

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 STEPHEN G. BRILL,)

4)

5 Complainant,)

6)

7 vs) No. PCB 00-219

8)

9 HENRY LATORIA, individually and)

10 d/b/a TL TRUCKING FOODLINER.)

11)

12 Respondent.) VOLUME I

13

14

15 The following is a transcript of the
16 above-entitled cause before HEARING OFFICER BRADLEY
17 P. HALLORAN and stenographically taken before
18 TERRY A. STRONER, CSR, a notary public within and
19 for the County of Cook and State of Illinois, at
20 Suite 11-512, 100 West Randolph Street, Chicago,
21 Illinois, on the 26th day of September, A.D., 2001,
22 commencing at 9:00 o'clock a.m.

23

24

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

2 ILLINOIS POLLUTION CONTROL BOARD,
3 100 West Randolph Street
4 Suite 11-500
5 Chicago, Illinois 60601
6 (312) 814-8917
7 BY: MR. BRADLEY P. HALLORAN, HEARING OFFICER

8 KINTZINGER LAW FIRM,
9 100 West 12th Street
10 P.O. Box 703
11 Dubuque, Iowa 52004
12 (563) 588-0547
13 BY: MS. PATRICIA M. REISEN-OTTAVI

14 Appeared on behalf of the Respondent.

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1 HEARING OFFICER HALLORAN: Good morning. My
2 name is Bradley Halloran. I'm a hearing officer
3 here with the Illinois Pollution Control Board. I'm
4 also assigned to this matter involving Stephen G.
5 Brill, the complainant, versus Henry Latoria,
6 individually and doing business as TL Trucking
7 Foodliner, PCB No. 00-219.

8 Today's date is September 26th in the year
9 2001. This matter has been noticed pursuant to
10 Board regulations and has been publically noticed in
11 the local newspaper in the county that it is
12 effective here in Cook County, conducted in
13 accordance with Sections 103.202 and 103.203 of the
14 Board's regulations. It's a citizen enforcement
15 matter alleging violations of 9A and 24 of the Act
16 and regulations.

17 I want to note for the record that this
18 matter is continued on record. It was noticed up
19 originally for September 11th at 9:30. Due, one, to
20 the unavailability of rooms, we had to continue it
21 today.

22 Secondly, it was a tragic day, September
23 11th, the building was evacuated at 9:30 due to the
24 terrorist's activity so we could not have had the

1 hearing in any event on September 11th.

2 I also want to note for the record there
3 may or may not be a member of the public here.
4 Mr. Brill's indicated initially that she was a
5 member of the public, but now she may be testifying.
6 So regardless, it appears she is a member of public
7 and your name ma'am?

8 MS. HARRAH: Drema Harrah.

9 HEARING OFFICER HALLORAN: Could you spell that
10 for the court reporter, please?

11 MS. HARRAH: D-r-e-m-a, H-a-r-r-a-h.

12 HEARING OFFICER: Thank you. And you are
13 allowed to testify, but only subject to
14 cross-examination by Ms. Reisen.

15 MR. BRILL: Then I'm mistaken in the fact that
16 all of my witnesses are subject to
17 cross-examination, not just her.

18 HEARING OFFICER: That's correct, but she
19 wasn't on the witness list.

20 In any event, I also want to note for the
21 record that I will not be making the ultimate
22 decision in this case. In fact, the ultimate
23 decision in this case will be made by the Illinois

24 Pollution Control Board, which is comprised of seven

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1 members located throughout the state of Illinois
2 chosen for their environmental expertise.

3 My job is to ensure an orderly transcript
4 and a clear record and rule on any evidentiary
5 matters here at the hearing.

6 At this point, I'd like to have the
7 parties introduces themselves. Mr. Brill?

8 MR. BRILL: I'm Stephen G. Brill. I live at
9 9204 Crescent Drive in Franklin Park and I am to
10 conduct our part of the hearing.

11 HEARING OFFICER HALLORAN: You may remain
12 seated, Mr. Brill. Thank you very much.

13 MR. BRILL: I was in the army.

14 HEARING OFFICER HALLORAN: Ms. Reisen?

15 MS. REISEN: I'm Patricia Reisen-Ottavi. I'm
16 an attorney from Dubuque, Iowa and I represent
17 TL Trucking Foodliner.

18 HEARING OFFICER: What we'll do now and if I
19 may digress since -- is it Drema?

20 MS. HARRAH: Yes.

21 HEARING OFFICER HALLORAN: -- is offered as a
22 member of the public, she will take the stand, if at

23 all, after the close of the respondent's case in
24 chief. In any event, Mr. Brill, would you like to

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1 make an opening statement?

2 MR. BRILL: I have one prepared. Would it be
3 all right if I read it?

4 HEARING OFFICER: Anything you wish, sir.

5 MR. BRILL: Okay. Mr. Hearing Officer, members
6 of the Board, neighbors and ladies and gentlemen:
7 The complainant in this case is myself, a homeowner
8 with my wife, Oleta, for more than 34 years at 9204
9 Crescent Drive, Franklin Park. The respondent is TL
10 Trucking Foodliner, Incorporated of 9200 King Street
11 in Franklin Park.

12 With the testimony of other homeowners and
13 people who live in the area around Robinson Crusoe
14 Park in Franklin Park, we will demonstrate that
15 noise, dust fumes and headlight beams crossing TL
16 Trucking's property line and entering our property
17 and our homes in our neighborhood is having an
18 unreasonable and unacceptable negative impact upon
19 our daily lives.

20 We will also demonstrate through testimony
21 that noise, dust fumes and headlight beams

22 interferes with both daytime and nighttime
23 activities such as sleeping, gardening, outdoor
24 cooking and the relaxation within our very home.

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1 We will demonstrate interference with our
2 normal daily life in three ways; first, by witnesses
3 who will testify how the activities at TL Trucking
4 Foodliner directly impact their daily lives.

5 Secondly, we will introduce photographs of
6 dust, diesel exhaust and cleaning oversprays being
7 injected into the air we breathe.

8 Thirdly, we will introduce a metered sound
9 measurement and a sound expert with many years of
10 experience in the field to explain what those
11 measurements mean.

12 If we demonstrate to the Board that TL
13 Trucking is in violation of the Board's regulation,
14 we then implore the Board to bring TL Trucking into
15 full compliance with these regulations so this
16 neighborhood can return to a normal life.

17 HEARING OFFICER: Thank you, Mr. Brill.

18 Ms. Reisen?

19 MS. REISEN: Thank you.

20 As the Board is aware from Mr. Brill's

21 petition, Mr. Brill alleges several distinct
22 violations of noise and sound pollution both in the
23 Illinois Code and the Administrative Code and the
24 burden of proof lies upon Mr. Brill to prove each

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1 and every allegation that he's got in his petition
2 today for the Board to grant the relief that he is
3 requesting.

4 Specifically, we ask that the Board look
5 to its past rulings and its past proper procedure in
6 relying on objective and qualitative evidence before
7 making a ruling rather than making a ruling based
8 upon basically assertions of inconvenience and I'll
9 provide cites to the Court at the end of our close
10 of evidence.

11 Specifically, Mr. Brill is indicating that
12 today he's going to present to the court sound
13 readings and then also expert testimony and opinion
14 as to the sound readings, however, the Board should
15 be aware that the sound readings were not conducted
16 by that expert, were not done in accord with the
17 protocol and the quality assurance that this Board
18 is used to having and, therefore, does not take into
19 account extraneous or ambient noises and the

20 differentiation between those.

21 As the testimony is going to prove, the
22 sound recordings were done none other than by
23 Mr. Brill what I doubt has the training or the
24 background to provide expert readings to this Court.

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1 Additionally, this Court or this Board
2 should look to the fact that there's no evidence
3 that will be submitted as to chemical analysis or
4 dust analysis as to what he claims is in the air or
5 that those particles he claims are in the air are
6 due to my client.

7 We do have expert sound readings that we
8 will present this afternoon hopefully regarding the
9 noise in the area, both general noise and noise that
10 is attributed to my client.

11 Additionally, we will present evidence as
12 to the zoning in Franklin Park and perhaps the
13 irregularity in how the two areas that are adjacent
14 are zoned as well as evidence as to prior complaints
15 that Mr. Brill has made that have been investigated
16 by Franklin Park and found to be without merit or
17 basis.

18 The bottom line that I think the Board is

19 going to realize when this is done is that Mr. Brill
20 and his fellow residents unfortunately live in a
21 quite industrial and noisy area and that without
22 sufficient objective and qualitative evidence that
23 the noise or dust comes from my client, this Board
24 is going to have a very difficult time with the

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1 strictures of due process indicating that my client
2 is the basis for whatever remedy Mr. Brill is
3 seeking.

4 HEARING OFFICER HALLORAN: Thank you,
5 Ms. Reisen. Mr. Brill, you may call your first
6 witness.

7 MR. BRILL: All right. Before I would call my
8 first witness, I would like to allude to the map on
9 the wall. This is a map that was taken off of a
10 copy in the Village of Franklin Park hall and I
11 enlarged it and that said, I don't know, does that
12 have to be entered into -- do I have to enter that?

13 HEARING OFFICER: It doesn't have to be, no.

14 MR. BRILL: No, I didn't think so. It was just
15 for our convenience.

16 HEARING OFFICER HALLORAN: For illustrative
17 purposes. All right.

18 MR. BRILL: For my first witness, I will call
19 my wife, Oleta F. Brill.

20 HEARING OFFICER HALLORAN: You could step over,
21 please, and the court reporter will swear you in.

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1 (Witness sworn.)

2 WHEREUPON:

3 O L E T A B R I L L,
4 called as a witness herein, having been first duly
5 sworn, deposeth and saith as follows:

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

7 by Mr. Brill

8 Q. Oleta, please tell us where you live.

9 A. 9204 Crescent Drive, Franklin Park.

10 Q. Does anyone live there with you?

11 A. Yes, my husband, you, Stephen.

12 Q. Do you own this house?

13 A. Yes, we do.

14 Q. When did you and your husband move into
15 that house?

16 A. December '65.

17 Q. What is your occupation?
18 A. Mail flow controller at the post office.
19 Q. Are you taking time off to be here today?
20 A. Yes, I am.
21 Q. Would you elaborate how much time?
22 A. I work nights so I had to take off last
23 night, tonight and tomorrow if it's a two-day court.
24 Q. Please look at Complainant's Exhibit A,

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1 that's our Exhibit A, does that appear to be a
2 reasonable diagram of the area in which you live?
3 A. Yes, it does.
4 HEARING OFFICER HALLORAN: Is that going to be
5 an exhibit, sir, or just -- you can refer to it as a
6 diagram not Exhibit A.
7 MR. BRILL: I have it marked as Exhibit A. It
8 would be an exhibit.
9 HEARING OFFICER HALLORAN: May the record so
10 note that two gentlemen just entered the room. I
11 believe they're witnesses for the respondent. You
12 may proceed, Mr. Brill. Sorry.
13 MR. BRILL: Thank you.
14 BY MR. BRILL:
15 Q. Could you make a B on the diagram where

16 your house is located?

17 A. 9204, so there would be a B right here
18 (indicating).

19 Q. Could you make a C on the diagram where TL
20 Trucking Foodliner is located?

21 A. This spot where it says 9200, this would be
22 a C, this is TL Trucking (indicating).

23 Q. And could you make a D on the diagram where
24 Robinson Crusoe Park is?

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1 A. Where it says park, that is the Robinson
2 Crusoe Park.

3 Q. Are the street names on the diagram
4 correctly placed?

5 A. Yes. River, Robinson, Birch, Crescent,
6 King Street.

7 Q. You can sit down again.

8 Do you know when the homes of the area
9 within that diagram were built?

10 A. Our home is one of the newer homes, but it
11 was built in the late '50s. The other homes are
12 much older. I'm not sure of their dates.

13 Q. But they were there when you bought your
14 home?

15 A. Yes.

16 Q. Okay.

17 A. No new homes have been built since.

18 Q. Would it be correct to say then that these
19 homes and this neighborhood are older -- are older
20 homes in an established area?

21 MS. REISEN: Objection, the witness has already
22 testified as to the date. He's calling for a
23 conclusion at this point.

24 HEARING OFFICER: She can answer if she knows

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14

1 the answer.

2 MR. BRILL: I'll repeat the question.

3 BY MR. BRILL:

4 Q. Would it be correct to say then that these
5 homes and this neighborhood are older -- are older
6 homes in an established area?

7 A. Yes, it's an established area. It's a one
8 way in, one way out area.

9 Q. I didn't ask that, but I'll go to the next
10 question.

11 Since you've lived in this home on
12 Crescent Drive, could you describe living there over
13 the years?

14 A. Yes. It's been a very well maintained
15 neighborhood and as I said before, it's a one way
16 in, one way out, no truck traffic is allowed except
17 on Robinson and the park has brought all of the
18 neighborhood on our side together. Everybody knows
19 the children. It's a very good neighborhood to live
20 in.

21 HEARING OFFICER: Ms. Brill, if I may interject
22 here, when did you say you moved to your present
23 residence?

24 THE WITNESS: December '65.

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1 HEARING OFFICER: Thank you.

2 BY MR. BRILL:

3 Q. Before TL Trucking started up operations
4 next to your neighborhood, where would you go to
5 relax after a day's work?

6 A. Well, first of all, it would be my home,
7 but when the weather permits, it would be outside.
8 I particularly like my garden and our deck. We also
9 had at one time was on the front of our house a
10 stoop and also we could go to the park.

11 Q. Okay. Now that TL Trucking has set up
12 operations, can you relax in your backyard?

13 A. No. There's too much noise, too much dust.
14 It's noise that comes any time, all the time.

15 Q. What about on your deck?

16 A. No, it's too dirty. We used to eat out all
17 the time during the good weather. It's too dirty,
18 too dusty, too noisy.

19 Q. What about the use of your front porch?

20 A. For this year and most of last year, no, we
21 do not go on the front porch anymore. The dust and
22 noise is just too much.

23 Q. Do you go to Robinson Crusoe Park to relax?

24 A. I used to go over to talk to the neighbors

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1 and -- not really play with their children, but to
2 get acquainted with their children, but I don't go
3 over there anymore. In fact, I don't think too many
4 people go there.

5 Q. How does diesel fumes get into the park?

6 A. From tractors idling and depending on the
7 wind, it just waffles over to the house.

8 Q. Is it possible to get away from the noise,
9 dust fumes and headlights by staying indoors?

10 A. No. It penetrates the house.

11 Q. How was your home built that noise, dust

12 and fumes and headlights can enter?

13 A. I'm not sure. The house should be -- it
14 should be where all of this wouldn't penetrate. The
15 house is well built. It's all brick. It's well
16 insulated. We have carpeting. We have drapes, but
17 it vibrates through the house. The windows used to
18 be open, but we don't open windows anymore because
19 of the diesel fumes.

20 Q. How do you know that the noise, dust fumes
21 and headlights come from TL Trucking?

22 A. By seeing the headlights come through the
23 living room window and you can see they are coming
24 directly from TL Trucking. The noise, if it's

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1 continuous, you can open the door and you can look
2 out and the activity that's going on coincides with
3 the noise.

4 Q. How do you know the noise comes from TL
5 Trucking?

6 A. Well, like I say, I see -- you observe the
7 activity that's going over -- going on over there
8 coincides with what's going on and what you see.

9 Q. How do you know the dust comes from TL
10 Trucking?

11 A. By seeing the way the tractors are
12 traversing across the yard, the clouds of dust are
13 coming up and the wind catches it and it comes right
14 over.

15 Q. How do you know the fumes are coming from
16 TL Trucking?

17 A. First of all, by smelling, of course, but
18 when you see tractors that are just idling
19 continuously and usually the ones that are idling
20 have their lights on and to prove it out, I've
21 walked over to see into the park.

22 Q. How far is it from your property line to
23 the fence that TL Trucking built next to the park?

24 A. I'm not good at distance. I really don't

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1 know. Across from my house, the street and then the
2 park which would be about a length of a house if
3 there was a lot over there. I don't know how far
4 that would be.

5 Q. If you were in Robinson Crusoe Park, how
6 near to the trucks at TL Trucking would you be?

7 A. Well, it would cut down the distance from
8 my house. If I was in the basketball court, I'm
9 almost up against it. Coming back by the slides and

10 the swings, about 30 feet maybe.

11 Q. In other words, are you saying that the
12 basketball court is right next to the fence that TL
13 Trucking built?

14 MS. REISEN: Objection, leading.

15 HEARING OFFICER: Do you want to rephrase that,
16 please, Mr. Brill?

17 MR. BRILL: Sure.

18 BY MR. BRILL:

19 Q. The basketball court you mentioned, how
20 close is that to TL Trucking's fence?

21 A. It's right -- the court itself is not right
22 up against the fence. There is about a two-foot
23 wide cement slab going all around it, which is right
24 up against the fence.

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1 Q. Over the years you have lived on Crescent
2 Drive, have you heard any noises from former
3 businesses that have occupied the 9200 King Street
4 site?

5 A. Very little. There was supposed -- there
6 was a company there when they moved out, I heard a
7 lot of banging, but that was only for a day or two
8 when they were moving.

9 Q. Can you describe those noises? I guess you
10 already had. Any other noises?

11 A. There was a clunking thing. For some
12 reason, I happened to look out and I saw them
13 lifting old refrigerators and dropping them into
14 dumpsters.

15 Q. Over the years that those other companies
16 were located at that site, didn't any noise bother
17 you?

18 A. Would you repeat that?

19 Q. Over the years that there had been other
20 companies at that 9200 King Street site, didn't any
21 noise coming from there bother you?

22 A. No.

23 Q. In 1999 when TL Trucking took over the 9200
24 King Street site, were there any changes in the

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1 noise levels coming from that area?

2 A. Yes, it increased definitely.

3 Q. Did you notice if TL Trucking did anything
4 to mitigate the noise they were producing?

5 A. If they did, it didn't work. In fact, it
6 seemed that the noise just increased. There was a
7 fence there that they tore down and that just seemed

8 to intensify even though they put a chain link fence
9 in place of a chain link fence. The other one had
10 canvass. This one has slats, but, no.

11 Q. This is repetitive because you already
12 answered it, did TL Trucking replace the fence they
13 removed?

14 A. Yes, but it took them a long time.

15 Q. Did it lessen the noise?

16 A. No. The noise just increased maybe because
17 of their traffic.

18 Q. What kind of fence did TL Trucking build?

19 A. They built a chain link fence with slats in
20 it.

21 Q. How long did it take to put up this fence?

22 A. About five months. They tore the one down
23 and it was just wide open.

24 Q. Wasn't a temporary fence put up?

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1 A. Temporary nothing. Nothing was put up
2 there.

