversely  
14 affected should this go into effect. In Illinois,  
15 do you know how many states have regulations on  
16 the books that meet or exceed the proposed  
17 change?

18 MR. PICK: That's a good question. I don't  
19 know the precise setback regulations in very many  
20 of the states. Some are less, much less than the  
21 existing regulations. Some are more, but I  
22 couldn't give you specific examples, I'm afraid.

23 MR. GRSKOVICH: Can I interject in the middle  
24 of your question? There is a difference between

1     what the regulations call for and the actual  
2     location.  In many communities, they locate a  
3     composting facility 12 miles out, but the  
4     regulation doesn't call for a 12-mile setback from  
5     the city limits.  So I think the better question  
6     is not so much what should these national  
7     composting sites do or don't control themselves  
8     under this set of regulations, but where, in fact,  
9     are they located physically.  Are most people  
10    located substantially away from schools,  
11    hospitals, and playing facilities, or are most of  
12    them on top of schools, hospitals, and playing  
13    facilities?

14           MR. PICK:  By in large, the majority of  
15    composting sites are located more remotely so that  
16    they are farther from development and have a  
17    longer life-span.

18           MR. GRSKOVICH:  Exactly.  And for that reason  
19    then, wouldn't you agree that the statistics as to  
20    how much harm is being done presently in the  
21    United States is not a test of how much harm this  
22    setback requirement requires?  In other words, if  
23    most people are already observing a setback based  
24    on political reasons or whatever that is greater

1 than a half a mile, then you can't say well, we  
2 are not having many cases of aspergillus. Of  
3 course not because there is nobody living near  
4 these places. Most composting facilities in the  
5 United States are located with more common sense  
6 than the eighth of a mile or even a half-mile  
7 limits that we are talking about.

8 MR. PICK: I can't speak to what the majority  
9 of composting sites are doing. I can tell you  
10 that larger composting sites tend to be located  
11 more remotely; however, there are a very large  
12 number of small composting sites that are located  
13 within community boundaries on municipal property  
14 to handle small volumes of municipal yard debris.  
15 That's not uncommon, especially on eastern  
16 seaboard where large scale sites are difficult to  
17 locate.

18 So in general, I would say that what  
19 you are saying is right with respect to larger  
20 facilities and where they tend to be located, but  
21 as for the majority of facilities overall, I would  
22 say that's not necessarily the case.

23 MR. MCGILL: Let's go off the record for just  
24 a minute.

1                   (Whereupon, a discussion was held  
2                   off the record.)

3           MR. MCGILL:  Let's go back on the record.

4           MR. JOHNSON:  Earl Johnson.  I have a  
5           question -- two questions.  For the DK operation,  
6           how many tons per day do you process of yard  
7           waste?

8           MR. PICK:  The Lake Forest facility?

9           MR. JOHNSON:  Uh-huh.

10          MR. PICK:  I believe the average for Lake  
11          Forest was in the neighborhood of ten to 20 tons a  
12          day with a peak in the fall of perhaps two to  
13          three times that.

14          MR. JOHNSON:  That could be 60 tons a day  
15          then?

16          MR. PICK:  Yeah.

17          MR. JOHNSON:  A question for the gentleman  
18          who has answered to the health risk.  I attended  
19          the last public hearing that took place in Lake  
20          Forest where the spokesman for the University of  
21          Illinois consulting group testified.  I remember  
22          Dr. Desai asking the spokesman the question, would  
23          you say that there is no health risk from the Lake  
24          Forest composting operation, and the response was



1 he could not say that. That's in the record.

2 MR. NAATZ: That was the response, but I  
3 don't believe you will find a scientist that will  
4 ever rule a possibility out.

5 MR. JOHNSON: Pardon?

6 MR. NAATZ: I don't think you will find a  
7 scientist that would ever say an absolute.

8 MR. JOHNSON: Well, that's the point I want  
9 to make. He couldn't say that.

10 MR. NAATZ: That's right.

11 MR. JOHNSON: But you said it.

12 MR. NAATZ: That was my opinion. I am not a  
13 scientist, nor a physician.

14 MR. JOHNSON: That's correct. Thank you.

15 MR. NAATZ: I agree.

16 MR. MCGILL: Any other questions?

17 MR. MUELLER: Mr. Naatz, I would like to go  
18 back to that issue. Being a representative of the  
19 city of Lake Forest and that this ruling would  
20 have an effect not only on the city of Lake Forest  
21 composting operations, but composting operations  
22 throughout the state of Illinois, but the reason  
23 that the proponents seem to be looking for these  
24 setbacks is a health-related issue in that it is

1 felt by some in the scientific community that  
2 there is a health risk associated with composting  
3 facilities. Is it your opinion that a health risk  
4 does not exist from composting operations?