3 Q. Did TL Trucking do anything to mitigate the
4 light pollution coming into your home?

5 A. No. No, they didn't.

6 Q. Did TL Trucking do anything to control the

7 dust from their lot?

8 A. Only when we called the health department
9 of Franklin Park and then they sent someone out
10 there and sprayed water -- took a water hose and
11 tried to spray it down.

12 Q. Did TL Trucking do anything to control the
13 use of air horns at their facility?

14 A. If they did, it didn't work because we
15 still hear air horns 24 hours a day.

16 Q. Not constantly?

17 A. No, not constantly, but you just never know
18 when it's going to happen. What I was trying to
19 emphasize is it could happen day, night, morning.

20 Q. Did TL Trucking do anything to control
21 other noises from their facility?

22 A. We called the Franklin Park Police about a
23 telephone ringing on the outside and they did stop
24 that and one time I called at 2:30 in the morning

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1 because they were -- sprayers or some kind of loud
2 noise was going and the police came and stopped
3 them.

4 Q. What does TL Trucking facility look like
5 from your property line?

6 A. When I look at that property, I first see
7 the tanker sticking up about one to three -- one to
8 two or three feet above the chain link fence. It
9 has slats in the fence, but you can still see
10 through it. Spaces that are open where a truck has
11 been, you can see into a gravel yard and to a brick
12 building with several bays.

13 Q. Has that stone yard been paved lately?

14 A. Not that I can see.

15 Q. How many tanker trucks are in the yard at
16 any given time?

17 A. From what I can see across the north side,
18 anywhere from ten to 20, but for the whole yard, I
19 don't know.

20 HEARING OFFICER HALLORAN: If we can stop for a
21 moment, we're still on the record, a lady just
22 entered the room and, ma'am, are you one of
23 Mr. Brill or Ms. Reisen's witnesses or are you a
24 member --

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1 MS. GIBAS: Mr. Brill.

2 HEARING OFFICER HALLORAN: Okay.

3 MS. GIBAS: Mr. Brill.

4 HEARING OFFICER HALLORAN: Thank you very much.

5 THE REPORTER: Could you state your name,
6 please?

7 MS. GIBAS: Nancy Gibas, G-i-b-a-s.

8 BY MR. BRILL:

9 Q. How many trucks or tankers are being washed
10 in the bay areas at any given time?

11 A. It looks like one to three because I think
12 I do see three bays over there.

13 Q. How do they clean these tanker trucks?

14 A. I'm not sure. I just hear loud motorized
15 sprayers of some kind and you do see mist coming out
16 of the bays and there's another very loud noise that
17 sounds like metal on metal, but I don't know if
18 they're cleaning the inside or what, but I'm not
19 sure how they do that.

20 Q. Aside from the areas of relaxation around
21 your home and park, does the light from TL Trucking
22 impact your life in any other way?

23 A. Yes, it does. We do not use our living
24 room anymore. The lights come right into our

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1 picture windows so it's made that room useless.

2 Q. How does the diesel fumes affect your life?

3 A. It stinks, you can hardly breathe. We have

4 to keep the windows closed.

5 Q. How does the dust affect your life?

6 A. You can taste it, it's all over our garden,
7 all over our flowers, our plants, all over our lawn
8 furniture, our deck, our cars. It's everywhere.

9 Q. How does the noise from TL Trucking impact
10 your daily life?

11 A. Tremendously. I work nights and I'm
12 usually at home in bed at 8:00 o'clock in the
13 morning. Whether it's hot or cold, I have to have a
14 window air conditioner running at all times either
15 on the fan or either on the cooling because they
16 wake me up, and it's also during the day when I am
17 up, I can't concentrate to read, watch TV.
18 Sometimes we have to turn the TV up louder and the
19 noise is sharp and very startling too.

20 Q. What are some of the noises from TL
21 Trucking that actually wake you up?

22 A. Air horns first, air brakes, riveting of
23 motors, clanking of -- I guess they call them
24 hatches on top of the tankers.

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1 Q. Why would TL Trucking allow tractors to
2 sit at idle with the cost of fuel so high?

3 MS. REISEN: Objection, calls for speculation,
4 also calls for a conclusion.

5 HEARING OFFICER HALLORAN: Rephrase that,
6 Mr. Brill, please.

7 MR. BRILL: No, I'll scratch that.

8 BY MR. BRILL:

9 Q. Is there anything else you would like to
10 add to the record about the disruption of your life
11 from TL Trucking?

12 A. Just that it's reduced the quality of life
13 that we have had when you cannot use your home the
14 way you expect to. It has gotten to a point where
15 it's noisy where I work, but I hate coming home
16 sometimes because I know it's going to be noisy.

17 Q. You said that dust from TL Trucking settles
18 on your windows, your outdoor chairs and your cars,
19 can you explain how that impacts your life?

20 A. Well, I like clean windows in my house so
21 now we -- I just don't clean windows because the
22 dust starts accumulating almost immediately. I
23 cannot -- when I leave for work at night, I have to
24 wash the windows because it's dark and it's dusty.

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1 Q. Is it possible that the noise, dust fumes

2 and odors are coming from some other source other
3 than TL Trucking?

4 A. I don't think so because there was -- it
5 wasn't there before they moved in. There was no
6 other company that was doing that.

7 Q. Are there any other noises you hear in your
8 home that are not from TL Trucking?

9 A. We hear emergency vehicles, the sirens, we
10 hear an occasional motorcycle and sometimes someone
11 will go through with a loud radio.

12 Q. Are there any days when you don't hear
13 noise from TL Trucking?

14 A. Rarely ever. It might go as long as an
15 hour or two, but there's always something coming
16 from there.

17 Q. Have you ever done anything to resolve the
18 noise and dust problems with TL Trucking?

19 A. Yes. We've called the police. We've
20 called the health department.

21 Q. And did they help you out?

22 A. For a while they did and they did tell them
23 to stop their noise, but then if I remember
24 correctly, that would be interfering with someone

1 who has a business and they had to let them
2 continue.

3 Q. All right. It's sort of repetitious here,
4 but I'll ask it anyhow, why didn't the village curb
5 the noise from TL Trucking?

6 MS. REISEN: Objection, again, calls for
7 speculation.

8 HEARING OFFICER HALLORAN: I'll allow it.

9 MR. BRILL: How is that?

10 HEARING OFFICER HALLORAN: I'll allow it. Go
11 ahead. You can answer.

12 BY THE WITNESS:

13 A. What was the question?

14 BY MR. BRILL:

15 Q. Why didn't the village curb the noise from
16 TL Trucking?

17 A. Why didn't they? I don't know really.

18 Q. What prompted you to act against TL
19 Trucking?

20 A. Because we weren't getting the support from
21 Franklin Park Police and health.

22 MR. BRILL: No more questions.

23 HEARING OFFICER HALLORAN: Ms. Reisen, cross?

24 MS. REISEN: Thank you. And before I start the

1 cross, there are a few photos that are the Brills
2 that I would like to enter into evidence. Would you
3 like me to enter Mr. Brill's actual photos or mark
4 them as my own exhibits? He's provided me copies
5 prior to today's hearing.

6 HEARING OFFICER HALLORAN: You can enter them
7 if you so wish and then Mr. Brill will not have to
8 enter duplicate copies.

9 MR. BRILL: I have my photographs, but there's
10 holes in the numbering because I sent her some of
11 them that I didn't have duplicates of.

12 HEARING OFFICER HALLORAN: Hopefully we can
13 figure it out.

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

15 by Ms. Reisen

16 Q. Ms. Brill, how long have you been working
17 at the -- I assume the post office?

18 A. 28 years.

19 Q. And that's a full-time position?

20 A. Yes, it is.

21 Q. Okay. Can I ask how old you are?

22 A. Fifty-eight.

23 MR. BRILL: What?

24 MS. REISEN: I'm going to ask that Mr. Brill

1 keep his comments to a minimum as we are making a
2 record.

3 MR. BRILL: Understood.

4 BY MS. REISEN:

5 Q. You indicated that you moved into your home
6 in December of 1965. Were you aware of what
7 Crescent Drive was zoned as in 1965?

8 A. No.

9 Q. Okay. You made no inquiry at the time of
10 buying your home then as to your zoning, did you?

11 A. Actually, my husband bought the house
12 before we were married and I was not involved with
13 that at that time so I would not know that answer.

14 Q. Okay. At any time since you've resided in
15 the home, have you determined or ascertained what
16 the zoning for Crescent Drive is?

17 A. My husband may have asked about that, but I
18 did not.

19 Q. Okay. Are you aware as to what the zoning
20 was for King Street in 1965 when you moved into the
21 home?

22 A. I'm not aware, but I don't know if you
23 allow assumptions, it is all factories and at the
24 time when we moved in there, the post office was on

1 King and River.

2 Q. At any time since 1965, has the zoning for
3 King Street changed to the best of your knowledge?

4 A. I don't know.

5 Q. Okay. Have you ever been active in any of
6 the Franklin Park city council meetings?

7 A. No, I haven't.

8 Q. Okay. On what we have on the wall that's
9 being referred to as Exhibit A, but has not been
10 entered into evidence, you did not actually obtain
11 that diagram, did you?

12 A. I had a map and I showed it to my husband
13 and he is the one that had that blown up.

14 Q. Where did you obtain that map from?

15 A. It was a map that Franklin Park had passed
16 around over the years. I don't remember
17 specifically why they gave that out, but we had it.

18 Q. Do you remember approximately when you
19 would have obtained that map?

20 A. I think we've had it for ten or 15 years.

21 Q. Okay. So if there are any changes in lot
22 lines since you've obtained the map, your map would
23 not reflect that, correct?

24 A. Probably, correct, yes.

1 Q. Okay. Do you have any idea if that map is
2 drawn to scale or is it just basically a
3 representation of the area?

4 A. I don't understand what you mean by scale.

5 Q. Okay. Are you aware of the actual
6 measurements, say, of Robinson Crusoe Park?

7 A. No, I'm not.

8 Q. Are you aware of the actual measurements of
9 TL Trucking Foodliner?

10 A. No, I'm not.

11 Q. Are you aware of the actual measurements of
12 your own lot?

13 A. I used to know, but I would have to look at
14 the plat.

15 Q. All right. So at any time since you've
16 obtained that map, have you made an investigation or
17 ascertained that the lot lines as depicted on the
18 map correspond with actual dimensions of each lot?

19 A. No.

20 Q. Now, if you look to the right-hand corner
21 of Exhibit A, up in the top there's a road called
22 River Road, do you see that?

23 A. Yes.

24 Q. Describe River Road to me.

1 A. It's a four-lane highway, there's a lot of
2 traffic during the rush hours.

3 Q. And what kind of traffic?

4 A. A lot of -- not residential, but a lot of
5 commuters that are going to work and a lot of truck
6 traffic.

7 Q. Okay. And although it's not portrayed on
8 the map, River Road intersects with King Street, is
9 that your recollection?

10 A. Yes.

11 Q. And you've indicated with a C on Exhibit A
12 as to where TL Trucking Foodliner is and you've also
13 indicated there are other factories on King Avenue.
14 Can you name some of the other businesses on King
15 Street?

16 A. No, I don't -- I can't name -- the latest
17 is on the corner of River and King Street and that's
18 Rosemont Exposition, but I only noticed that because
19 I drive by there. I don't go up and down King
20 Street.

21 Q. When was the last time you did drive down
22 King Street?

23 A. '99 when they opened up. I wanted to know
24 who they were and I drove over and was looking on

1 their front windows.

2 Q. Okay. And at that time, did you ascertain
3 other businesses that were on King street?

4 A. Yes.

5 Q. Okay. You just don't recall what they are?

6 A. The only other one too is Belmont Plating
7 and that's on -- right at River and King.

8 Q. Okay. Are you aware of Letter-Rite, Inc.
9 being on King Street?

10 A. No.

11 Q. Micromatic Spring?

12 A. No.

13 Q. Just Manufacturing?

14 A. Huh -huh.

15 Q. Value Machinery Company?

16 A. No, no.

17 Q. How about Bruner Forge?

18 A. Huh-huh.

19 Q. Do you know what Bruner Forge is?

20 A. Huh-huh.

21 MS. REISEN: Permission to approach the
22 witness, your Honor?

23 HEARING OFFICER: By all means.

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1 BY MS. REISEN:

2 Q. Ma'am, I'm going to hand you several
3 photos, the first two are what I've previously
4 marked as Respondent's Exhibit 29 and 30 and ask you
5 if you at least recognize the streets depicted in
6 the intersection in those photographs?

7 A. Uh-huh.

8 Q. And what's the intersection depicted?

9 A. This is River and the one that's here is
10 King Street, River and King.

11 Q. And that's noted also aside from your
12 recollection by the street sign and the marking in
13 each photo, is that correct?

14 A. Uh-huh.

15 Q. Okay. There's also in each photo a sign
16 that indicates numerous businesses, isn't that
17 correct?

18 A. Uh-huh.

19 Q. And has that sign been there for a period
20 of time to the best of your recollection?

21 A. Well, according to the letters, yeah, but
22 not all of them are -- it's not all filled in, is

23 it?

24 Q. Okay.

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1 A. King Street has been vacant -- most of it's
2 been vacant over the years that we've lived on
3 Crescent.

4 Q. You just testified, however, you've not
5 been down King Street since at least 1999 so you're
6 really not able to testify as to what's operating on
7 King Street today, are you, ma'am?

8 A. No.

9 Q. There are also some railroad track
10 interchanges that are in the vicinity of your
11 neighborhood, is that correct?

12 A. Uh-huh.

13 Q. They're not depicted on Exhibit A, but
14 approximately where would those be located?

15 A. Let's see, to the left hand there's another
16 street here, Lombard and Martin and then there's a
17 railroad over here.

18 MS. REISEN: And for clarification for the
19 record, the witness is exhibiting to the left-hand
20 margin of Exhibit A.

21 BY MS. REISEN:

22 Q. What would you estimate as the distance to
23 those interchanges?

24 A. You read my mind. About three blocks, I

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1 guess.

2 Q. All right. How many sets of tracks go by
3 there?

4 A. I have no idea. As far as I know, it's
5 mostly trains that carry products. I don't know
6 what you call those trains, carriage, cargo trains
7 -- cargo trains and possibly Amtrak.

8 Q. Okay. And you can hear those train
9 whistles from your house, can you not?

10 A. Sometimes, yes.

11 Q. Additionally, you're within a fairly close
12 proximity to O'Hare Airport, is that not correct?

13 A. Uh-huh.

14 Q. What would you estimate the distance
15 between your home and O'Hare?

16 A. It's within three miles.

17 Q. All right. And O'Hare is pretty easily
18 stated one of the busiest airports in the state of
19 Illinois, would you agree?

20 A. That's what I've read.

21 Q. Okay. And to the best of your knowledge,
22 do planes take off and land from O'Hare around the
23 clock?

24 A. Pretty much, but it's not really around the

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1 clock if you do hear airplanes. It gets very quiet
2 at night.

3 Q. Okay. Can you hear the airplanes from your
4 home?

5 A. Not directly over my home. When I do hear
6 them -- I've lived around O'Hare over 40 years, you
7 hear a plane, you hear a gradual noise that comes
8 and then you hear it gradually fading away, but they
9 don't come over our house that often.

10 Q. That's a pretty recent development, isn't
11 it?

12 A. What?

13 Q. Didn't they just change the flight patterns
14 in the last few years so that the planes don't fly
15 directly over your homes?

16 A. Last few years.

17 Q. So prior to that, they did however?

18 A. Yeah. But it wasn't -- most of the take
19 offs are off to the west.

20 Q. Okay. Now, also in your general
21 neighborhood but not on King Street is Dean Foods,
22 are you aware of that?

23 A. Yes.

24 Q. And where is Dean Foods located?

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1 A. Say in that -- at the top would be north
2 Robinson so it would be on the north side of
3 Robinson there.

4 Q. I'm going to hand you my highlighter and
5 ask that you make an X where you believe Dean Foods
6 is located.

7 A. But you realize there's houses along here.
8 Okay. So Dean is -- they come in on River so
9 they're in here -- right in here (indicating).

10 Q. So slightly off the top portion of Exhibit

11 A?

12 A. Yeah.

13 MR. BRILL: Objection. She indicated the edge
14 of the map and Dean Foods is at least --

15 MS. REISEN: Your Honor, I'm going to object.
16 Mr. Brill can testify as to his belief of the
17 location when he takes --

18 HEARING OFFICER HALLORAN: Mr. Brill, you can

19 finish your objection.

20 MR. BRILL: Her indication on a map is just on
21 the edge, which makes it look a lot closer to
22 Robinson Drive than what Dean Foods actually is and
23 previously she testified where the railroad tracks
24 were and in proportion to that map they would be

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1 somewhere out about a foot from the edge of that
2 map, not on the very edge.

3 HEARING OFFICER HALLORAN: The record will
4 reflect your concerns. Your objection is overruled.
5 You may proceed, Ms. Reisen.

6 BY MS. REISEN:

7 Q. Are you aware of the business hours of Dean
8 Foods?

9 A. No, I'm not.

10 Q. Okay. Are you aware of the business hours
11 of any of the other factories located on King
12 Street?

13 A. Just observing when I drive down River Road
14 the immediate ones -- the newest one, Rosemont
15 Exposition and Belmont Plating, they seem to be
16 anywhere from an eight to a 12-hour operation.

17 Q. Okay.

18 A. And rarely ever -- they're closed on
19 Sundays.

20 Q. Is it your understanding that many of the
21 other factories that are located on King Drive as
22 well as Dean Foods, which is to the north of you,
23 operate largely by use of semi-trailer?

24 A. Yeah.

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1 Q. Okay. Are you aware of what business was
2 on 9200 King Street prior to my clients moving in?

3 A. I was aware that someone was in there, yes.

4 Q. And what sort of business was that?

5 A. I don't -- I think it was a recycling
6 plant. That's all I know.

7 Q. Would a salvage yard be a better
8 description?

9 A. Uh-huh.

10 Q. Are you aware of the activities that went
11 on in the salvage yard?

12 A. Rarely ever. It seemed that they were
13 eight hour, five days a week.

14 Q. Okay. How long have you been working
15 nights?

16 A. 36 years.

17 Q. So what time do you usually leave your home
18 to leave for work and what time do you come back?

19 A. I leave my home about 20 minutes after
20 10:00 o'clock at night and I come -- I arrive back
21 between 7:15 and 7:30 in the morning.