5 MR. NAATZ: It's my opinion that based on the  
6 study of the UIC study and the literature that I  
7 have that there is no imminent danger to the  
8 residents of the area.

9 MR. MUELLER: It is your opinion that the UIC  
10 study was a conclusive study on the health risks  
11 for Lake Forest residents?

12 MR. NAATZ: As stated before by Mr. Johnson,  
13 I believe the scientists would say no.

14 MR. MUELLER: Thank you.

15 MS. GARRETT: Susan Garrett. I have one  
16 question, possibly two. I can't remember exactly  
17 the prefiled testimony. I think it was Tom Naatz  
18 who included in his testimony that the health  
19 study showed that because of the high count of  
20 spores that workers on-site should wear  
21 respiratory masks. Is that correct?

22 MR. NAATZ: During high activity if you were  
23 working inside the pile, yes, I believe that's how  
24 the report stated.

1 MS. GARRETT: And recently you talked about  
2 how you made some changes in the site. What have  
3 you done to the location of the site as far as  
4 where it used to be and where it now is?

5 MR. NAATZ: The site is being operated  
6 basically in four acres that -- I guess I don't  
7 know how far back.

8 MS. GARRETT: Have you moved any closer to  
9 the school?

10 MR. NAATZ: It's in the four acres that was  
11 basically proposed and permitted in 1993.

12 MS. GARRETT: Is it closer to the boundary of  
13 the permitted area? Have you moved it toward the  
14 south side of your permitted area? Does it abut  
15 the boundary line?

16 MR. NAATZ: I would say it's no closer to  
17 what it was in 1993.

18 MS. GARRETT: What about 1991, '92?

19 MR. NAATZ: It wasn't permitted then. We  
20 didn't use it.

21 MS. GARRETT: It seems to me, because I have  
22 been over there several times, that the site has  
23 actually been moved over because you were in the  
24 flood plain, I think, and you had some problems

1 with being too close to the drainage ditch.  
2 Whatever the issues were, it appeared that you  
3 moved the composting windrows -- maybe I'm not  
4 being technical enough -- closer to the permitted  
5 boundary.

6 MR. NAATZ: There were two parcels: The 1.4  
7 and a 4. The 4-acre parcel actually was permitted  
8 larger than we actually used, and it's to  
9 understand, as best as I can tell you, that we are  
10 operating basically the same footprint as we did  
11 in '93.

12 MS. GARRETT: So it hasn't been shoved back  
13 at all?

14 MR. PICK: The Lake Forest facility has a  
15 physical barrier on the south side, which is a  
16 soil berm, and the windrows can't go any closer to  
17 the athletic fields than the edge of that berm.

18 MS. GARRETT: That's my point. The workers  
19 who are requested to wear respiratory masks when  
20 they are turning the windrows are how far, do you  
21 think, from the boundary of the athletic fields  
22 where thousands of children play soccer?

23 MR. NAATZ: I'm speculating 100, 150 feet.

24 MR. PICK: 150, 200 feet.

1 MS. GARRETT: And then the other question I  
2 have is does DK make a profit? I mean, this seems  
3 like a business to me, a business enterprise.  
4 Even though you are not employed by DK anymore --  
5 maybe I should ask Tom -- does DK make a profit on  
6 operating these compost facilities?

7 MR. NAATZ: I would hope so. They are in  
8 business. Back in 1989 when the city first  
9 engaged the services with DK, that was stated up  
10 front to city council it is a combination private,  
11 public joint venture, so obviously the intent was  
12 the city realizes savings, and obviously the  
13 private contractor is in the business to make  
14 money.

15 MS. GARRETT: And do you know how much money  
16 they make every year, just as an example, the Lake  
17 Forest facility since that's the one you are  
18 associated with?