22 Q. Okay. You had testified that TL Trucking
23 Foodliner has done little to nothing in order to
24 meet the concerns of the neighborhood, is that a

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1 fair assessment of your testimony?

2 A. Yes.

3 Q. Okay. I'm going to hand to you several
4 photographs.

5 HEARING OFFICER HALLORAN: At the end of the
6 hearing we'll go through all the exhibits and get a
7 description and so forth.

8 BY MS. REISEN:

9 Q. I'm going to hand you first what's been
10 marked as Respondent's Exhibit 13, Respondent's
11 Exhibit 14. Do you recognize that fencing?

12 A. Yes, I do.

13 Q. And Respondent's Exhibit 13 specifically is
14 a closer view of what Respondent's Exhibit 14
15 depicts, is that correct?

16 A. Uh-huh.

17 Q. And what do you recognize that fence as
18 being from?

19 A. From or in front of TL Trucking.

20 Q. Okay. So that's the fence that runs
21 between TL Trucking Foodliner and Robinson Crusoe
22 Park, is that correct?

23 A. Uh-huh.

24 Q. And those are the -- the green depicted on

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1 the photograph, the slats that you referred to?

2 A. Uh-huh.

3 Q. I'm also going to hand you what's been
4 marked as Respondent's Exhibit No. 58 and again ask
5 you, is that the same fence that you recognize as
6 being between my client's property and Robinson
7 Crusoe Park?

8 A. Yes. It looks like it's on the other side.
9 I've never been on the other side.

10 Q. Okay. Are you aware of any other wall or
11 fencing or structure that runs adjacent to this
12 fence?

13 A. I'm not sure I understand the question.

14 Q. Okay. Let me direct your attention to

15 Respondent's Exhibit No. 14. You can see the fence
16 line with the slatting in it, correct?

17 A. Uh-huh.

18 Q. What do you see directly underneath that
19 fence line?

20 A. It looks like about a one and a half, two
21 foot cement support.

22 Q. Okay. And you're saying that with a bit of
23 question in your voice. I'm assuming you're not
24 entirely sure as to what that -- how long that is or

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1 how deep that is, is that correct?

2 A. Right. I don't know how deep it is or how
3 long it is. It runs across the property.

4 Q. And it appears at least from the exhibit
5 that it runs across the entire length of the
6 fencing, correct?

7 A. Yes.

8 Q. As we sit here today, that fencing covers
9 the entire north boundary lot of TL Trucking
10 Foodliner, is that correct?

11 A. Correct.

12 Q. And in what year and months are you
13 claiming that it took the fence to be put up?

14 A. That was -- I don't remember if it was
15 March or April in 2000. I'm not sure of those
16 dates.

17 Q. Okay. But for at least a year plus we've
18 had that fence up the way it stands today, correct?

19 A. Just about, yeah.

20 Q. You indicated today that TL Trucking has
21 done nothing to reduce the light coming in the home.
22 Is it a fair statement that if this fence were up
23 without the slats, you would have more light coming
24 into your home than you do now?

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1 A. Sure. But that -- you could see through
2 those slats. I mean, the light just comes right
3 through and they bounce too when they hit those pot
4 holes.

5 Q. My question is however that the slats
6 provide a better protection than no slats, is that a
7 fair statement?

8 MR. BRILL: Objection, that's not a question.

9 HEARING OFFICER HALLORAN: Overruled. You can
10 answer.

11 BY THE WITNESS:

12 A. I don't know that it's better. It does

13 shine through. I need something better.

14 BY MS. REISEN:

15 Q. When you look at the map, are you aware on
16 my client's property where the building is located
17 where the trucks are washed and maintained?

18 A. It's a little more than half way towards
19 King Street, but I would not say how far.

20 Q. Okay. Can you take my highlighter again
21 and put a box where you estimate that the building
22 that the truck repair is completed at?

23 A. I know they've got a front building. I
24 don't know how far back it goes, but it's somewhere

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1 like in here (indicating).

2 Q. Thank you.

3 And your home, at least according to
4 Exhibit A, is slightly north and to the right on the
5 diagram of the wash bays, is that correct?

6 A. Uh-huh.

7 Q. Okay.

8 A. Correct.

9 Q. I'm going to hand you what's been marked as
10 Respondent's Exhibit 54, do you recognize that home?

11 A. Uh-huh. That's my home.

12 Q. Actually, that's one of the photographs
13 that you and/or your husband took, is that not
14 correct?

15 A. Correct.

16 Q. And do you remember when that was taken?

17 A. No, I don't. I think it was last year,
18 though.

19 Q. Okay. But that is an accurate
20 representation of your house as it stands today?

21 A. Correct.

22 MS. REISEN: We'd move for admission of Exhibit
23 -- Respondent's Exhibit 54 at this time.

24 HEARING OFFICER HALLORAN: Mr. Brill?

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1 MR. BRILL: No objection.

2 HEARING OFFICER HALLORAN: Respondent's Exhibit
3 54 and that's depicting --

4 MR. BRILL: One question, is there a date
5 printed on the back of the picture?

6 THE WITNESS: Yes.

7 MR. BRILL: That would give you a fair
8 indication of when it was taken.

9 THE WITNESS: November 2000.

10 HEARING OFFICER HALLORAN: Respondent's Exhibit

11 54 depicts the front of -- Ms. Reisen?

12 MS. REISEN: Of 9204 Crescent Drive.

13 HEARING OFFICER HALLORAN: Thank you. The date
14 on the photo?

15 THE WITNESS: No. This would not correspond
16 because it says November 2000. If it was November
17 there would not be any leaves on the tree.

18 BY MS. REISEN:

19 Q. I'm assuming the date would correspond to
20 when it was probably developed?

21 A. Yes.

22 HEARING OFFICER HALLORAN: Okay. So noted.
23 Thank you. Respondent's Exhibit 54 is admitted.

24

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1 BY MS. REISEN:

2 Q. I'm also going to hand you Respondent's
3 Exhibit 55 and ask if that's just another view of
4 your home?

5 A. It's a view of my car and my home.

6 Q. Okay. And is that an accurate depiction of
7 what your yard may look like on a given summer day?

8 A. Uh-huh.

9 Q. Again, that's from the same set of photos

10 that you and/or your husband took?

11 A. Uh-huh.

12 Q. But you're not able to ascertain exactly
13 when that would have been?

14 A. Huh-huh.

15 MS. REISEN: We'd move for admission of Exhibit
16 55 at this time.

17 HEARING OFFICER HALLORAN: Any objection,
18 Mr. Brill?

19 MR. BRILL: No, they're my pictures.

20 HEARING OFFICER HALLORAN: Respondent's Exhibit
21 55 is admitted.

22 BY MS. REISEN:

23 Q. I'm now going to hand you what's been
24 marked as Respondent's Exhibits 56 and 57 and again,

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1 those are photos that you and/or your husband took,
2 correct?

3 A. Uh-huh.

4 Q. And they depict what area?

5 A. This one, 56, shows the front of Robinson
6 Crusoe Park, the entrance and the fence around it
7 and that was taken in the fall. It has leaves on
8 it.

9 Q. Would that have been taken in this fall,
10 fall 2001?

11 A. No.

12 Q. Would it have been taken in fall 2000?

13 A. Uh-huh. And this one is inside the park
14 and it's showing the swings and the basketball court
15 with TL Trucking tankers in the back.

16 MS. REISEN: We would move for admission of 56
17 and 57 at this time.

18 HEARING OFFICER HALLORAN: Any objection,
19 Mr. Brill?

20 MR. BRILL: No.

21 HEARING OFFICER HALLORAN: Fifty-six and 57 are
22 admitted.

23 BY MS. REISEN:

24 Q. You had previously testified, Ms. Brill,

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1 that prior to TL Trucking moving into the
2 neighborhood, you enjoyed outdoor activities,
3 correct?

4 A. Correct.

5 Q. Such as gardening?

6 A. Uh-huh.

7 Q. And is it your statement that you no longer

8 engage in those activities because of my client?

9 A. True.

10 Q. Okay.

11 A. I do, but I don't enjoy it anymore. It's a
12 useless job now.

13 Q. I'm going to direct your attention to both
14 54 and 55. You have numerous flowers in front of
15 your home, correct?

16 A. Uh-huh.

17 Q. And they appear to be petunias and
18 marigolds, which would be annuals -- excuse me, you
19 have to plant those every year, correct?

20 A. Uh-huh.

21 Q. So despite all this, you continue to keep
22 up your flower garden, correct?

23 A. I still try. This was an exceptional
24 picture. We only have clean plants when it rains.

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1 MS. REISEN: Excuse me, there's no question
2 posed to the witness.

3 BY MS. REISEN:

4 Q. You've noted that you have very nice
5 looking flowers there and I would agree. How do you
6 think that the dust is impacting your flowers?

7 A. They grow very well when I take care of it,
8 I sprinkle it, wash the dust off of it, but this
9 year is a different situation.

10 Q. You need to water your flowers regardless
11 of the atmosphere, correct?

12 A. True.

13 Q. Now, you testified before you've not
14 cleaned your windows in a while. When was the last
15 time you cleaned your windows?

16 A. Two months -- three months -- three months.

17 Q. Okay. Exhibit 54 shows your picture
18 window, does it not?

19 A. Uh-huh.

20 Q. Additionally, Exhibit 54 indicates that
21 right alongside your picture window on what would be
22 the left-hand property line, you've got a large
23 evergreen, is that not correct?

24 A. Uh-huh, yes.

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1 Q. That would be partial block from the angle
2 between your home and the wash bays at TL Trucking
3 Foodliner, correct?

4 A. No. The way this picture is taken,
5 actually those branches do not come all the way

6 over. They stick out higher up and the beams are
7 coming in on the lower part of the picture window,
8 coming in that way.

9 Q. You had indicated that my client's have
10 done again nothing to help control the issues. You
11 stated, however, you saw them watering the lot. Are
12 you familiar with what they were using to water the
13 lot with?

14 A. It looked like a water hose.

15 Q. Okay. Did you ask as to what they were --
16 what was coming out of the water hose?

17 A. No, I don't converse with those people.

18 Q. Are you familiar with calcium chloride?

19 A. I have heard about that, that they use it
20 on some alleys.

21 Q. And what's your understanding as to why
22 that's used on alleys?

23 A. To control the dust.

24 Q. Do you have any knowledge as to whether or

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1 not calcium chloride or water was being sprayed on
2 TL's lot?

3 A. No, I do not know.

4 Q. Okay. You also indicated that the lot is

5 not paved. When was the last time that you
6 inspected the lot at 9200 King Street?

7 A. Yesterday.

8 Q. Okay. And isn't it true that they're in
9 the process of paving and it's partially paved?

10 A. Wherever it is, it's not visible to me.

11 Q. Where did you inspect the lot from?

12 A. From the basketball court and Robinson
13 Crusoe Park.

14 Q. Now, you're aware that their lot as far as
15 where the traffic goes is L-shaped. They have
16 traffic that faces or is close to Crescent Drive,
17 but yet they have to have access to King Street,
18 correct?

19 A. Correct.

20 Q. And did you take any steps to ascertain
21 where paving's been completed so far?

22 A. No.

23 Q. Are you aware of any permits or any
24 requests or any variances that are in front of the

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1 village right now to complete paving?

2 A. No.

3 Q. Have you inquired into that?

4 A. No.

5 Q. You indicated that you've made several
6 calls to the police department. Were those calls
7 from you or from your husband?

8 A. I made the call. I made several calls.

9 Q. Okay. And if the police reports don't have
10 any indication of your calls, why do you think that
11 would be?

12 A. I have no idea. They took care of the
13 situation the first time that I called, the noise
14 abated and that was it.

15 Q. How would you describe the makeup of
16 Franklin Park?

17 A. It's a good village makeup-wise, good
18 schools, libraries, police department.

19 Q. Fair amount of industry?

20 A. Oh, yes.

21 Q. When you made complaints to various village
22 agencies, at any time were you informed that TL
23 Trucking Foodliner was in compliance with all of
24 their ordinances?

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1 A. I did not talk to any of the agencies. The
2 only time I called was the police for the noise. I

3 was not the one that got in touch with the different
4 agencies.

5 Q. Okay. Your testimony is, however, that you
6 had gone to several other parties and had no
7 assistance so that is maybe not an accurate
8 statement?

9 A. That's true. I was -- I know that my
10 husband did and that was --

11 Q. And you know that he did from what he told
12 you?

13 A. Yes. And I knew that he was doing it. I
14 was there when he did it.

15 Q. Okay. Is it your belief that Franklin Park
16 is some how sheltering my clients allowing them to
17 engage in illegal activity?

18 A. I really don't understand that question.

19 Q. Well, you're stating that there is noise
20 and dust pollution, correct?

21 A. Uh-huh.

22 Q. And you're stating that you've made several
23 -- you and your husband have been made several calls
24 to various agencies, correct?

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1 A. Right.

2 Q. And you're also stating nothing's happened?

3 A. Right.

4 Q. What's your conclusion as to that?

5 A. I don't know. I don't know why they would
6 allow such noise and pollution and all this right up
7 against the children's park, if anything, up against
8 residential. I don't know.

9 MS. REISEN: I have no other questions. Thank
10 you.

11 HEARING OFFICER HALLORAN: Thank you, Ms.
12 Reisen. Mr. Brill, any redirect?

13 MR. BRILL: No redirect.

14 HEARING OFFICER HALLORAN: You may step down,
15 Ms. Brill. Thank you very much or step over as the
16 case may be.

17 Mr. Brill, your next -- how is everybody
18 set for a five-minute break or do you want to
19 continue?

20 MR. BRILL: I'm all set.

21 HEARING OFFICER HALLORAN: We can continue.
22 Mr. Brill, your next witness.

23 MR. BRILL: The next witness would be myself
24 and would it be all right for my wife to ask me the

1 questions.

2 HEARING OFFICER HALLORAN: Ms. Reisen, what do
3 you think? It is an unusual situation, Mr. Brill
4 who's a complainant and a nonattorney representing
5 himself.

6 MS. REISEN: It's my assumption that usually
7 when you have that situation, then the witness takes
8 the stand and just makes a statement and I can
9 cross-exam that statement. I'd prefer we'd stick to
10 protocol.

11 HEARING OFFICER HALLORAN: Right, that's been
12 my experience too. So, Mr. Brill, you may take the
13 stand. The witness (sic) will swear you in and you
14 can just make your statements on the record and then
15 Ms. Reisen --

16 MR. BRILL: Without questions?

17 HEARING OFFICER HALLORAN: Correct. The court
18 reporter will swear you in.

19 (Witness sworn.)

20 MR. BRILL: My name is Stephen Brill. I live
21 at 9204 Crescent Drive in Franklin Park. I live
22 there with my wife of 34 years, Oleta F. Brill.
23 I've owned this home along with my wife for the last
24 34 years.

1 MS. REISEN: Your Honor, I'm going to object.
2 I believe that the witness should testify from
3 memory rather than reading a pre-prepared statement
4 and I'm going to request that that be enforced.

5 HEARING OFFICER HALLORAN: Mr. Brill, do you
6 have any recollection of the events you're about to
7 unfold, present or past or do you need this document
8 to refer to memory?

9 MR. BRILL: Yes, I do.

10 MS. REISEN: I would ask that he take a few
11 minutes to refresh his memory and then testify in
12 the usual fashion.

13 HEARING OFFICER HALLORAN: Can you do that or
14 do you need the record, sir?

15 MR. BRILL: I would prefer the record because
16 it gives it continuity and I believe if I am subject
17 to cross-examination, I cannot see any reason why I
18 am not allowed to take the questions and answers off
19 this sheet.

20 HEARING OFFICER HALLORAN: Without that
21 document in front of you, you wouldn't have an
22 accurate recollection of what you're about to read?

23 MR. BRILL: I would have an accurate
24 recollection, but like I say, there's a certain

1 continuity to the sheet.

2 HEARING OFFICER HALLORAN: Sir, if you don't
3 need this sheet and without the sheet you can give
4 an accurate recollection, I would suggest you review
5 it and then put the document aside and just testify
6 to --

7 MR. BRILL: Okay. I've lived at 9204 Crescent
8 Drive for 34 years with my wife. This neighborhood
9 that I live in has always been a very peaceful
10 place, children are well behaved, streets are kept
11 clean. The noise has always been at a minimum until
12 the arrival of TL Trucking. The only vandalism that
13 I've seen there in all those years is one day
14 somebody did a job on my mailbox, but that was the
15 only thing.

16 HEARING OFFICER HALLORAN: You know, if we
17 could stop right there? Ms. Reisen, in the attempt
18 to help the record be clear and concise and for the
19 Board, you know, I believe written testimony is
20 allowed as long as he's subject to cross-examination
21 under the Board rules. I think it would make a
22 better record for the Board. So I will overrule
23 your objection and allow Mr. Brill to read.
24 Thank you.

1 MR. BRILL: This one question alludes to the
2 map which is up there, it's Exhibit A, and I will
3 make a mark on there or would that be repetitious as
4 to where I live?

5 HEARING OFFICER HALLORAN: You can do whatever
6 you'd like, sir. Just so noted for the record so
7 it's clear. Could I have something a little more
8 permanent, little darker? I don't think I can see
9 that.

10 My house is here, 9204 Crescent Drive, and
11 I will mark that with a B, uncircled. The park is
12 marked with a D, uncircled and TL Trucking is marked
13 with a C, uncircled.

14 Our house lies to the front of the lot and
15 there's about a 130 or 40 feet from the back of our
16 deck to the back of our property where we have a lot
17 of gardens and landscaping and things of that
18 nature. We also have landscaping and flower beds
19 and trees in the front of our lot. There are some
20 trees in the park as well. The streets, as far as I
21 can see, are correctly marked on that map.

22 The homes in this area were built probably
23 in the late 1940s there are even some farm houses in
24 there that may be well over 100 years old. Our

1 house, as close as I can ascertain from our deed and
2 things that nature, was built in 1958, therefore,
3 this area is an old established home neighborhood.

4 The life in that neighborhood has been
5 pleasant over the 34 years. There's minimal traffic
6 to Crescent Drive because as you can see, there's no
7 place to get out on Crescent Drive. All you do is
8 drive in a big circle and there are no truck traffic
9 signs posted. There are parking restrictions on
10 vehicles that are not registered to park in that
11 neighborhood. Those signs are posted and it's a 20
12 mile an hour speed limit is also posted.

13 Before TL Trucking moved into the
14 neighborhood, I could go most anywhere in that area
15 to relax. I could read a paper in the park or a
16 book or I could sit on the front part of my house or
17 in the back part or on our deck.

18 Since TL Trucking has moved in there,
19 these things are very difficult to do because we get
20 a lot of dust and a lot of fumes there. I used to
21 do a lot of outdoor cooking and serve food on the
22 deck, but because the smell of diesel fuel, you
23 quickly could lose an appetite out there and so we
24 don't do that anymore unless the wind is from the

1 north, which blows the fumes away.

2 I used to use my front porch and stairs
3 quite often. I could sit there and talk with the
4 neighbors that walked by on the sidewalk in front,
5 but I don't do that anymore because again, it's
6 dusty and stinky and noisy.

7 I used to go into the park periodically to
8 read the newspaper or a book and I didn't -- don't
9 play basketball or go on the slides or anything like
10 that, but we did make use of the park prior to TL
11 moving in in December of 1999.

12 It's not possible to get away from this
13 dust and fumes. I've gone so far as to get in my
14 car and drive away from my very home to go to the
15 forest preserve to sit in my car just to get away
16 from these noises.

17 Our home -- because I used to work in
18 construction, I bought this home because it was very
19 well constructed. The doors are tight. The windows
20 are all double glazed. The home is made out of
21 solid brick. There's two layers of plaster in every
22 room. There's insulation behind that plaster so you
23 wouldn't think any noise would come in to that home

24 from TL Trucking, yet it still penetrates,

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1 especially the lower tones which seem to have a
2 drumming effect and will actually cause glasses and
3 things to rattle on our shelves.

4 I know that noise and dust and fumes and
5 headlights come from TL Trucking because I can look
6 out our front window and I can see where the
7 headlights are. I can also see the trucks coming
8 down their main drive hitting pot holes and these
9 lights bounce in our living room and we don't have
10 -- we haven't had any company over to sit in that
11 living room since TL Trucking moved in because most
12 parties and things are in the evening time and it's
13 very disconcerting to have a lot of lights bouncing
14 around in the room. We do put up drapes over the
15 windows to stop the light intrusion, but that still
16 has made that room virtually useless to us.

17 I can tell that the noise is coming from
18 TL Trucking because when I open our front door and I
19 look to confirm where the noise is, I can see that
20 the timing of a slammed hatch lid is in perfect
21 timing with the noise that is rendered thereof and
22 it comes across the park and I can see when their

23 tankers drive through there that when they hit the
24 pot holes and the tanker is squeaking and

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1 screeching, I can also coordinate the sound and the
2 visual effect to know that the two are compatible.

3 I know the dust is coming from TL Trucking
4 because I've taken several photographs of trucks
5 traversing their lot. They're huge 18-wheelers and
6 they have tandem axles and they usually make a
7 U-turn over a crushed lime stone parking lot. This
8 grinds all the stone into dust and it throws up dust
9 to where I have actually seen clouds of dust coming
10 from their lot all the way across our neighborhood.

11 I know the fumes are coming from TL
12 Trucking because I can see maybe three or four or
13 as many as five tractors sitting there at idle and
14 I can see the blue haze coming out of their stacks
15 and when the wind is from the south, we get the
16 diesel fumes. When the wind is from the north, the
17 diesel fumes are absent. So from that I deduce that
18 the diesel fumes are coming from TL Trucking.

19 The length of distance from the front of
20 our lot to TL Trucking's fence is about 75 yards.
21 We had someone measure it at one time and it was 62

22 yards, but I would say roughly 75 yards.

23 There was a different -- a couple
24 different businesses in the same site at 9200 King

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1 Street and we did hear some noises on occasions from
2 those, but it's not as onerous as what comes from TL
3 Trucking because they were basically an eight-hour
4 operation closed mostly on Saturdays and Sundays,
5 whereas TL Trucking runs seven days a week, 24 hours
6 a day. The noises that came from these other sites
7 were not disruptive because I never called the
8 police about noises from that other site because
9 they simply didn't bother me.

10 When TL Trucking moved in, noise from that
11 area accelerated to longer durations, stronger
12 impulses and more of a startling nature because most
13 everything they do at TL Trucking is instantaneous.
14 When you have a tractor backing into a tanker truck
15 with sufficient velocity to actually lift that truck
16 up to make a connection with the fifth wheel, it's a
17 very startling sound and the air horns are of such a
18 nature that one time when I was getting groceries
19 out of the back of my car and the air horns were
20 blasted just as I was pulling my head out of the car

21 door, I actually reacted to the noise and hit my
22 head on the door.

23 I haven't seen anything that TL Trucking
24 has done to mitigate the noise. Ms. Reisen showed

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1 my wife a concrete fence -- a concrete so-called
2 retaining wall with a chain link fence on top of it.
3 This fence -- if you can see through this fence and
4 see all the activity in the yard, you also know that
5 noise can come through that fence and impact our
6 lives. TL Trucking -- there was a fence there
7 originally dividing the park and the TL Trucking's
8 property, but when they came in I guess they thought
9 they would spruce up the area and they tore not only
10 the fence down, but they tore a bunch of trees and
11 things down as well and put up a new fence, but I
12 don't know how much affect the trees had in
13 lessening the noise. I doubt if they had too much
14 affect at all, but the fence that they replaced was
15 of a nature where there were air gaps in it and the
16 noise came through even worse than it was before.

17 It took them a long time to put up this
18 fence. It was five months. I actually called the
19 police about it. I wrote a letter to our mayor

20 about what a dangerous situation this was. There
21 were children retrieving basketballs and baseballs
22 in TL Trucking's yard, running around semi-tractors
23 and over-the-road equipment while they were at idle.
24 It was a dangerous situation and I did call on it,

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1 but they didn't hustle them up and they didn't put
2 up a temporary fence either. I thought it was a
3 horrible situation.

4 TL Trucking, as far as I know, has done
5 nothing to mitigate the light pollution that comes
6 into our front windows. Again, I state that the
7 trucks come across pot holes and the bounce -- the
8 lights bounce up and down on our walls and it's a
9 surrealistic type of situation and I don't -- we
10 don't entertain in that room anymore.

11 TL Trucking, as far as I know, didn't do
12 anything to control the noises from their facility
13 because this morning when I went out to leave for
14 this hearing, the noises were as bad as they've
15 always been. I don't know of anything that they've
16 done to soften the effect of noise from their
17 facility. I can, as I stated before, see through
18 their fence and I can also see their large brick

19 building where they have three bays I believe where
20 they wash the trucks. The building is obviously too
21 small because the trucks can only get a tanker in
22 there and the trucks that are hooked up to the
23 tanker are washed outdoors and the spray is wafted
24 into the breeze and it comes over into the park and

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1 wherever it lands, I don't know.

2 As far as how many are washed in there,
3 I've seen all the bays with trucks in them and I've
4 seen situations where there's no trucks in the bays.

5 I don't know how they clean the tankers.
6 I know they do power wash them on the outside and
7 they power wash the semi-tractors at the same time.
8 When the power sprays hit the empty tankers, it does
9 set up quite a loud noise, but not nearly as loud as
10 some of the other noises there, but it is a
11 bothersome noise.

12 The areas of relaxation are greatly
13 limited where we're at now because we can't even go
14 out on our driveway. Sometimes I'll be washing the
15 car out there and some fool over at TL Trucking will
16 play a toon on his air horns and if you've ever been
17 on an interstate highway and you have a semi pull up

18 behind you and he doesn't like the rate of speed
19 that you're driving, he blasts those horns, you know
20 what a startling and shattering affect that can have
21 on you. Well, I get that same affect when I'm in
22 our driveway washing a car or any place else when
23 those air horns go off, it's a really startling
24 affect. It's not like airplane noises that come

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1 slowly and then you can get used to. This is meant
2 to wake people up. Air horns are designed to
3 startle people into doing what the trucker wants and
4 when these go off, they do have that affect.

5 The noise from TL Trucking does impact my
6 life. There was a time when I was very happy to be
7 getting home after a day's work or even from the
8 golf course, but now I actually feel sad to go home
9 because I know that when I get there, it's going to
10 be worse than the place I came from.

11 The affect of air horns at three a.m. with
12 an open window when you're sleeping -- I don't
13 believe I ever hit the ceiling in the bedroom, but
14 if you ever go through that, you will know that's
15 something you don't ever want to go through again.

16 I don't know why TL Trucking let's their

17 trucks idle in their yard. Through discovery, I was
18 informed that the heaters and the air conditioners
19 will not work in the cab unless those trucks are
20 sitting there idling. I thought it was a poor
21 excuse that the comfort of a few drivers who were in
22 having coffee, I surmise, or maybe they were
23 something else, comes before the comfort of the
24 people in the neighborhood.

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1 We have photographs of seepage that comes
2 under the retaining wall that TL Trucking built
3 along their property line. It's very stenchy and
4 the photographs I think will show clearly that the
5 seepage is actually coming from TL Trucking and
6 going into the park where -- across the basketball
7 court where kids play basketball.

8 The dust -- the summer before last I was
9 in the process of painting my windows on our house
10 and the dust would settle on the windows and I would
11 wash it off and the paint directions said that you
12 can't paint over dust. Well, by the time the
13 windows dried off, the next day I went out there was
14 already a layer of dust on those windows and it took
15 me a very long time. The only time I could paint

16 those windows and those sills was when the wind was
17 from the north.

18 I don't think the noises and the dust that
19 we're getting is coming from anywhere else but TL
20 Trucking. I admit, there's probably dust that does
21 come and commingles with the dust from TL Trucking.
22 The noise is almost exclusively from TL Trucking
23 because of the timing of a slammed hatch with the
24 responding noise at that time is a good guide that

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1 that indeed is where the noise is coming from.

2 The other noises that I hear in my
3 neighborhood are like my wife said, we hear
4 emergency vehicles, we hear thunderstorms, we have
5 neighbors who have a couple little dogs and they
6 bark at times, one is a barker, but they're well
7 controlled so we don't get any abuse from that.

8 The noise is not constant from TL
9 Trucking. There are times of an hour or so when
10 there may not be a noise, but you can't make any
11 plans for it because if you want to plan a
12 noise-free afternoon or something you can't do it
13 because they can thunder up at any given time.

14 I have tried to do a lot of things to

15 resolve this dust problem. I have called the
16 police. In fact, when they first came out they used
17 to shut down TL Trucking, but then they said that
18 they couldn't shut them down anymore because they
19 were afraid of being sued. Actually, one of the
20 policemen came into our house at 2:00 o'clock in the
21 morning because I called the village back and wanted
22 to know why the noise had recommenced after he had
23 shut them down and he came over to our house and he
24 sat down there with me and I said, what about the

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1 noise, can't you hear the noise coming right through
2 that wall and into here where we're sitting and
3 talking and he said --

4 MS. REISEN: Objection, hearsay.

5 HEARING OFFICER HALLORAN: I'll allow it.

6 MR. BRILL: And he said that he does a lot of
7 shooting practice and so he can't hear so good so he
8 doesn't hear too much noise, and I said I went
9 through two years of war and I said my ears are
10 still good enough to hear that noise.

11 I don't know why the village hasn't acted
12 against TL Trucking. Maybe they're right, maybe
13 they're afraid of being sued. I'm not sure. I'm

14 not saying here that TL Trucking is receiving
15 favoritism. It just looks that way.

16 As I stated before, I did call the police.
17 I wrote letters, which we will enter into the
18 record. I wrote letters to the owner of TL
19 Trucking. I wrote letters to the various
20 departments in Franklin Park that I thought could
21 help us out. I wrote letters -- I wrote letters to
22 our mayor. Most of these things were not responded
23 to. I wrote letters to the Illinois EPA and we did
24 get a response from that and I passed around a

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1 petition in our neighborhood to see if other people
2 were as concerned as I was. I thought well, maybe
3 I'm just being paranoid here, but the first 20
4 people that I talked to, signed our petition.

5 We have heard from -- well, I can't quote
6 a various source, but it was our understanding that
7 the parking lot at TL Trucking is paved, but I
8 looked at it this morning, it is not paved. It's
9 not even started. I used to be in the asphalt
10 business, I know what a shovel full of asphalt looks
11 like and there's none in that lot.

12 At this time, I would like to enter our

13 exhibits into the record. Could I do that now, sir?

14 HEARING OFFICER HALLORAN: What exhibits are
15 you talking about, sir?

16 MR. BRILL: Our letters, our photographs.

17 HEARING OFFICER HALLORAN: You have to lay some
18 sort of foundation.

19 MR. BRILL: All right. Can I enumerate each
20 one and make foundation?

21 HEARING OFFICER HALLORAN: Sure.

22 THE REPORTER: Excuse me, Brad, may I change my
23 paper?

24 HEARING OFFICER HALLORAN: Yes, you may. We're

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1 off the record.

2 (Whereupon, after a short
3 break was had, the
4 following proceedings
5 were held accordingly.)

6 HEARING OFFICER HALLORAN: I want to note for
7 the record -- we are back on the record -- and if I
8 didn't so already, we started this hearing at
9 approximately 9:05. We just took about a ten-minute
10 break and it's approximately 10:46. Mr. Brill?

11 MR. BRILL: At this time, I would like to enter

12 Exhibit 1, which is a written log that I've kept
13 since the noise problems started in our
14 neighborhood.

15 MS. REISEN: Your Honor, I have a specific
16 objection to --

17 HEARING OFFICER HALLORAN: Let him finish,
18 please. Thank you, Ms. Reisen.

19 MR. BRILL: I think that this log points out
20 all of our problems. I think it's important
21 information for this hearing. Now, I don't know if
22 you want me to read all of this or part of it to see
23 that -- there's a lot of repetition in here. I
24 would like to enter it in whole body, though, if I

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1 could.

2 HEARING OFFICER HALLORAN: Could you explain
3 more about this log, sir?

4 MR. BRILL: Yes. When I was awakened and when
5 I would just be sitting in my room in our -- what we
6 call our television room, I would take notes of when
7 noises penetrated our house. Sometimes when I wrote
8 notes right after I was awakened at 3:00 o'clock
9 they may not seem so clear and the spelling is
10 atrocious, of course, and I did make notations in

11 here when the spelling was changed or a word was
12 added, but they are my written log from about the
13 last two years.

14 HEARING OFFICER HALLORAN: Is that the
15 original, Mr. Brill?

16 MR. BRILL: No, it isn't.

17 HEARING OFFICER HALLORAN: Where is the
18 original, sir?

19 MR. BRILL: The original logs -- the original
20 logs would be at home. These are numbered copies of
21 that -- of those logs. They're not rewritten.
22 They're put -- the original log was put into a
23 copying machine. The pages are all numbered. The
24 dates are on here and the log was produced off of my

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1 original notes.

2 As you can see, some of the notes were
3 written on just little scraps of paper and so it
4 would have been hard to put together a log that was
5 sometimes made of scrap paper and that so I
6 organized it on here, but it's a direct copy, like
7 here are some newspaper articles and things like
8 that. Well, I could hardly fit all the different
9 sizes of paper and things -- I could hardly put

10 together a log with any deepness without making a
11 copy of it and putting copies of smaller notes on
12 these larger pages.

13 HEARING OFFICER HALLORAN: Ms. Reisen, your
14 objection?

15 MS. REISEN: First I'd like to first voir dire
16 Mr. Brill and then make my objection.

17 HEARING OFFICER HALLORAN: You may.

18 MS. REISEN: Mr. Brill, you testified just
19 earlier this morning regarding the types of noises
20 that you hear from TL Trucking Foodliner, correct?

21 MR. BRILL: Correct.

22 MS. REISEN: And you've testified that those
23 noises occur during various hours of the day, is
24 that not correct?

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1 MR. BRILL: Correct.

2 MS. REISEN: Your log essentially contains that
3 same information, does it not?

4 MR. BRILL: Probably to a degree, but there are
5 certain sheets in here that are not everything I
6 testified to today, obviously there's not 70 some
7 odd pages here. I didn't state in that half hour
8 that I was testifying here all the material that's

9 in these logs.

10 MS. REISEN: Okay. So it's a fair statement
11 that the number of occurrences of noises might be
12 higher than what you testified to, correct?

13 MR. BRILL: Absolutely.

14 MS. REISEN: Okay. In your log you refer to
15 several medical issues, do you not?

16 MR. BRILL: I had an agreement with you that I
17 would not speak about my medical history.

18 MS. REISEN: Correct. And that's because you
19 refused to sign a patient's waiver so I could
20 examine your medical history, is that not correct?

21 MR. BRILL: Uh-huh.

22 MS. REISEN: Yet your log contains no less than
23 32 references to health-related effects of TL
24 Trucking Foodliner that you claim they caused your

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1 health, do they not?

2 MR. BRILL: Well, I would want those stricken.

3 MS. REISEN: You've not stricken them, have
4 you?

5 MR. BRILL: No, I didn't edit this except for
6 some spelling that I noticed. There's probably a
7 lot of spelling I didn't notice.

8 MS. REISEN: Okay. In addition to your
9 agreement as you call it that your medical
10 information would not be brought up today, isn't
11 it a true statement that the Court has excluded
12 those based upon your lack of compliance with
13 discovery rules?

14 MR. BRILL: I don't know of any Court rulings.

15 MS. REISEN: You've been receiving all the
16 hearing officer orders that have been propounded by
17 Mr. Halloran, correct?

18 MR. BRILL: Uh-huh.

19 MS. REISEN: And I assume you read those when
20 they come in?

21 MR. BRILL: Absolutely.

22 MS. REISEN: Give me just a moment, please.

23 In the interest of time, do you have any
24 problem with the Court reviewing its own file to

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1 locate a later date the hearing officer order which
2 indicates that your medical records could not be --
3 excuse me, any medical impact could not be entered
4 into evidence based upon your lack of signing a
5 medical release?

6 MR. BRILL: Well, I would object to that.

7 MS. REISEN: You have an objection to the
8 hearing officer reviewing his own record?

9 MR. BRILL: You were telling me that you cannot
10 find what you were going to stipulate to me here and
11 I do not see why I should allow you extra time to do
12 what you should have had.

13 HEARING OFFICER HALLORAN: We'll go off the
14 record for a moment.

15 (Whereupon, a discussion
16 was had off the record.)

17 HEARING OFFICER HALLORAN: We're back on the
18 record. We were just trying go through my file
19 trying to find the order Ms. Reisen was referring
20 to. I have nothing in my file, any order stating
21 that any kind of medical evidence of Mr. Brill is
22 to be excluded from discovery.