19 MR. NAATZ: Off the top of my head, no, I do  
20 not.

21 MS. GARRETT: You don't know how much they  
22 make?

23 MR. NAATZ: No.

24 MS. GARRETT: Okay. That's all I have.

1           MR. GARRETT: Scott Garrett. Just a couple  
2 more questions on the economics to put things into  
3 perspective.

4                     You estimated, Tom, that the  
5 additional cost would be about \$100,000 a year.  
6 What is the total operating budget of the city of  
7 Lake Forest? Do you know what percent increase  
8 that might be?

9           MR. NAATZ: The sanitation budget?

10          MR. GARRETT: Total budget of the city.

11          MR. NAATZ: Well, there is different funds.  
12 There is general fund, water fund, park fund,  
13 cemetery fund.

14          MR. GARRETT: Rough total?

15          MR. NAATZ: Again, I can only speak for my  
16 operation. The general fund encompasses police,  
17 fire, community development. I'm guessing about  
18 six to eight million in terms of the public works  
19 operations, but again, throughout various funding  
20 mechanisms.

21          MR. GARRETT: So even at \$100,000, it's a  
22 pretty small fraction of the total cost of running  
23 the city.

24                     And how many residents are there in

1 Lake Forest approximately?

2 MR. NAATZ: Approximately 18,000.

3 MR. GARRETT: So it would be a little over \$5  
4 per resident to effect this kind of change, if  
5 your estimate is accurate.

6 PICK: I believe it's important to point out  
7 to bring some -- shed some light on your question  
8 that the study that was done to find out how much  
9 additional costs there would be if the site was  
10 closed, that did not take into account the impact  
11 of changing the siting requirements of alternative  
12 facilities, so in other words, the \$100,000 in  
13 additional costs was if the Lake Forest facility  
14 disappeared, not if that and all other facilities  
15 affected by your proposed ruling disappeared.

16 MR. GARRETT: Do you have an estimate for  
17 that case, Charlie?

18 MR. PICK: I'm sorry?

19 MR. GARRETT: Is there another estimate that  
20 you would like to share with us?

21 MR. PICK: Well, my belief, based on what I  
22 know about northern Illinois, my guess is that in  
23 addition to the \$100,000, you probably incur  
24 between a 30 and 40 percent increase in cost in

1 terms of tipping fees and transportation fees.

2 MR. GARRETT: So it would still be less than  
3 \$10 a person per year?

4 MR. NAATZ: And again, if I could make one  
5 other point, the function of where you are going  
6 could mean additional capital equipment and  
7 additional manpower aside from the 100,000.

8 MR. GARRETT: My only point is it's not a  
9 devastating cost when it's taken into the context  
10 of what the city's total budget is and what the  
11 citizens' total tax requirements are, even at  
12 \$130,000 for 18 to 20,000 people. If those people  
13 really would prefer not to have a compost  
14 operation in their community, clearly they could  
15 afford to go for an alternative.

16 MR. NAATZ: Again, that's site-specific.  
17 This law is for the whole state.

18 MR. PICK: I went through a very similar  
19 discussion with the village of Winnetka when I was  
20 with DK when they were talking to DK about taking  
21 over their facility, which was in serious trouble  
22 at this time about four years ago, and they were  
23 looking at the potential impacts on the community  
24 versus the economic savings from turning it over



1 to the private sector. They were looking at  
2 savings in the area of 70 to \$90,000 per year.

3 They were very direct in their  
4 statements that an even one-percent increase in  
5 real estate taxes based on their tax cap and other  
6 limitations on city funds was a significant  
7 expenditure. I'm not speaking to Lake Forest.  
8 I'm speaking to other villages that we have dealt  
9 with that have had similar problems.

10 MR. GARRETT: But that was just a discussion  
11 of all the things that municipalities spend money  
12 on, many of which we might object to as  
13 taxpayers.

14 MR. PICK: I'm just speaking specifically to  
15 the yard waste disposal cost as it relates to  
16 taxes.

17 MR. GARRETT: So let's just keep it at that.

18 MR. PICK: Sure.

19 MS. MATHEWS: I have some strange questions.  
20 I'm Mary Mathews. A one percent increase in real  
21 estate taxes is not \$5 right offhand.

22 MR. PICK: For the village of Winnetka, 70 to  
23 90 would have represented a one-percent increase  
24 in real estate taxes.

1 MS. MATHEWS: It would not be in Lake  
2 Forest.

3 MR. PICK: That's what they stated.

4 MS. MATHEWS: You had stated that the Lake  
5 Forest compost center is four acres. Is that a  
6 normal size?

7 MR. NAATZ: That is the area that we are  
8 operating under currently.

9 MS. MATHEWS: Is that a normal size for a  
10 compost center? These other ones that may have to  
11 close or whatever, how big is the big compost  
12 center?

13 MR. PICK: They really range in size from two  
14 acres to 30 acres. They are all different shapes  
15 and sizes.

16 MS. MATHEWS: How many employees does a  
17 compost like DK have or a composting center or  
18 whatever? You talked about the administrative  
19 costs of the filing to get one of these things  
20 going, so how many employees are there normally,  
21 administrative employees?

22 MR. PICK: Well, the administrative costs of  
23 getting a permit are different from the operating  
24 costs of running a facility. I think you are

1 mixing them together.

2 MS. MATHEWS: I understand that.

3 MR. PICK: To secure a permit from the EPA,  
4 from the city in which you intend to operate, and  
5 from the county in which you intend to operate is  
6 an expensive proposition considering zoning,  
7 permitting, legal issues and so forth. We have  
8 never done a study as to how many man-hours are  
9 involved, but since we are in some recent permit  
10 activity with the city of Lake Forest, it could  
11 easily be an 80, \$90,000 effort to get a new  
12 permit from scratch for a new facility and comply  
13 with all of the regulations that are applicable.

14 MS. MATHEWS: Why would that cost 80 or  
15 \$90,000? It's not taking one employee or two  
16 employees full-time, is it?

17 MR. PICK: When the permit is in the process  
18 of being prepared, including the meetings with  
19 regulators, meeting with the city council,  
20 meetings with zoning people, engineering costs,  
21 professional fees, it can get very, very  
22 expensive.

23 It's not just the individual time of  
24 the permit preparer. It's all the associated

1 costs that go along with that.

2 MS. MATHEWS: But you aren't paying the cost  
3 of the county employee that you are sitting down  
4 and talking about?

5 MR. PICK: That would be an additional cost  
6 to the public sector.

7 MS. MATHEWS: I mean, if Tom Naatz goes and  
8 talks to a county person, we are paying Tom Naatz,  
9 but we are not paying the county person.

10 MR. PICK: Right. That does not include that  
11 expense.

12 MS. MATHEWS: So how are we going to come up  
13 with an 80 or \$90,000 cost for Lake Forest to --

14 MR. PICK: I'm saying to permit a brand new  
15 facility from scratch. I'm not speaking to the  
16 city of Lake Forest because my comments were about  
17 relocating and siting from scratch as being a  
18 significant financial undertaking. That's the  
19 substance of my testimony.

20 MS. MATHEWS: So for DK to go and site a new  
21 compost center would cost them 80 or \$90,000?

22 MR. PICK: If the site were going to have to  
23 relocate, it's unclear as to who would be the  
24 owner and operator given the financial burden that

1 would be imposed on the group. In other words, if  
2 the site has to relocate and buy the land and do  
3 the permits --

4 MS. MATHEWS: I'm not saying all that. I'm  
5 saying just the administrative paperwork of  
6 somebody. I don't care who it is that's doing  
7 it. I'm saying you or DK has to go out and site a  
8 new compost center, they would have an  
9 administrative person, not one of the truck  
10 drivers, but they would have an administrative  
11 person go and start filling out forms, right?

12 MR. MCGILL: Excuse me. If I could  
13 interrupt, we may be getting a little  
14 repetitious. Actually, the board has a couple of  
15 questions that may be helpful and may address some  
16 of your concerns. Maybe we could ahead and ask  
17 our questions, and then if you had any questions  
18 after that, you could pose those at that time. Is  
19 that fair?

20 Why don't we go off the record  
21 then?

22 (Whereupon, a discussion was held  
23 off the record.)

24 MR. MCGILL: We are going to go back on the

1 record.

2 I would like to pose a couple  
3 questions. The UIC study states that its data is  
4 not -- I believe I'm stating correctly from the  
5 UIC study. I believe it states that its data is  
6 not sufficient to fully characterize the  
7 bioaerosol emissions from the Lake Forest compost  
8 facility and suggests or discusses further  
9 sampling and analyses, including for aspergillus  
10 fumigatus. Have any such additional studies been  
11 performed or are there plans to carry them out?