23 Ms. Reisen, do you want to I guess restate
24 or further state your objection to Mr. Brill's

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1 attempt to enter Exhibit No. 1 containing -- when
2 does that start, the logs from 19 -- I assume
3 they're dated.

4 MR. BRILL: Some are, some aren't. I know this
5 was -- I called the health department first. This

6 is not dated, but it goes on to explain that --

7 HEARING OFFICER HALLORAN: Is this a diary of
8 sorts?

9 MR. BRILL: Yeah. It's a log of the noise.

10 HEARING OFFICER HALLORAN: All right. Thank
11 you. Ms. Reisen, sorry.

12 MS. REISEN: Thank you. I'm going to continue
13 with the voir dire before I make the actual
14 objection.

15 Regardless of the order that I'm having
16 trouble locating, it was your understanding that I
17 had asked you to sign a release of medical
18 information, correct?

19 MR. BRILL: Correct.

20 MS. REISEN: And you refused to do that?

21 MR. BRILL: Correct.

22 MS. REISEN: And you made a statement then that
23 your medical issues would not come into play in
24 today's hearing?

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1 MR. BRILL: Correct.

2 MS. REISEN: Okay.

3 MR. BRILL: I understand your argument and I
4 think it's a good one. I think that the medical

5 portions of this log should be struck.

6 MS. REISEN: Let me also ask you, your log also
7 contains information that was not authored by
8 yourself, correct, newspaper reports?

9 MR. BRILL: Yeah.

10 MS. REISEN: Okay. And those are just
11 clippings that you cut out, it doesn't have anything
12 to do with the article, the paper, when it was?

13 MR. BRILL: Yeah.

14 MS. REISEN: Okay. And do you remember when or
15 where those articles would have come from?

16 MR. BRILL: Yeah. I cut them out of the
17 papers.

18 MS. REISEN: But do you remember what papers on
19 what date you would have cut them out of?

20 MR. BRILL: There may be entries alongside them
21 when they were cut out, but I'm not sure -- I'm not
22 even sure I can find one real quick here.

23 I understand that an entry of that sort
24 would not carry much weight with the Board anyway

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1 because newspapers are notorious liars and I will
2 not base my -- the validity of my log or any of the
3 things that I state on anything that is said in

4 these newspapers articles.

5 MS. REISEN: Okay. Your log also has some
6 undated material, correct?

7 MR. BRILL: Yes.

8 MS. REISEN: And at this point for you to
9 ascertain a correct date would be fairly difficult
10 if not impossible?

11 MR. BRILL: Well, I suppose one could go to a
12 computer and find out when these articles were
13 printed.

14 MS. REISEN: I'm not referring to the articles.
15 I'm referring to your entries that aren't dated.

16 MR. BRILL: There are some that aren't dated,
17 yes. Most of them are dated, but there are some
18 that are not dated because I don't know the exact
19 date that I called Donna Mitch at the health
20 department. It was a note that I wrote down as I
21 was talking to her on the phone and it's not dated
22 because I don't remember when it was.

23 MS. REISEN: Mr. Brill, your logs at least in
24 the last several months also include some -- what

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1 I'm going to term loosely, sound readings that you
2 took yourself, correct?

3 MR. BRILL: Yes.

4 MS. REISEN: What machine did you use?

5 MR. BRILL: On advice from a sound expert, I
6 purchased a Radio Shack sound level meter from
7 there.

8 MS. REISEN: And did this sound expert actually
9 train you -- sit down and show you how to operate
10 that?

11 MR. BRILL: No, I just read the directions.

12 MS. REISEN: Okay. At what frequency did you
13 test that?

14 MR. BRILL: Several.

15 MS. REISEN: How do you know which was the
16 correct frequency to test that?

17 MR. BRILL: It's a little bit like fishing, you
18 lower a bait in the water where they start nibbling,
19 that's where you're at. I take this meter and I go
20 out and I will hold it and when it begins to
21 register, I know I'm close to the noise, then I
22 would set it -- I would -- that already would be
23 selected on the dial and say that it came up 60
24 decibels, the --

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1 MS. REISEN: I'm going to object to you making

2 reference any to specific decibels at this point.

3 MR. BRILL: No, no, I'm saying the meter would
4 register 60 decibels. That is the starting point on
5 the meter. It is not any reference to any noises
6 that I heard.

7 MS. REISEN: I'm going to interrupt you, how
8 did you know -- I want you to listen to my question
9 -- how did you know what frequency to set the
10 device at?

11 MR. BRILL: Because I would keep turning the
12 knob on the top until it would start to register.

13 MS. REISEN: So you would fiddle with it until
14 you got a read that you liked?

15 MR. BRILL: Yeah, basically, sure.

16 MS. REISEN: Are you aware of what the Illinois
17 Pollution Control Board sets down as protocol for
18 sound testing?

19 MR. BRILL: I'm sure it's quite elaborate. I
20 don't know what it is.

21 MS. REISEN: Okay. You don't their protocol?

22 MR. BRILL: No.

23 MS. REISEN: Do you have any idea as to what
24 frequency they test at?

1 MR. BRILL: No.

2 MS. REISEN: Do you know what ambient noise is?

3 MR. BRILL: Yes.

4 MS. REISEN: What's ambient noise?

5 MR. BRILL: That's extraneous noises that are
6 in the background.

7 MS. REISEN: Well, actually I was going to ask
8 you next what extraneous noise is because it's
9 different from ambient noise.

10 Could you tell me what each one is?

11 MR. BRILL: No. Ambient noises would probably
12 be noises that were not bothersome and were
13 background noises and extraneous noises, the term
14 means, I don't know what it means in this context,
15 but it's noises that filter in from other areas.

16 MS. REISEN: Your answer that you just gave is
17 based upon assumption, is that correct?

18 MR. BRILL: Yeah.

19 MS. REISEN: You're not trained in that area?

20 MR. BRILL: No.

21 MS. REISEN: You did not do any extensive
22 reading in that area?

23 MR. BRILL: No.

24 MS. REISEN: What is your understanding as to

1 why it's important to know the difference between
2 ambient and extraneous noise?

3 MR. BRILL: Actually, there may be subtle
4 differences, but I'm not -- in a legal sense and
5 from a sound expert standpoint, I cannot say that I
6 know the difference.

7 MS. REISEN: What is the requirement that the
8 Pollution Control Board looks at for the difference
9 in decibels between ambient and extraneous noise?

10 MR. BRILL: I don't know.

11 MS. REISEN: What other noises did you test in
12 the area?

13 MR. BRILL: Well, I think the first day I had
14 it I tested it on our television and then -- I
15 really didn't have much faith in that thing, but I
16 did finally start taking some readings of noises
17 that were coming through the walls of our house,
18 mostly drumming noises from idling engines and
19 things and trucks bouncing around in the yard over
20 at TL Trucking.

21 MS. REISEN: Did you take any reads of any of
22 the other businesses in the area?

23 MR. BRILL: If they made noise, yes.

24 MS. REISEN: Now, those are noted on your log,

1 where would they be noted?

2 MR. BRILL: I don't know if I alluded to any
3 noise from airplanes in my log or not. I was mostly
4 focused on TL Trucking.

5 MS. REISEN: How does weather affect the
6 reading?

7 MR. BRILL: I'm not a physicist. I don't know.

8 MS. REISEN: At what point would you expect
9 that the wind would affect a read?

10 MR. BRILL: I know a little bit about that.
11 Wind coming towards you would produce louder noises
12 than wind going away. I play a lot of golf and if a
13 wind is coming towards us and I'm trying to warn
14 somebody that I just hit an errant shot even with my
15 loud voice, it does not generally carry to the
16 vicinity where that other golfer is that I'm trying
17 to warn, however, if I'm hitting a downwind shot,
18 they can hear me quite well.

19 MS. REISEN: Specifically to sound testing, are
20 you aware at what speed wind can be going to create
21 a false read?

22 MR. BRILL: No.

23 MS. REISEN: Okay. Did you take any long-term
24 measures, say, 2, 3 hour blocks?

1 MR. BRILL: No.

2 MS. REISEN: Your Honor, I would ask that the
3 log not be admissible based upon several different
4 grounds. The first ground is that Mr. Brill has
5 testified as to his observations and his reactions
6 to noise, to the different times of the day, to the
7 character and quality of the noise as he perceived
8 it, we're willing to stipulate that his testimony
9 probably didn't include the full number of incidents
10 that may have occurred that would be registered in
11 his log.

12 Additionally, his log contains -- your
13 Honor, I've gone through the log several times -- no
14 30 separate references to a medical condition which
15 was agreed would not be brought up today based upon
16 Mr. Brill's refusal to sign a medical release.
17 Obviously, if that information were to be brought
18 before the Board, I would have every right to
19 protect my client's interest to review his medical
20 history, especially given his age to determine what
21 he's claiming and what may or may not be the factors
22 or exacerbations to any claimed medical condition.

23 Furthermore, ground three is that
24 Mr. Brill has attempted to undertake sound testing

1 with absolutely no training whatsoever and the last
2 several months of his log are almost exclusively
3 what he perceives to be sound readings and what
4 those levels would be. We have no foundation, no
5 training. He's admitted here that he has not much
6 faith in that thing, that he has no idea how long
7 readings should be made, the different kinds of
8 noise, what the protocol is and, your Honor, we
9 actually have a sound expert who has done proper
10 testing and so the Board will have access to that
11 information.

12 This Board has the ability to exclude
13 information that's duplicative, that's far more
14 prejudicial than probative and this piece of writing
15 is squarely both those issues, it's duplicative to
16 everything we've heard this morning and it's
17 extremely prejudicial as there's just no scientific
18 basis for much of what's in there and what little he
19 has in there regarding medical information -- quite
20 a bit he has, we can't even begin to cross examine
21 and he knew that that was not going to be allowed
22 and yet did not take the opportunity or the time to
23 re-edit his log to bring it in conformity with that
24 agreement.

1 HEARING OFFICER HALLORAN: Regarding medical
2 evidence?

3 MS. REISEN: That's regarding medical evidence
4 and it's our position that all of the sound
5 information should be excluded. It's just --
6 there's no foundation.

7 HEARING OFFICER HALLORAN: Mr. Brill?

8 MR. BRILL: Because of my amateur status as a
9 sound expert, she poses a good argument, however,
10 the machine that I bought has simple instructions
11 that were designed for people like me to take sound
12 measurements. Now, if I can read those instructions
13 and I can calibrate something as complex as an x-ray
14 machine, I cannot see why I cannot understand enough
15 of those directions to be able to operate that sound
16 device as prescribed in the directions.

17 HEARING OFFICER HALLORAN: At this point, I
18 think I'm going to reserve my ruling and we can
19 continue. Okay.

20 MS. REISEN: You wanted to admit your other
21 exhibits then?

22 MR. BRILL: Sure, try to.

23 Exhibit No. 2 is part of discovery, these
24 were interrogatories that were asked of me and I

1 answered them and they are respondent's questions to
2 me and my answers following their questions. That's
3 Exhibit No. 2.

4 HEARING OFFICER HALLORAN: Ms. Reisen?

5 MS. REISEN: Again, your Honor, that is
6 discovery. He's had an opportunity to answer the
7 questions and actually our discovery would have
8 given him foresight as to what issues he should have
9 been presenting in direct evidence. We do not
10 routinely admit answers to interrogatories. In
11 fact, that's actually a vehicle for me to cross
12 examine Mr. Brill more than anything. So for him to
13 put those in is an improper form of admission of
14 evidence. His evidence is his testimony, if he has
15 photographs, letters, thing like that.

16 HEARING OFFICER HALLORAN: I agree.
17 Complainant's Exhibit No. 2 is denied. You may make
18 an offer of proof, Mr. Brill, for the Board and make
19 your argument and I will take it with the case and
20 the Board will take a look at it.

21 MR. BRILL: No. All my answers were to their
22 questions and I don't think that they -- I just put
23 down all of my correspondence with the parties and

24 this actually would, if anything, would help their

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1 case rather than mine, but in all honesty, I just
2 wanted to include everything that I had there.

3 HEARING OFFICER HALLORAN: So do you withdraw
4 your Complainant's Exhibit No. 2 or do you want to
5 make an offer of proof and have the Board take the
6 exhibit under consideration?

7 MR. BRILL: No, we'll withdraw it.

8 HEARING OFFICER HALLORAN: Okay. Thank you.

9 MR. BRILL: Exhibit No. 3 is made up of
10 photographs that I took of the problems we were
11 having with TL Trucking. I would at this time like
12 to take these photographs out and explain in my own
13 words what I believe they depict. Is that all
14 right?

15 HEARING OFFICER HALLORAN: How many photos are
16 there, sir, and have they been marked?

17 MR. BRILL: Yes, they're all marked starting
18 with one. Ms. Reisen has several of our photographs
19 here. I don't know if they -- no, they are not
20 marked in sequence, but --

21 HEARING OFFICER HALLORAN: We already have
22 Exhibit No. 1, sir, and you have that marked as

23 number one.

24 MR. BRILL: No, this is Exhibit No. 3. That's

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1 attachment 1 that you're reading.

2 HEARING OFFICER HALLORAN: Exhibit No. 3,
3 subnumeral one, two through -- it makes it awful
4 difficult for the Board, sir, to take a look at your
5 -- is it clearly marked?

6 If you want go through and lay a
7 foundation for one through -- what do you have, 29?

8 MR. BRILL: Yeah. This is replicas of
9 photostatic copies of the pictures.

10 HEARING OFFICER HALLORAN: You have to show
11 opposing counsel as well.

12 MR. BRILL: She was sent these.

13 HEARING OFFICER HALLORAN: I'm not sure she
14 knows what you're pointing to because I can barely
15 see.

16 MR. BRILL: Though the sequence is broken,
17 can't I just go down each numbered photograph and
18 explain what I think I'm seeing on this photograph?

19 HEARING OFFICER HALLORAN: If you think that
20 will help, sir.

21 MS. REISEN: If I may just to speed up the

22 record, there are certain ones that I have no
23 objection to and I could just stipulate to the entry
24 of those and there are few I'd like to voir dire him

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1 on and I do have objection to, which would you like
2 me to separate those out.

3 HEARING OFFICER HALLORAN: Sure. We'll go off
4 the record momentarily.

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

7 HEARING OFFICER HALLORAN: We're back on the
8 record. Ms. Reisen has separated the photos that
9 respondent will stipulate to, it's Complainant's
10 Exhibit No. 3 and inside the photo packet there are
11 a number of photos, photo number two, was stipulated
12 to by the respondent, photo number six and the
13 numbers are printed on the back side of the photos,
14 photo number eight, photo number ten, photo number
15 13, photo number 14, photo number 15, photo number
16 17, photo number 18, photo number 19, photo number
17 20, photo number 21, photo number 22, photo number
18 23, photo number 25, and photo number 27 are
19 stipulated to and will be admitted into evidence.
20 If you want give me a minute here, Ms. Reisen.

21 MR. BRILL: Okay. Our first photograph is a
22 representation -- is a photograph of my automobile.
23 I remember distinctly that I had washed the car the
24 day before and we had a particularly heavy amount of

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1 dust settling in our area. I do say notice the
2 white black top drive, but in this instance, I'm not
3 referring to one day's dust on that driveway, the
4 driveway I don't wash as often as my car.

5 MS. REISEN: Permission to voir dire on at
6 that photo?

7 What date was that photo taken?

8 MR. BRILL: Sometime prior to November 2000.

9 MS. REISEN: November 2000 is what you're
10 looking at on the back of the picture, that's when
11 that film was developed, correct?

12 MR. BRILL: Uh-huh.

13 MS. REISEN: When was the photo taken?

14 MR. BRILL: Somewhere prior to 2000, November.

15 MS. REISEN: What time of the day prior do you
16 recall washing your car?

17 MR. BRILL: I washed the car the day before.

18 MS. REISEN: What time of the day?

19 MR. BRILL: In the morning when it's cool.

20 MS. REISEN: And where did you all go that day?

21 MR. BRILL: I don't recall whether the car was
22 moved at all. I doubt if it was. We have two cars
23 and the car may have been sitting there all day.

24 MS. REISEN: It's possible, though, that you

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1 moved the car and you went somewhere?

2 MR. BRILL: It's possible.

3 MS. REISEN: And you have absolutely no idea
4 where you may or may not have gone that day with
5 that vehicle?

6 MR. BRILL: Well, according to the photograph,
7 I must have went to a stone quarry.

8 MS. REISEN: I'm going to ask that that be
9 struck. It's nonresponsive.

10 HEARING OFFICER HALLORAN: Granted.

11 MR. BRILL: I usually stay away from dusty
12 areas.

13 MS. REISEN: Again, I'm going to ask that that
14 be struck and the witness be directed to answer the
15 question.

16 MR. BRILL: What is the question?

17 MS. REISEN: Can you read back the last
18 question?

19 (Whereupon, the requested
20 portion of the record
21 was read accordingly.)

22 MR. BRILL: No.

23 MS. REISEN: Do you recall what the temperature
24 would have been that night after you washed the car

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1 and before you took the photo?

2 MR. BRILL: No. I have no idea what the
3 temperature was.

4 MS. REISEN: Do you recall if there was any
5 precipitation?

6 MR. BRILL: I would say that by looking at it
7 there was some precipitation because the dust seems
8 to be commingled.

9 MS. REISEN: Do you have a specific
10 recollection of there being any precipitation that
11 night?

12 MR. BRILL: No.

13 MS. REISEN: Any idea -- any specific
14 recollection as to whether or not there had been any
15 sort of frost or condensation on the car in the
16 morning?

17 MR. BRILL: According to the foliage in the

18 background there was no frost.

19 MS. REISEN: Do you have any specific
20 recollection if there had been any condensation
21 formed on the car overnight?

22 MR. BRILL: There probably was.

23 MS. REISEN: I would object on this photograph
24 in that we don't know where this car had been,

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1 whether or not there been other natural elements
2 that were on which may or may not have changed the
3 appearance of any dust that was on it, plus we don't
4 have any information or foundation that the dust is
5 specifically from TL.

6 MR. BRILL: I have no proof that it's from TL.
7 I think there are witnesses here who will testify to
8 the fact that there is plenty of dust from TL. If
9 she feels that this photograph is not permitted, I
10 won't fight it.

11 HEARING OFFICER HALLORAN: Give me a minute
12 here, please. I'm going to grant your objection,
13 Ms. Reisen, and deny the photo, however, Mr. Brill,
14 if you choose to again submit that as an offer of
15 proof and the Board could take it up with the case
16 or do you withdraw it?

17 MR. BRILL: I'll withdraw it.

18 MS. REISEN: There are three other photographs
19 that I would raise the same objection to -- four
20 other photographs that I would raise the same
21 objection to.

22 HEARING OFFICER HALLORAN: If we can briefly go
23 through unless Mr. Brill is willing to withdraw
24 those photographs.

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1 MR. BRILL: Where are they?

2 MS. REISEN: They're similar photographs of
3 your car that I pulled out.

4 MR. BRILL: Okay. It was a pretty car.

5 HEARING OFFICER HALLORAN: Are you withdrawing
6 those, sir?

7 MR. BRILL: Yeah.

8 HEARING OFFICER HALLORAN: Let me take a look
9 at them -- which once that -- number one is
10 withdrawn, number five is withdrawn, 1B withdrawn,
11 and 1A withdrawn. Here you go, sir.

12 MR. BRILL: Photograph 11, the caption on the
13 back says foul smelling seepage runs under fence and
14 onto basketball court at TL Trucking. This --
15 there's two photographs of what I consider seepage.

16 HEARING OFFICER HALLORAN: This is photograph
17 number 11, sir?

18 MR. BRILL: And number 16. You'll notice on
19 the photograph here the concrete has gaps in it and
20 it allows the material to run out on the basketball
21 court. It doesn't look like a natural material and
22 since it is coming from under the fence and under
23 the so-called retaining wall, it is my belief that
24 it is coming from TL Trucking.

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1 HEARING OFFICER HALLORAN: Ms. Reisen?

2 MS. REISEN: Thank you.

3 Again, first of all, when did you take
4 this photograph, Mr. Brill?

5 MR. BRILL: Prior to November 2000.

6 MS. REISEN: Okay. Have you had the pitch
7 determined of the sidewalk?

8 MR. BRILL: I used to be a contractor and I can
9 tell by looking at this that the pitch is fairly
10 level.

11 MS. REISEN: But you've not had it actually
12 checked?

13 MR. BRILL: Oh, no.

14 MS. REISEN: Okay. Have you had any of the

15 residue that's depicted in these tested?

16 MR. BRILL: Not analyzed, no.

17 MS. REISEN: Okay. So you have no idea what
18 the chemical may or may not be?

19 MR. BRILL: No.

20 MS. REISEN: Whether it's natural or not?

21 MR. BRILL: It's not natural.

22 MS. REISEN: Do you have any test results to
23 back that up?

24 MR. BRILL: No.

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1 MS. REISEN: Okay. Do you have any test
2 results that give an age to what you're depicting in
3 that photograph?

4 MR. BRILL: No, of course not.

5 MS. REISEN: Okay. You're aware there was a
6 scrap yard that was located there prior to TL
7 Trucking Foodliner, correct?

8 MR. BRILL: Correct.

9 MS. REISEN: So do you have any evidence to
10 indicate that this is something that may or may not
11 come from the prior owners?

12 MR. BRILL: It wasn't there before you folks
13 moved in.

14 MS. REISEN: Do you have any photographs to
15 prove that?

16 MR. BRILL: No.

17 MS. REISEN: We would ask that these photos be
18 stricken as we have no testing whatsoever as to the
19 substance, whether it's natural, not natural or as
20 to the source or as to the pitch to determine which
21 direction it may have come from.

22 Additionally, Mr. Brill's not given any
23 foundation to indicate anything other than
24 assumption that this is related to my client. We

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1 don't know if somebody walked by or not and dropped
2 something.

3 HEARING OFFICER HALLORAN: Mr. Brill?

4 MR. BRILL: I thought the picture spoke 1,000
5 words, but, you know, to bring it down to the degree
6 that you are about proof, I think that if I spent
7 \$10,000 with every technician in the world, that he
8 still wouldn't be able to say 100 percent that that
9 came from a previous owner or from TL Trucking.

10 HEARING OFFICER HALLORAN: Ms. Reisen?

11 MS. REISEN: I think that Mr. Brill's statement
12 is quite clear in that likewise he cannot state it

13 came from TL Trucking. If no expert can
14 differentiate then Mr. Brill obviously cannot and it
15 should be excluded as it's merely an assumption or a
16 guess on Mr. Brill's part as to what the cause is.

17 MR. BRILL: Since groundwater pollution is not
18 an issue in this case, I withdraw these pictures.

19 HEARING OFFICER HALLORAN: Thank you. Exhibits
20 3, number 11 and 16 are withdrawn by Mr. Brill, the
21 complainant.

22 MR. BRILL: Photograph number 12, this was the
23 fence that TL Trucking put up. I have a notation
24 here that it's somewhat out of line in two areas and

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1 I ascertained that something -- because of the way
2 it leans, I ascertained that something from the
3 inside must have bumped it. I naturally assume that
4 this was a truck because I doubt if there's anything
5 in there with sufficient power to bend this fence in
6 such a way and so that's what I wrote, that this
7 fence in all likelihood was bent by a truck
8 overriding the buried wheel stops in their parking
9 lot.

10 MS. REISEN: Did you at any time see any truck
11 hit that fence?

12 MR. BRILL: Absolutely not.

13 MS. REISEN: Do you recall when you became
14 aware that that fence appeared bent to you?

15 MR. BRILL: Prior, again, to November 2000.

16 MS. REISEN: Additionally, have you been on the
17 other side of the fence to take a look at the --
18 what you call buried truck stops?

19 MR. BRILL: No. I can see through the fence
20 that they're buried.

21 MS. REISEN: I'm going to hand you a copy of
22 one of your photos that we've stipulated to and is
23 in evidence and if you want, I can refer to the ones
24 in so I'm giving you the correct number.

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1 This is your photograph 25 -- attachment 25 to
2 Exhibit 3, is that correct?

3 MR. BRILL: Correct.

4 MS. REISEN: And there's truck stops visible
5 there, are there not?

6 MR. BRILL: Uh-huh.

7 MS. REISEN: What's the distance between those
8 truck stops and the back wall?

9 MR. BRILL: An educated guess would be about
10 eight feet, I would imagine. It might be less.

11 MS. REISEN: In the end you don't know the
12 actual distance, is that a fair statement?

13 MR. BRILL: I used to be machinist, no.

14 MS. REISEN: Additionally, your photograph that
15 you're now trying to enter into evidence has your
16 handwriting on the back, correct?

17 MR. BRILL: Yeah.

18 MS. REISEN: And your handwriting refers to
19 what you claim to be seepage, which we just spoke
20 about on the earlier photographs, correct?

21 MR. BRILL: Correct.

22 MS. REISEN: Okay. Your Honor, we would ask
23 that this one be stricken as it's merely an
24 assumption as to what may have happened. Mr.

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1 Brill's other photographs clearly indicate that what
2 he says are buried truck stops are not and they're
3 clearly visible in attachment number 25.

4 Additionally, we would ask that all
5 photographs, that the notes by Mr. Brill in the back
6 be stricken and that the Board make any findings on
7 the photographs alone and on the record.

8 MR. BRILL: Could I see the picture that you're
9 saying trucks stops are not buried on?

10 Ms. Reisen, I used to install these. This
11 distance --

12 MS. REISEN: I'm going to object because no
13 question has been posed at this time and he's the
14 witness.

15 MR. BRILL: Well, I will stand -- I will stand
16 with my testimony that these are at least partially
17 buried wheel stops and they're the wrong kind as
18 well. These are not truck wheels.

19 MS. REISEN: Your Honor, I'm going to ask that
20 this response be stricken, at this moment there's a
21 motion before the Board and no question is posed to
22 the witness.

23 HEARING OFFICER HALLORAN: Okay. You had a two
24 or three-fold motion, Ms. Reisen. You have to kind

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1 of slow down here. First of all, your objection to
2 Exhibit 3, attachment 12 photo was again?

3 MS. REISEN: Basically, first of all, that it
4 refers to the seepage that Mr. Brill has already had
5 to withdraw photos on based upon lack of foundation.

6 Second, it shows what he claims to be
7 bending in the fence caused by a truck, however,
8 he's testified that he has no knowledge whatsoever

9 that that actually occurred and he's merely making
10 an assumption.

11 MR. BRILL: It could have been a meteorite.

12 HEARING OFFICER HALLORAN: Mr. Brill, anything
13 further?

14 MR. BRILL: I don't know if a question came up
15 about cracked or damaged wheel stops, but I thought
16 this --

17 HEARING OFFICER HALLORAN: Sir, I'm asking
18 about the photo number 12 that's under consideration
19 now. Do you wish to withdraw the photo?

20 MR. BRILL: Sure. If you don't feel it's --

21 HEARING OFFICER HALLORAN: Well, no, it's
22 entirely your call. If you want it in, you can make
23 an offer of proof.

24 MR. BRILL: Well, our case is mostly about dust

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1 and noise and a bent fence --

2 HEARING OFFICER HALLORAN: Okay. Exhibit No.
3 3, attachment number 12, is withdrawn. Okay. Where
4 are we now?

5 MR. BRILL: I have one photo left --

6 HEARING OFFICER HALLORAN: And that is Exhibit
7 3, attachment 29. Ms. Reisen, you're on.

8 MR. BRILL: Well, I haven't explained what I
9 see in the picture. This is debris that I collected
10 in Robinson Crusoe Park. It's clearly truck debris.
11 I actually have it here in this envelope today, two
12 parts of which I've seen thrown into the park by
13 employees of TL Trucking while I was sitting on a
14 bench in the park. At this time I would like to
15 also in conjunction with this picture, have the
16 physical evidence --

17 HEARING OFFICER HALLORAN: We'll address that
18 at another time.

19 MS. REISEN: Mr. Brill, what date did this
20 occur?

21 MR. BRILL: I probably have it in my log.

22 MS. REISEN: You cannot testify from your
23 recollection as to when this occurred?

24 MR. BRILL: No.

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1 MS. REISEN: You indicate that two parts you
2 saw being thrown by an individual from Truck
3 Country. First, your item shows more than two
4 parts, correct?

5 MR. BRILL: Correct.

6 MS. REISEN: And so the two parts that you're

7 referring to are which?

8 MR. BRILL: Let me refer to the garbage here.

9 Okay. I seen the pad thrown into the park.

10 MS. REISEN: Is that the black object that I'm
11 seeing?

12 MR. BRILL: Uh-huh. And I also seen one of
13 those truck seals thrown in the park. In fact, that
14 nearly missed me.

15 MS. REISEN: And that looks like what, the
16 white part? You don't need to pull it out, I'm just
17 looking at your photo. Which part on your photo.

18 MR. BRILL: They're little truck seals, these
19 two things that look like fire crackers. They're a
20 cable with a steel numbered implement on them can be
21 crushed so that it can't be tampered with.

22 MS. REISEN: Did you ascertain that the person
23 you saw throwing that was, in fact, an employee of
24 Truck Country?

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1 MR. BRILL: Either that or a trespasser.

2 MS. REISEN: Is it not a fair statement that
3 there are many people on the Truck Country lot that
4 may not actually be employees of --

5 MR. BRILL: I don't think so.

6 MS. REISEN: What do you base that on?

7 MR. BRILL: Because if I was running TL
8 Trucking, I certainly wouldn't let people walk
9 around in the facility. I would call the police.

10 MS. REISEN: You're not running TL, so that's a
11 given fact, correct?

12 MR. BRILL: Okay.

13 MS. REISEN: Did you inquire as to who the
14 person was?

15 MR. BRILL: No.

16 MS. REISEN: Did you make any specific inquiry
17 that that person was an employee of TL Trucking
18 Foodliner?

19 MR. BRILL: That would require identification
20 and by that time the person had returned to the
21 facility.

22 MS. REISEN: Did you make any attempt to call
23 or walk over to the facility to make an
24 identification.

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1 MR. BRILL: Huh-huh. I was just picking up
2 trash in the park.

3 MS. REISEN: Did you make a police report?

4 MR. BRILL: No.

5 MS. REISEN: We would object in that we don't
6 have any sound proof that the individual who threw
7 this is somehow related to TL Trucking Foodliner.
8 Our evidence later this afternoon will indicate that
9 there are many individuals on the lot who are not
10 actually employees of TL Trucking Foodliner.

11 MR. BRILL: I'm sorry. May I ask a question?
12 Is TL Trucking responsible for the people who are in
13 their lot?

14 MS. REISEN: I believe that's a question you
15 can pose to my witnesses when they're called as
16 witnesses.

17 MR. BRILL: Fair enough.

18 HEARING OFFICER HALLORAN: I'm going to
19 overrule your objection, Ms. Reisen, not so much
20 that the photo is proof of a violation, but just to
21 bolster Mr. Brill's claim of his allegations.

22 MR. BRILL: They can throw out the things that
23 I didn't see that were thrown into the park, but I
24 certainly would want to have those admitted -- the

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1 parts that were thrown into the park.

2 HEARING OFFICER HALLORAN: What are we on now,
3 sir? Let's take care of this photo over here.

4 MR. BRILL: That's photo number 29.

5 HEARING OFFICER HALLORAN: Now, what are you --
6 okay. I am going to put all these photos that we've
7 been talking about, the attachments to Exhibit 3
8 that were admitted back in the packet. This -- what
9 is this, Mr. Brill?

10 MR. BRILL: Those were photocopies I made of
11 all of my pictures because I didn't know whether
12 Ms. Reisen would be kind enough to bring them today
13 or she might have forgot them. So I just
14 photocopied all the ones that were in this --

15 HEARING OFFICER HALLORAN: So this is not to be
16 admitted into evidence?

17 MR. BRILL: No, no. That was just backup.

18 HEARING OFFICER HALLORAN: Furthermore, I will
19 note your objection, Ms. Reisen, regarding the
20 writing on the back of the photographs, Mr. Brill's
21 writing, the Board is to disregard Mr. Brill's
22 writing. I think the testimony has been sufficient
23 to identify what is in the photographs. All right.
24 Mr. Brill?

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1 MR. BRILL: I would like to have the other
2 portion of Exhibit 11 admitted.

3 HEARING OFFICER HALLORAN: The other portion of
4 Exhibit 11?

5 MR. BRILL: Yes. The first was the photograph
6 of the debris that I took a picture of that I sat on
7 my driveway and took a picture of, this is the
8 actual debris.

9 HEARING OFFICER HALLORAN: I thought we were
10 just looking at 29?

11 MR. BRILL: That's photograph number 29. This
12 is Exhibit 11.

13 HEARING OFFICER HALLORAN: Hold on, sir. This
14 is kind of confusing here and if I'm confused, I
15 know the Board is going to be confused because
16 they're not here, but they're here in spirit I'm
17 sure.

18 We don't have Exhibit 11 here. I think
19 you withdrew that.

20 MR. BRILL: This is in my line up, Exhibit 11,
21 but it is the debris or at least part of the debris
22 that is pictured in the picture with the flag on it.

23 HEARING OFFICER HALLORAN: Which is 29?

24 MR. BRILL: Twenty-nine.

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1 HEARING OFFICER HALLORAN: Ms. Reisen?

2 MS. REISEN: Mr. Brill, which items of what
3 you're now referring to as Exhibit 11 are not
4 photographed in photograph 29? Could you put those
5 aside?

6 So you have a reflector and two pieces of
7 wire that are not depicted in Exhibit 3, attachment
8 29, correct?

9 MR. BRILL: Correct.

10 MS. REISEN: And how did you come across those
11 three items?

12 MR. BRILL: Well, I go in the park sometimes
13 and these I did not see thrown into the park.

14 MS. REISEN: So you have no idea how they got
15 there, you just found them in the park?

16 MR. BRILL: An assumption, it just says truck
17 light on it and seeing that kids don't have these on
18 their bicycles, I just assumed that it was from TL
19 Trucking.

20 MS. REISEN: Now, sir, you were here for your
21 wife's testimony this morning, correct?

22 MR. BRILL: Yeah.

23 MS. REISEN: And she testified that trucks have
24 access on Robinson Avenue, correct?

1 MR. BRILL: No. She testified that they don't
2 have access.

3 MS. REISEN: Okay. If I'm mistaken there, I
4 apologize. She did testify, however, there's a lot
5 of trucks on River Road, correct?

6 MR. BRILL: Yes. She said there was commuters,
7 people going to work and things and there were
8 trucks as well.

9 MS. REISEN: Additionally, many of the other
10 factories along King Street also use tractors and
11 trailers?

12 MR. BRILL: Yeah.

13 MS. REISEN: Do you have any proof that those
14 three items that are not in your photograph are
15 specifically to Truck Country?

16 MR. BRILL: None at all.

17 MS. REISEN: We would ask they be stricken as
18 we have no foundation to link them to my client.
19 It's just debris in the park.

20 MR. BRILL: These two items I've seen thrown
21 into the park.

22 HEARING OFFICER HALLORAN: I'm going to grant
23 Ms. Reisen's objection. I think the photo is more
24 than helpful to the Board. I don't think we need

1 the actual --

2 MR. BRILL: Physical evidence?

3 HEARING OFFICER HALLORAN: Physical evidence.

4 MR. BRILL: We'll pack it up.

5 HEARING OFFICER HALLORAN: So are you
6 withdrawing Exhibit 11 or do you want to do it as an
7 offer of proof or what do you want to do, sir?

8 MR. BRILL: I think somewhere in my logs I
9 stated that these would be a very dangerous thing to
10 be in a park where children play and that they might
11 get caught up in motors and be flung like missiles
12 around in the park. So there is a connection
13 between these and some of my log notes, but as long
14 as you're satisfied that that picture depicts the
15 evidence as well, I won't clutter your office with
16 these things.

17 HEARING OFFICER HALLORAN: So you'll withdraw
18 --

19 MR. BRILL: Sure.

20 HEARING OFFICER HALLORAN: Exhibit No. 3 is
21 withdrawn by the complainant.

22 MS. REISEN: Excuse me, I think that's Exhibit
23 11 is what he referred to that as.

24 HEARING OFFICER HALLORAN: Sorry, Exhibit 11.

1 My apology. Thank you.

2 MR. BRILL: I'm now referring to Exhibit No. 4.
3 This is a letter that I sent to people that I
4 thought would like to hear about the problems we
5 were having. It was sent to Mr. Greg Zak, Frank
6 Folino of Franklin Park Building Department, Daniel
7 B. Pritchett, Franklin Park Village President,
8 Franklin Park Police Department and Donna Bugiel of
9 the Franklin Park Health Department. In it tells
10 about --

11 HEARING OFFICER HALLORAN: When is that letter
12 dated, sir?

13 MR. BRILL: January 25th, 2000.

14 In it it talks about the fence not being
15 there and about airborne highway dust that's coming
16 into the park, diesel fumes from constantly running
17 tractors, 24 hour a day, seven days week noises
18 which emanates from your establishment into the park
19 and into our homes, air horns, air brakes, coupling
20 of tractor trailers, outside phone amplifiers, back
21 to work buzzers, roaring and idling engines, loud
22 cleaning and pumping equipment.