12 MR. NAATZ: When they originally made the  
13 proposal to the city council, which was a  
14 three-page proposal, the city council opted to  
15 utilize the first phase, which was trying to  
16 determine if the bioaerosols contributed to  
17 background levels or not from a composting  
18 facility, and if the numbers warranted, they  
19 wouldn't even have gone further than that. They  
20 would have just done the right thing for health  
21 reasons. They utilized the first phase.

22 The second phase would have cost, if  
23 I have recall right, several hundred thousand  
24 dollars to implement.

1                   We also did at one point in time  
2                   contact at the time who was in charge of the  
3                   Illinois Department of Health, Tom Long, trying to  
4                   secure state grants and state monies in which to  
5                   do this program. He also indicated to fully do  
6                   the program effectively would require hundreds of  
7                   thousands of dollars.

8                   MR. MCGILL: So at this point --

9                   MR. NAATZ: Phase one is what the city  
10                  council opted and what they would make the  
11                  decision whether they felt it was safe to continue  
12                  or not.

13                  MR. MCGILL: Can either of you provide an  
14                  estimate of the average cost to build a typical  
15                  landscape waste compost facility in Illinois,  
16                  including land acquisition, zoning, permitting and  
17                  site development?

18                  MR. PICK: We touched on elements of that in  
19                  our question and answer. It relates to where the  
20                  facility is going to be located. If it's going to  
21                  be a rural facility, as it probably would be under  
22                  their proposal --

23                  MR. MCGILL: You can give a range, if you  
24                  would like.

1           MR. PICK: In an urban, suburban area, to  
2 find a parcel typically of industrial property,  
3 the best way to look at this is on a per acre cost  
4 because facilities can be all shapes and sizes.  
5 They could be 20-acre facilities. They could be  
6 five-acre facilities. Do you want me to take a  
7 ten-acre facility and just --

8           MS. HENNESSEY: Per acre numbers would be  
9 fine.

10          MR. PICK: Land costs where we are in Lake  
11 County for industrial property can run between  
12 three and \$20 a square foot, so let's pick one in  
13 the middle and say \$6 a square foot, so that's a  
14 quarter of a million dollars an acre for the  
15 property.

16                   In terms of permitting and zoning,  
17 it depends on whether you are within city limits  
18 or within an unincorporated county area. As to  
19 the permitting costs associated with the local  
20 authorities, as I said, that could be in terms of  
21 legal fees, engineering fees, it could be 80,  
22 \$90,000, including the time for a person to  
23 administer that process and do the documents and  
24 work with all of the different agencies.



1                   Then there is the cost of -- I guess  
2 you can include that in that cost of securing a  
3 state permit because the procedures are similar.

4                   And then you have land improvement  
5 costs, which run the gamut depending on the  
6 condition of the site that you purchase. But  
7 let's say if it's a field that just needs to be  
8 cleared, you would be looking at perhaps ten to  
9 \$20,000 per acre to grade the facility so that it  
10 meets the EPA requirement for pitch, so it drains  
11 properly. You may have to create water  
12 impoundments to collect surface water runoff. You  
13 have to improve roadways for access, install a  
14 gate, do paving of a certain percentage of the  
15 site to receive material in bad weather, and  
16 paving typically will cost about \$50,000 an acre.  
17 And we typically would improve about 20 percent of  
18 the site as paved area of the total, so two acres  
19 of a ten acre site would be paved.

20                   So a ten-acre facility, to kind of  
21 bring it all together, you would have perhaps two  
22 to two and a half million dollars in land costs.  
23 You would have perhaps \$200,000 in grading, 50 to  
24 \$100,000 in paving, 80, \$90,000 for site

1 engineering costs and local permitting and state  
2 permitting and so forth, if you could get the  
3 approvals. That's the first step of the process.

4                   Then miscellaneous improvements:  
5 Landscaping, gates, signs, a shop, power and so  
6 forth, and that could be another \$10,000 or  
7 \$30,000 depending on -- if it's a stand-alone  
8 facility, it needs more resources than if it's  
9 part of a network of operations.