23 I believe that a copy of this letter was
24 also sent to TL Trucking because it has their

1 address up here.

2 HEARING OFFICER HALLORAN: Ms. Reisen?

3 MS. REISEN: No objection.

4 HEARING OFFICER HALLORAN: No objection?

5 MS. REISEN: No objection.

6 HEARING OFFICER HALLORAN: Exhibit No. 4 is
7 admitted.

8 MR. BRILL: We now skip Exhibit 5 because it
9 has to do with sound expertise and our sound expert
10 who's present here today. I go to number six, this
11 is a letter that is addressed to the village of
12 Franklin Park president, Daniel Pritchett. I'll
13 read the letter, enclosed is a letter sent to all
14 interested parties, we have been pleading with the
15 building and health departments for intervention on
16 behalf of the folks of Crescent Drive regarding to
17 building --

18 HEARING OFFICER HALLORAN: Excuse me,
19 Mr. Brill, for the sake of brevity, what's the date
20 on that letter, please?

21 MR. BRILL: January 2000.

22 MS. REISEN: And I have no objection if you
23 just want to enter it and not have to read the
24 letter. He's got several letters that I'm not going

1 to object to.

2 HEARING OFFICER HALLORAN: January what, sir?

3 MR. BRILL: There is no --

4 HEARING OFFICER HALLORAN: Just January 2000?

5 MR. BRILL: In fact, this is -- I know it was
6 sent in January 2000, but the exact date, I don't
7 know.

8 HEARING OFFICER HALLORAN: Exhibit No. 6 is
9 admitted -- excuse me, Complainant's Exhibit No. 6
10 is admitted.

11 MR. BRILL: We didn't get any response from
12 that letter so I hand delivered this letter to our
13 mayor -- to his secretary. It says note, that it
14 was in person.

15 HEARING OFFICER HALLORAN: And this is exhibit
16 what, sir?

17 MR. BRILL: Number seven.

18 HEARING OFFICER HALLORAN: It's a letter to the
19 mayor?

20 MR. BRILL: Yes.

21 HEARING OFFICER HALLORAN: From you?

22 MR. BRILL: Uh-huh.

23 MS. REISEN: That's dated February 3rd, 2000?

24 MR. BRILL: Correct.

1 MS. REISEN: I have no objection.

2 HEARING OFFICER HALLORAN: Complainant's
3 Exhibit No. 7 is admitted.

4 MR. BRILL: Exhibit No. 8, complainant's, is a
5 letter to Mr. McCoy (phonetic) who I believe is an
6 executive with the -- is that Country Trucking? Is
7 that the official name for that?

8 MS. REISEN: I'm sorry. I've referred to them
9 as Truck Country.

10 MR. BRILL: Okay. And it was voicing our
11 concerns about the problems with TL Trucking and
12 also it talks about possible solutions to those
13 problems. Do you have copy of that, Ms. Reisen?

14 MS. REISEN: Is that dated February 4th, the
15 year 2000?

16 MR. BRILL: Yes.

17 MS. REISEN: I have no objection to that
18 letter.

19 HEARING OFFICER HALLORAN: Complainant's
20 Exhibit No. 8 is admitted.

21 MR. BRILL: Exhibit No. 9 is a formal complaint
22 sent to the clerk of the Board, State of Illinois
23 Pollution Control Board at this address. Do you

24 have any objection? Do you have a copy?

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1 MS. REISEN: Actually, I would object, that's
2 part of the file already, that's what started the
3 whole action so it's just duplicative.

4 HEARING OFFICER HALLORAN: If you want to enter
5 it --

6 MR. BRILL: I will try to enter it and see what
7 you say. It's duplicative there's no question, but
8 it shows that I did send a letter and I did outline
9 my complaints.

10 HEARING OFFICER HALLORAN: I'll admit it.

11 MR. BRILL: Exhibit No. 10 is a letter from
12 Mike Birkett, safety engineer for Foodliner,
13 Incorporated, dated April 12th, 2000. Any
14 objection?

15 MS. REISEN: Could I see it real quick?

16 MR. BRILL: Sure.

17 MS. REISEN: No objection.

18 HEARING OFFICER HALLORAN: Complainant's
19 No. 10 is admitted.

20 MR. BRILL: Exhibit No. 12 -- Complainant's
21 Exhibit No. 12 is a drawing I made of the materials
22 in the picture of picture number 29 in Complainant's

23 Exhibit No. 3. It notes which of the articles I
24 seen thrown in the park -- thrown by a worker by TL

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1 Trucking so I assume -- he was dressed in worker
2 uniform, that's why I assumed he worked there, and
3 also this rubber black thing, I remember that coming
4 over the fence, that was thrown by a worker again, a
5 man in uniform at TL Trucking. The other articles I
6 did not see thrown, but the ones that I seen thrown
7 are noted. Any objection?

8 MS. REISEN: Yes. My objection would be that
9 he's just testified that the only additional piece
10 of information that that offers as opposed to
11 Exhibit 3, attachment number 29, and he's testified
12 at that time and just again now specifically what
13 items he thought he saw thrown. The photograph is a
14 better representation and this is unnecessary and
15 duplicative.

16 Additionally, you've already established,
17 your Honor, that as far as the photographs go,
18 Mr. Brill's writing is to be excluded and this adds
19 nothing other than what he's testified to.

20 MR. BRILL: I allude to my notes of what I
21 personally witnessed as being thrown over the fence

22 and I thought that that would give the Board more
23 information of the things I seen and, of course, the
24 things that aren't noted -- are not stated as to me

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1 seeing them thrown over the fence. That's the only
2 reason I wanted to do that was to show the Board
3 which articles I personally seen and will testify
4 that I seen thrown over the fence.

5 HEARING OFFICER HALLORAN: Did you not testify
6 earlier what articles you saw?

7 MR. BRILL: Yes. If it's --

8 HEARING OFFICER HALLORAN: It's up to you, sir,
9 if you want to try and --

10 MR. BRILL: I want to try and enter it.

11 HEARING OFFICER HALLORAN: Okay. I'm going to
12 deny Exhibit No. 11, but you may offer as an offer
13 of proof, sir. The Board can take it with the case
14 if you so choose.

15 MR. BRILL: No. My testimony about the parts
16 should --

17 HEARING OFFICER HALLORAN: Exhibit No. 11 is
18 withdrawn.

19 MS. REISEN: Twelve, your Honor.

20 HEARING OFFICER HALLORAN: I'm sorry. He had

21 it marked -- okay. Exhibit No. 12 --

22 MR. BRILL: That's coming up. We have two 12s?

23 This is all the same exhibit, the drawings, the
24 actual articles and the photograph.

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1 Exhibit 12 is our revised and latest
2 witness list that we sent to everyone involved. The
3 Board received one and you received one.

4 HEARING OFFICER HALLORAN: And this is
5 submitted for the purpose of? Do you have any
6 objection, Ms. Reisen?

7 MS. REISEN: Actually, I do. We have witnesses
8 that are being brought here today and that was a
9 pleading. There's absolutely no reason for it to be
10 here. If all those people show up, then they'll be
11 noted on the record by their testimony.

12 MR. BRILL: In other words, it's just
13 duplicitous? Paper is different from bodies? It
14 isn't different from bodies? I will still try and
15 enter it. I don't think that it's that earth
16 shaking.

17 HEARING OFFICER HALLORAN: I'll allow it.

18 MS. REISEN: I would ask that the record note
19 then that if those individuals on there do not

20 appear and do not testify that we cannot assume what
21 their testimony would be or that it would or would
22 not be in accord with Mr. Brill's testimony.

23 HEARING OFFICER HALLORAN: So noted.

24 MR. BRILL: There will be no one testifying

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1 that isn't here.

2 Exhibit No. 13 is the -- I'm not much of
3 an activist, but I did pass this around in our
4 neighborhood and this is a copy of the signatures of
5 the people who signed this and the heading says,
6 Franklin park resident concerned about emissions
7 from TL Trucking Foodliner, 9200 King Street,
8 Franklin park. Any objection?

9 MS. REISEN: My objection would be that those
10 individuals have the opportunity to be here as
11 witnesses if your Honor is going to allow it, then I
12 would like a clear note to the record that we cannot
13 assume their level of concern or what their concern
14 is or what they're proposed observations may or may
15 not be. It would be purely speculative.

16 MR. BRILL: Of course, some of these are our
17 witnesses. Some of them are to be your witnesses as
18 well and since they will be witnesses and will be so

19 noted as witnesses, this may not be that important
20 of the list, but the mere fact that it is signed by
21 these people and that I testified that the first 20
22 people I approached did sign it, I think it's
23 pertinent to our case.

24 HEARING OFFICER HALLORAN: I'll grant

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1 Ms. Reisen's objection. I'll deny Exhibit 13. If
2 these people so choose, they have an opportunity to
3 submit public comment.

4 MR. BRILL: No, there will be no public
5 comment. They will be -- the only ones that will
6 put in comment are the people who are actual
7 witnesses here.

8 HEARING OFFICER HALLORAN: So as far as you
9 know, there will be no public comment from these
10 people and I don't need to know, but we will set up
11 a public comment period after the hearing -- before
12 the hearing closes.

13 MR. BRILL: With the exception of two other
14 exhibits, number five and number 14, which I intend
15 to introduce when we have our noise expert
16 testifying and these are more pertinent to his
17 testimony than to these, I would hold these for a

18 while.

19 HEARING OFFICER HALLORAN: Very well, sir.

20 MR. BRILL: That ends my testimony.

21 HEARING OFFICER HALLORAN: Ms. Reisen?

22 MS. REISEN: Do you want me to start

23 cross-examination given the time?

24 HEARING OFFICER HALLORAN: Yes. It's taken a

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1 little longer than. I think if we could go for a
2 while before we break for lunch. We just had a
3 break not too long ago unless anybody finds it
4 mandatory to take a quick five-minute break, but I'd
5 like to push it along.

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

7 by Ms. Reisen

8 Q. Mr. Brill, I'm going to ask you a few
9 questions first of all regarding your time in the
10 neighborhood.

11 You stated that you moved into your home
12 in 1965, is that correct?

13 A. My wife and I often argue about the exact
14 date, but it was either '65 or '66.

15 Q. Okay. And when you moved in, did you
16 inquire as to what Crescent Drive was zoned as?

17 A. No.

18 Q. Have you at any time since you've moved in
19 inquired as to what Crescent Drive is zoned as?

20 A. Yes.

21 Q. And what were you told the zoning was for
22 your street?

23 A. I went to the city hall and they said it
24 was zoned as residential.

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1 Q. And when did you make that inquiry?

2 A. Probably no more than six months ago.

3 Q. Okay. When you moved into your home in
4 either 1965 or '66, did you inquire as to what King
5 Street was zoned as?

6 A. No.

7 Q. Have you made any inquiry as to what it's
8 zoned as now?

9 A. Yes, I have.

10 Q. And when did you make that inquiry?

11 A. At the same time I asked about our
12 residential street.

13 Q. And what did they inform you the zoning
14 was?

15 A. They said it was industrial restricted.

16 Q. Did they also indicate that it's been zoned
17 that way since 1956?

18 A. No. I didn't inquire into the depth of
19 when it was zoned.

20 Q. Okay. If that statement is true, that
21 would precede when you purchased your home, wouldn't
22 it?

23 A. Oh, of course.

24 Q. And, in fact, when you purchased your home,

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1 you knew that there were many businesses on King
2 Street, did you not?

3 A. Uh-huh.

4 Q. Okay. Have you ever been active in any
5 city meetings on zoning in the last 30 years?

6 A. Yes.

7 Q. And how often do you participate in those
8 meetings?

9 A. One time.

10 Q. When was that?

11 A. That was approximately 15 years ago.

12 Q. Did you have a complaint at that time?

13 A. We were notified by the village that they
14 were going to discuss the establishment of an

15 asphalt shingle manufacturing company on the very
16 lot that TL Trucking now occupies and we voiced our
17 concerns and our objections and the industry was not
18 allowed to move in there.

19 Q. So you were aware at that time of the
20 appropriate procedure if you had concerns about a
21 business, correct?

22 A. Yes.

23 Q. Okay. You've made complaints against other
24 businesses on King Street, have you not?

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1 A. To my recollection, I made a call to the
2 Franklin Park Police Department about an
3 exceptionally loud blower that was -- sounded as
4 though it was coming from the roof of another
5 factory over there and within a half hour they shut
6 it down.

7 Q. And when would this have been?

8 A. I would say that was not this summer,
9 probably last summer.

10 Q. What was the name of that business?

11 A. I have no idea. I just said we have a
12 noise complaint, there's a roaring coming through
13 our neighborhood and it appears to be coming from

14 the west on King street.

15 Q. You've made complaints at least in the past
16 regarding Belmont Plating, which is located on King
17 Street?

18 A. No.

19 Q. Are you familiar with the businesses on
20 King Street?

21 A. Some of them, but like my wife said, we
22 don't travel that street. It goes nowhere.

23 Q. When was the last time you were on King
24 Street?

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1 A. A couple weeks ago to see if TL Trucking
2 actually had paved any part of their lot.

3 Q. Did you drive down King Street past TL
4 Trucking?

5 A. Oh, yeah.

6 Q. How far down?

7 A. All the way to the end.

8 Q. Did you inspect any of the other lots on
9 King Street?

10 A. I glanced at them, but I didn't inspect
11 really.

12 Q. Okay.

13 A. How could I inspect them?

14 Q. How many of the other lots on King Street
15 are paved?

16 A. I don't know that.

17 Q. Okay. So you're not able to give any idea
18 as to which lots are or are not paved on King
19 Street?

20 A. Huh-huh.

21 Q. Likewise if there's dust coming from King
22 Street, you're not able to deduce specifically which
23 lot may be contributing to the dust?

24 A. I can see the dust coming off of the

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1 semi-tractor tandem wheels in their parking lot.
2 I have photographs that show that very same dust.
3 Now, whether the other lots contribute their part to
4 the dust, I'm not sure, but the preponderance of
5 dust is coming from TL Trucking's lot.

6 Q. You cannot say with certainty that you've
7 seen or not seen dust from other lots, correct?

8 A. I couldn't tell if they come from southern
9 Illinois or from southern King Street.

10 Q. Now, there is truck traffic on River Road,
11 correct?

12 A. Yeah.

13 Q. It's a busy street, isn't it -- it's a busy
14 highway?

15 A. There's no grid lock -- well, sometimes
16 there is grid lock during rush hour, but I
17 understand the streets out west are a lot more
18 traffic, but I would say there's a moderate amount
19 of traffic on King Street, of course.

20 Q. And you're aware that King Street has other
21 businesses?

22 A. I'm sorry. On River Road.

23 Q. And you're aware that King Street has other
24 businesses which use semi-trailers as well as my

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1 client, correct?

2 A. Almost all of them do.

3 Q. There's a lot of traffic on King Street?

4 A. Yes.

5 Q. River Road's been under construction for
6 the last year, correct?

7 A. Yeah. They're tearing it up and redoing it
8 along with the bridge on Belmont Avenue.

9 Q. And that necessarily requires removing and
10 then relaying concrete, doesn't it?

11 A. Yes, it does.

12 Q. And that in and of itself creates dust,
13 does it not?

14 A. Concrete is laid wet.

15 Q. When the concrete is cut and removed, that
16 would create dust, does it not?

17 A. Yeah, sure. You can't do any construction
18 without having some dust.

19 Q. Okay.

20 A. But for dust from River Road to come to our
21 place, we'd have to have an east wind and an east
22 wind is a very rare bird where I live.

23 Q. You indicated in your testimony earlier
24 that you looked at TL's lot both this morning and

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1 now you're saying you also drove by yesterday,
2 correct?

3 A. I didn't say yesterday. I said -- probably
4 -- oh, my wife said she drove by. I think that was
5 testified, but that's her testimony, not mine.

6 Q. What's your testimony as to when you went
7 by?

8 A. My testimony is that when I looked down
9 their drive, which I can't see all that clearly from

10 my house, I seen no asphalt paving.

11 Q. I'm going to show you what I've previously
12 marked as Respondent's Exhibit 58 and ask you if
13 that looks like the fence that abuts the property
14 between TL Trucking and Robinson Crusoe Park?

15 A. No question that I'm familiar with this
16 construction that's going on there now.

17 Q. What does that construction look like to
18 you?

19 A. It's obviously a foundation for something
20 they're going to put there in the future.

21 Q. Okay. I'm going to hand you what's been
22 marked as Exhibit 59 and do you recognize that as
23 property belonging to TL Trucking?

24 A. Only by circumstance I see trucks here of

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1 your variety, but I would never swear that this is a
2 picture -- it's very close, but I would never swear
3 that that's a picture of TL Trucking, but are you
4 going to point out some paving there?

5 Q. I sure am. There's paving there, isn't
6 there?

7 A. No, there isn't.

8 Q. You show me where there's no paving?

9 A. This is crushed stone, my dear. I used to
10 be a paving contractor. I know what asphalt looks
11 like.

12 Q. I'd like you to look right up by the
13 building where the read trucks are parked and that
14 area is paved, is it not?

15 A. That I can't tell from this angle.

16 Q. I want you to take a look at Exhibit 61 and
17 tell me if that looks paved.

18 A. There's tire marks on this particular
19 surface and it could very well be a concreted area,
20 but by no means is this to be construed as 50
21 percent paving of the lot and it's certainly not any
22 asphalt.

23 Q. I understand that. But your statement
24 earlier was you've not seen one ounce of paving on

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1 this lot. Do you remember making that statement?

2 A. Sure.

3 Q. This looks like at least one ounce, doesn't
4 it?

5 A. Several hundred tons, but --

6 Q. And I'm going to show you Exhibit 60 and
7 that's the side drive of TL Trucking, that's paved

8 also, isn't it?

9 A. That is paved, but I don't recognize where
10 this location is. Can you be a little more specific
11 where that is?

12 Q. That would be the area that runs alongside
13 the building of the lot.

14 A. Yeah, but which side?

15 Q. The west side.

16 A. The west side? Well, I recognize that as
17 paving, but that area is blocked from view from our
18 house or from the park because there's tankers
19 parked along there and I really cannot tell how long
20 that paving has been there. I know the front of TL
21 Trucking's lot is also paved, but I'm sure that
22 that's old paving.