10           MS. HENNESSEY: So what is your number for a  
11 ten-acre facility?

12           MR. PICK: A ten-acre facility located in an  
13 urban, suburban area in northern Illinois would  
14 cost probably about \$3 million to develop, and it  
15 would have the capacity of approximately -- for  
16 windrow yard waste composting, it would be able to  
17 handle in the neighborhood of 70,000 cubic yards a  
18 year.

19           MR. MCGILL: Is that an average size?

20           MR. PICK: That's a larger than average size  
21 site. But as I said earlier, if the sites were  
22 forced to relocated under this proposal, they  
23 would likely go more remote and be much larger  
24 because of the risks associated with doing a new

1 development. Generally speaking, they would say  
2 if we are this remote, we are this rural, we are  
3 going to move to a big site so we have a lot of  
4 capacity and we can stay there for a long, long  
5 time.

6 MR. MCGILL: Do you have any sense of the  
7 cost that might be associated with that sort of  
8 development?

9 MR. PICK: Where you are going to save the  
10 money then would be in the area of land cost. It  
11 would drop from \$200,000 an acre to perhaps  
12 \$100,000 an acre, if you look at kind of ex-urban  
13 Lake County, DuPage County, Kane County, but just  
14 for the record, we have made inquiries -- in my  
15 old business, we made inquiries about site  
16 developments in these counties, and getting sites  
17 developed in unincorporated counties that surround  
18 the Chicago area is very, very difficult because  
19 the counties have conditional use permit control  
20 and they are very resistant to these types of  
21 operations at this point, and that's Lake County,  
22 DuPage County, and Kane County.

23 MR. MCGILL: So they would be larger. Do you  
24 have a sense of how big those facilities might

1 be?

2 MR. PICK: I would say a 40-acre site.

3 MR. MCGILL: Thank you.

4 MS. HENNESSEY: I have just two questions.  
5 Mr. Naatz, what would the city of Lake Forest's  
6 position be on a one-eighth of a mile setback for  
7 not only residences, but schools, athletic  
8 facilities, and hospitals?

9 MR. NAATZ: It would shut the facility down.

10 MS. HENNESSEY: That would shut your facility  
11 down?

12 MR. NAATZ: (Nodding head.)

13 MS. HENNESSEY: There is no way in which the  
14 facility could be rearranged, you could partition  
15 the land such that you would fit within one-eighth  
16 of a mile setback?

17 MR. NAATZ: No.

18 MS. HENNESSEY: Then I have a question.  
19 Ms. Whiteman, I understand you are not testifying,  
20 but I just want to pose it to you and hope that  
21 you will address it in public comment.

22 On the issue of retroactivity of  
23 this regulation, I'm wondering what the city's  
24 position would be on a regulation that would

1     affect the facilities only as their permits  
2     expire. In other words, the city of Lake Forest's  
3     permit expires in 2002. If the board were to  
4     adopt a regulation that would only come into  
5     effect as permits expired, would that be  
6     considered a regulation that would have an  
7     improper effect? And I guess kind of related to  
8     that, I would like to know what are the limits of  
9     your argument about retroactivity. I mean, all of  
10    these facilities that are currently existing, do  
11    they have right to exist in perpetuity? Could the  
12    legislature or the board at some point change  
13    setback distances based on new knowledge? And  
14    again, that's just something for you. I should  
15    have posed it to Ms. Harvey as well, but I hope  
16    she will read the transcript and also respond to  
17    the question.

18           MS. WHITEMAN: We will be sure to address  
19    that.

20           MS. HENNESSEY: Thank you.

21           MR. MCGILL: Are there any further questions  
22    for these witnesses?

23           MR. GARRETT: Just Mr. Naatz. Isn't it true  
24    that Lake Forest for some time was looking for an

1 alternative site for its compost facility?

2 MR. NAATZ: One of the commitments that the  
3 compost advisory committee made was to constantly  
4 seek alternatives, and, as I mentioned before,  
5 there was a siting study that was done in 1996 by  
6 the private consultant that attempted to look at  
7 alternatives.

8 MR. GARRETT: Thank you.

9 MS. MATHEWS: I have a question. You said  
10 that Lake Forest owns this composting center now?

11 MR. NAATZ: We own the property, yes.

12 MS. MATHEWS: You own the property, but  
13 aren't you also partial owner of the process?

14 MR. NAATZ: Right now, the permit, we are the  
15 owner. DK is the operator. They operate and own  
16 their own equipment and trailer that's out there,  
17 so to speak.

18 MS. MATHEWS: So they are renting the land  
19 from you?

20 MR. NAATZ: It's part of the contractual  
21 arrangement for the reduced tipping fees. That's  
22 all part of the contract.

23 MS. MATHEWS: Didn't you all recently say in  
24 the city council meeting or something that you

1 were going to become part owners with them or  
2 something like that?

3 MR. NAATZ: We have a permit in the process  
4 that we would be co-owner -- co-operators -- owner  
5 and co-operator with DK.

6 MS. MATHEWS: And being a co-operator then,  
7 does that --

8 MR. MCGILL: I'm going to just interrupt  
9 because I think we are getting into some  
10 particulars that I'm not sure bear an impact on  
11 this proposed statewide regulation. If you want  
12 to respond to my interruption you can. Could you  
13 tell me where you are going with this or what  
14 bearing this has on the proposed change?

15 MS. MATHEWS: Why is Lake Forest against  
16 having this moved or this regulation going into  
17 effect? Because of the cost?

18 MR. NAATZ: It would shut us down.

19 MS. MATHEWS: And so it would cost Lake  
20 Forest more money to do something else?

21 MR. NAATZ: Yes. It would be an additional  
22 expense to handle the materials that currently are  
23 generated.

24 MR. MATHEWS: What has Lake Forest spent so

1 far objecting to this idea?

2 MR. NAATZ: I do not know.

3 MR. MCGILL: Are there any further  
4 questions?

5 Okay. We're going to wrap things  
6 up. I'm just going to quickly move on to a few  
7 procedural matters to address before we adjourn.

8 I would like to note again that the  
9 next hearing in this matter is scheduled for  
10 Tuesday, October 7th, at 10:00 a.m. at the  
11 Illinois State Library, 300 South Second Street,  
12 Room 403 in Springfield, Illinois.

13 I will note that a question was  
14 raised earlier as to notice of these hearings. I  
15 would like to add that notice of these hearings  
16 was also sent out to a mailing list compiled based  
17 on lists from the original landscape composting  
18 rulemaking.

19 I would like to note that Karen  
20 Strauss' prefiled testimony is due September 15th,  
21 as we discussed earlier today. I will be setting  
22 a deadline for filing prefiled questions of Karen  
23 Strauss for those who cannot attend the second  
24 hearing.



1                   I will also be accepting requests to  
2 have a third hearing in Chicago. The third  
3 hearing would be to permit interested persons to  
4 provide testimony in response to the testimony of  
5 Karen Strauss. This response testimony will have  
6 to be prefiled by a date certain that I would  
7 establish through a later hearing officer order.

8                   I would like to note that copies of  
9 the transcript of today's hearing should be  
10 available at the board I believe it's eight  
11 working days, which would be September 18th or  
12 so.

13                   Shortly after that, the transcript  
14 should be available through the board's home page  
15 on the Worldwide Web. I will give the site for  
16 the board's home page on the Worldwide Web:  
17 WWW.IPCB.STATE.IL.US\. And you can certainly  
18 contact me or others at the board to find out the  
19 Web site identifier if that's not correct.

20                   Are there any other matters that  
21 need to be addressed before we adjourn?

22                   I would like to thank everyone for  
23 their participation today, and the hearing is  
24 adjourned.

1 MS. HENNESSEY: Thank you all for staying.  
2 (Whereupon, the hearing was  
3 adjourned at 6:20 p.m.)  
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1 STATE OF ILLINOIS )  
 )  
2 COUNTY OF C O O K )

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4 I, CARYL L. HARDY, CSR, do hereby state  
5 that I am a court reporter doing business in the  
6 City of Chicago, County of Cook, and the State of  
7 Illinois; that I reported by means of machine  
8 shorthand the proceedings held in the foregoing  
9 cause, and that the foregoing is a true and  
10 correct transcript of my shorthand notes so taken  
11 as aforesaid.

12

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15 \_\_\_\_\_  
CARYL L. HARDY, CSR  
Notary Public, Cook County, IL

16

17 SUBSCRIBED AND SWORN TO  
before me this \_\_\_\_ day  
18 of \_\_\_\_\_, A.D., 1997.

19 \_\_\_\_\_  
Notary Public

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