23 Q. Is it a fair statement that you did not do
24 a full investigation of their lot?

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1 A. Absolutely didn't, no. Why would I? I'm
2 sorry. I'm being sarcastic and I apologize.

3 Q. Additionally, are you aware of the
4 permanent barricades that were erected recently to
5 protect the parking pad?

6 A. No.

7 Q. Didn't investigate that either?

8 A. I don't investigate things. I just eyeball
9 things. You're making it sound like I should be
10 investigating all these things.

11 Q. How many trucks do you estimate are washed
12 at TL Trucking in a given day?

13 A. Maybe -- they sent me some literature on
14 how many they wash, but it actually was kind of
15 confusing. I would say that they probably wash 20
16 or more trucks there a day and tractors.

17 Q. You had testified that one of the issues
18 that were problematic for you is when the trucks hit
19 the pot holes that their lights bounce, do you
20 remember that?

21 A. Uh-huh.

22 Q. Now, obviously when the paving is complete
23 the pot holes will be gone, is that not a fair
24 statement?

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1 A. It depends on who does the paving.

2 Q. Are you going to ask this Board to direct
3 who does the paving?

4 A. No. But I'm saying if it's a lousy paving
5 job, the light bulbs will still bounce.

6 Q. Let me ask, what exactly are you expecting
7 to happen out of this proceeding?

8 A. I was hoping that we would get our
9 neighborhood back. I even proposed some solutions
10 for you folks that apparently are not being proposed
11 by anyone else and we are not looking to kick a
12 business out of Franklin Park. It would be stupid
13 for us to do that because how do we know what the
14 next business that comes in might be. It might even
15 be worse. So what we would like would be an asphalt
16 paving or cement paving over this dust producing
17 stone and we would like some sort of a barrier in
18 the form of a berm or another constructed building
19 along that north wall to block the noise emissions
20 from your property.

21 Q. Now, I had indicated to you earlier through
22 my client or my client indicated to you earlier
23 through me I should say that we'd be willing to
24 erect an eight-foot barrier, do you remember that?

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1 A. Uh-huh.

2 Q. And we were restricted to eight feet due to
3 zoning, do you remember that?

4 A. Yes.

5 Q. And you stated that that was not anything
6 you were interested in, is that correct?

7 A. I said that according to our sound expert
8 that that wouldn't do the job. Obviously, if air
9 horns are located on cabs that are ten foot in the
10 air, an eight-foot fence is not going to block those
11 sounds.

12 Q. Regarding your earlier testimony that TL
13 Trucking has done nothing to control the dust, are
14 you aware of what calcium chloride is?

15 A. Yes, ma'am.

16 Q. And what is that?

17 A. It's a salt solution.

18 HEARING OFFICER HALLORAN: For the record,
19 there's a cell phone going off in the hearing room.

20 (Interruption.)

21 MS. REISEN: My apologies. I thought that was
22 shut off. I'm sorry. I forgot where we were.

23 MR. BRILL: You were talking about the calcium
24 chloride solution.

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1 MS. REISEN: Correct.

2 BY MS. REISEN:

3 Q. What's your familiarity with calcium

4 chloride?

5 A. My understand it's a -- I read the specs on
6 it and it is a solution that is applied to porous
7 stone, it attracts moisture and therefore attracts
8 dust as well.

9 Q. Are you aware that it is recommended to
10 reduce dust?

11 A. Yeah.

12 Q. Okay. And are you aware if TL Trucking was
13 spreading calcium chloride on the back lot?

14 A. I seen a truck out there that I assume was
15 spraying some -- either water or the solution that
16 you're referring to, but I can't be sure what it
17 was.

18 Q. You never asked, did you?

19 A. Ma'am, why would I ask?

20 Q. Are you aware that in addition to the
21 calcium chloride treatments that were being put down
22 that the business was also watering the lot twice
23 daily in addition to keep the dust down? Are you
24 aware of that?

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1 A. No.

2 Q. Did you ask about that?

3 A. I eyeballed the situation and I seen one
4 man making a feudal attempt with a garden hose that
5 was just tricking out and in all likelihood the
6 water was evaporating as fast as it was going down.
7 Our only salvation in the last couple months has
8 been that we have had a record amount of rain fall
9 and that has somewhat turned your lot into a
10 quagmire and we haven't had the dust lately that we
11 had before.

12 Q. Are you aware of the what the speed limit
13 is on the lot at TL Trucking Foodliner?

14 A. No.

15 Q. Have you ever looked?

16 A. I can't trespass.

17 Q. Ever called and asked?

18 A. No.

19 Q. Okay. So then you would not be aware that
20 following your initial complaints the speed limit
21 was reduced to five miles an hour?

22 A. That admits guilt.

23 Q. Excuse me?

24 A. That would admit guilt, wouldn't it? I

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1 mean, if you reduced it from what it was before

2 obviously a problem was being created by the speed
3 of the trucks that were going in there.

4 Q. Or a spirit of cooperation, wouldn't you
5 agree?

6 A. Yeah, it could be that, sure.

7 Q. Now, in order to keep the noise down when
8 trucks are being cleaned -- first of all, are you
9 aware of how the trucks are being cleaned?

10 A. I don't know their methodology on how they
11 clean the trucks.

12 Q. Do you know what's carried in those trucks
13 that they're cleaning?

14 A. Food stuff.

15 Q. You like to eat food, don't you?

16 A. No, I'm getting skinny. Yeah, I do, sure.

17 Q. Okay. You understand that the federal
18 government has regulations as to how food is carried
19 in trucks, does that make sense?

20 A. Sure.

21 Q. And we want the trucks to be clean in order
22 for the food to stay clean, would you agree?

23 A. Correct.

24 Q. Are you aware of time frames that the

1 government lays down as to how soon after a load is
2 emptied that a truck needs to be cleaned?

3 A. No, I never read that.

4 Q. Okay. So you have no information about
5 that whatsoever?

6 A. No.

7 Q. Would you be surprised to find out that
8 there are some very tight time lines involved?

9 A. No, I wouldn't be surprised.

10 Q. In order for the trucks to be cleaned, it's
11 optimal to have the bay doors down, correct, optimal
12 soundwise?

13 A. It would help, but when we first
14 complained, they did use the bay doors a few times,
15 but the lower tones still penetrated into the
16 neighborhood. So in answer to your question yeah,
17 anything between the source of the noise and our
18 residents would be helpful.

19 Q. Okay. And in order to put the trailer
20 into the facility in order to clean it with the bay
21 shut, the trailer has to be disengaged from the --

22 A. That's because the building is too small,
23 yeah.

24 Q. I'm going to ask that that be stricken,

1 that's his assumption. The question is whether or
2 not it has to be --

3 A. Well, if a tractor can't fit in there and
4 the tractor is being washed as well, I still contend
5 the building is too small for the job you're doing.

6 HEARING OFFICER HALLORAN: I'll allow
7 Mr. Brill's explanation.

8 BY MS. REISEN:

9 Q. What to your understanding is the noise
10 level allowed in an area zoned such as King street?

11 A. In decibels?

12 Q. Correct.

13 A. I don't know.

14 Q. What's the other new businesses on King
15 Street?

16 A. I used to work for a fellow at the end of
17 the King Street that -- which is zoned unrestricted
18 and heavy industry, they were called Scientific
19 Machinery Movers, I did some paving work for him and
20 he has left and I can't remember his name, but I
21 don't think that that building has been reoccupied
22 at this point. As far as any other new businesses
23 are concerned, like I say, I don't travel that route
24 and I don't look into situations like that.

1 Q. Is it a fair statement that there's
2 probably many businesses on King Street that you're
3 not sure who they are or what they do?

4 A. Absolutely.

5 Q. Okay. Your wife had testified about the
6 railroad tracks, which would be to the west of what
7 you've marked as Exhibit A. How many tracks are at
8 that interchange if you know that answer?

9 A. It varies because these tracks are
10 beginning to approach the switching yards and the
11 storage yards and the freight yards and so on River
12 Road I believe there's three tracks, but as you go
13 -- the further into Franklin Park you go, that would
14 be to the west, the tracks begin to multiply in
15 number because they're approaching the switching
16 yards.

17 Q. Okay. Can you hear the railroad activity
18 from your home?

19 A. We at times can hear if the wind is right
20 and even if the wind isn't right. If it's close we
21 can sometimes hear the train horns, but the main
22 trunk is five blocks away from our house so it's not
23 nearly as shattering as air horns from a closer
24 distance.

1 Q. Would you agree that Franklin Park is a
2 largely industrial area or at least the section of
3 Franklin Park that you live in?

4 A. The section that I live in has no industry
5 in it.

6 Q. Looking outside just the parameter of
7 Crescent and Robinson Avenue, there's a lot of
8 business around you, correct?

9 A. Yeah, but it's not in the area that I live
10 in.

11 Q. You testified earlier that you have to keep
12 the windows closed all the time because of the dust,
13 is that a fair statement?

14 A. If the wind is from the south, absolutely.

15 Q. Okay. How often are your windows open?

16 A. Well, I open the front window every Sunday
17 morning when I cut my lawn because I have to put an
18 extension cord outside, but that's the only time
19 that that window is open.

20 Now, my wife, she sleeps in a different
21 bedroom because she work nights and she doesn't want
22 me interfering with her sleep and how often she
23 opens her window or not, I don't know. I think all
24 she does is have an air conditioner on. I don't

1 think she opens the windows in there except when the
2 breeze is from the north and the noise and the
3 pollution is less.

4 Q. Regarding your bedroom, though, it's your
5 testimony that at night when you're sleeping that
6 window is closed?

7 A. Yes.

8 Q. On your earlier examination you testified
9 regarding noises through the window when you were
10 sleeping that woke you up, which is the correct
11 scenario?

12 A. Both.

13 Q. Please explain.

14 A. The noises that penetrate the window even
15 when it's closed, they can wake me up and when I
16 have a window or our back door open when the wind is
17 fresh from the north, the noises will penetrate that
18 bedroom and I still got to close that door, but the
19 windows we never open those windows anymore.

20 Q. How many reports have you made to the
21 police department?

22 A. I never made a report. I just made calls.

23 Q. How many calls have you made to the police
24 department?

1 A. I would say about -- just to the police
2 department itself?

3 Q. Uh-huh.

4 A. I would say that I called them about --
5 probably around four times before I realized it was
6 feudal.

7 Q. I'm going to show you what's been
8 previously marked as Respondent's Exhibit 5, which
9 is a letter from the Franklin Park Police Department
10 to myself dated May 21st of the year 2001 and ask
11 that you read that. It's pretty short.

12 A. Okay. Please be advised that I am in
13 receipt of your communication date 16 May '01. I am
14 forwarding you all incidents, complaints from 9204
15 Crescent Drive, Mr. Stephen Brill, that are on our
16 records. Although I question the release of these
17 documents as they do not appear to the case in
18 question, I do not object at this time to no reports
19 being written -- I do not object to at this time due
20 to no reports written by the officer. Upon
21 reviewing the documents -- the documentation that
22 was generated by my records personnel and performing
23 an additional search on my own, I have located only
24 two incidents. The third incident I was advised of

1 is in error. It was an ambulance call -- I remember
2 the night -- call located at 92 King street. I had
3 an ambulance come there once too, but this says to
4 92 -- this doesn't say it came to my house. So what
5 their saying is I called them twice.

6 Q. Correct. And if you flip to page two it
7 shows that the first call that you placed was on
8 January 24th, year 2000, correct?

9 A. That would be about right, yeah.

10 Q. And has incident location, it has your
11 address and your name, do you see that about the
12 bottom of the page?

13 A. Yeah, I see it, mid bottom.

14 Q. And if you shift to the next page, it
15 indicates that there was a parking complaint on
16 January 24th, year 2000, correct?

17 A. By who? What do you mean parking
18 complaint?

19 Q. I'm sorry. I flipped the page too fast.
20 This is the disposition of your call when they
21 investigated it, correct, it says incident
22 disposition at the top?

23 A. No report.

24 Q. And then disposition remarks, what does

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1 that say?

2 A. It says no problem.

3 Q. Okay. And if you look through this
4 document, there are no other calls that you made
5 where they investigated Truck Country, are there, or
6 TL Trucking Foodliner?

7 A. Well, I estimated my calls as four and
8 that's as close as I can ascertain and I also --
9 this is no proof that I didn't make four calls.
10 I may have even made more and I made calls to the
11 health department as well and again, I cannot be
12 absolutely sure of the number of calls, but calls
13 were made. This was a trying condition for us, but
14 as far as the recordkeeping by Franklin Park, if
15 we're going to argue about the difference in one
16 phone call, I think that's sort of a stretch and
17 they could easily lose one phone call because what
18 they do over there is they say well, there's no one
19 from the police department here, could I connect you
20 with Ms. So and so or something. So there's a good
21 chance it wasn't even recorded.

22 Q. But looking at the document in front of

23 you which comes from Franklin Park Police Department
24 with the records check on your address and your

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1 name, do you have any reason to doubt that their
2 records show only one call?

3 A. Yes, I have a lot of reason to doubt that
4 their records only show one call because I know I
5 made more.

6 Q. I would like to look at your Exhibits 6, 4
7 7 and 8, if you could put those in front of you,
8 please.

9 HEARING OFFICER HALLORAN: I believe I have
10 them now. We have no copies other than --

11 MS. REISEN: Can he just look at the originals?

12 HEARING OFFICER HALLORAN: Sure. If you give
13 me a moment.

14 THE REPORTER: Could I change my paper?

15 HEARING OFFICER HALLORAN: Sure. Go ahead.

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

18 HEARING OFFICER HALLORAN: We're back on the
19 record. We were just talking about time frames for
20 lunch breaks and I think now is a good time. It's
21 approximately 12:30 and I've requested that the

22 parties and their witnesses be back here in 40
23 minutes, which would make that 1:10.
24 Thank you very much.

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1 (Whereupon, after a short
2 break was had, the
3 following proceedings
4 were held accordingly.)

5 HEARING OFFICER HALLORAN: It's approximately
6 1:15. We're back from lunch. Mr. Brill is --
7 you're in cross-examination, you're still on the
8 stand, you're reminded you're still under oath and
9 before we go any further, I do want to make an
10 observation that I did observe the document
11 Mr. Brill had during his direct testimony and it did
12 not appear that he was reading it verbatim, but
13 merely using it as an outline. So with that said,
14 Ms. Reisen, you may continue your cross.

15 MS. REISEN: Thank you.

16 HEARING OFFICER HALLORAN: Thank you.

17 BY MS. REISEN:

18 Q. For clarification, is your primary concern,
19 Mr. Brill, regarding the park that no children play
20 there because of the dust and the fumes or that

21 children do play there and you're concerned what
22 will happen to them?

23 A. I am more concerned about what would happen
24 to them with ingesting dust and fumes.

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1 Q. Okay. You've made several references that
2 no one uses the park anymore, do you recall that?

3 A. No. My statement would be they don't use
4 it nearly as much as they used to.

5 Q. How often do you see people using the park?

6 A. Every day.

7 Q. Okay.

8 A. I'm sorry. Some days there's no one in
9 there, but I observe the park every day because
10 that's the way I go out of my house.

11 Q. And you're retired, correct?

12 A. Correct.

13 Q. So you're home most of the time?

14 A. No. I play golf and go fishing, generally
15 waste my time. Actually, I don't like to be around
16 my house much anymore.

17 Q. You have your Exhibit No. 6 -- if you want
18 to take a look at --

19 A. Did we skip 4?

20 Q. Pardon me?

21 A. Oh, you asked that with my concern of the
22 children.

23 Q. If you'll let me pose a question --

24 A. All right.

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1 Q. That's a letter you sent in January of 2000
2 to the Franklin Park village president, Daniel
3 Pritchett, correct?

4 A. Yeah, that's a copy of a letter that I sent
5 to our mayor.

6 Q. Okay. And in that you make reference to
7 the hard playing use in the park that you're
8 concerned will come in contact with the trucks,
9 correct, paragraph four?

10 A. On the first page or second page?

11 Q. I apologize, the exhibit that you gave me
12 had one page. May I take a look at your exhibit?

13 A. Sure.

14 Q. It appears that page two of Exhibit 6 is
15 duplicative of Exhibit 4.

16 A. Page two?

17 Q. And if that's the case, can we have one
18 removed to clear the record?

19 A. What you're saying is this is a copy?

20 Q. It's the same thing?

21 A. You are certainly right, yes.

22 HEARING OFFICER HALLORAN: Motion is granted.

23 Page two of Exhibit No. 6 is going to be detached.

24

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1 BY MS. REISEN:

2 Q. On approximately paragraph four of this
3 letter you're referring to the children and the park
4 that you're concerned about, correct?

5 A. Yeah.

6 Q. Are you aware of any children who've been
7 harmed in the park by the activities of my client?

8 A. No. By the activities of your client, no.

9 Q. All right. And, in fact, you've already
10 testified that you've not had any chemical analysis
11 done on any of what you believe are fumes in the
12 area, correct?

13 A. No.

14 Q. So this is speculation on your part, is
15 that a fair statement?

16 A. My concerns are that children will come in
17 contact with that concrete wall when they're playing

18 basketball because it's right next to the basketball
19 court.

20 Q. I understand that. The concrete wall is
21 about three-feet high, correct?

22 A. Uh-huh.

23 Q. All right. Despite your concern, you're
24 not aware of any actual harm on any of these

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1 children from that concern?

2 A. No.

3 Q. Okay. You finished your statement or your
4 letter by saying the mothers and the fathers of all
5 the kids who play in this park are petitioning help
6 before someone is hurt. Do you have a child that
7 plays in that park?

8 A. No.

9 Q. Did the parents specifically ask you to
10 write this letter on their behalf?

11 A. No, they signed our petition.

12 Q. When was that petition signed?

13 A. That was --

14 Q. It was after this letter, wasn't it,
15 Mr. Brill?

16 A. It was early on, that's all I know and --

17 HEARING OFFICER HALLORAN: If I may interject
18 here, the petition that Ms. Reisen is referring to
19 and Mr. Brill has taken a look at is Exhibit No. 13
20 offered by complainant's at one time and then later
21 withdrawn. You may proceed.

22 BY MS. REISEN:

23 Q. My question is, you took it upon yourself
24 to make a statement for the parents of the

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1 neighborhood before you got their signatures on a
2 petition, isn't that correct?

3 A. No. I imagine that -- well, I'm not sure
4 so I can't say. I don't know which came first.

5 Q. I'd like you to look now at Exhibit 4.

6 A. We're going backwards. All right.

7 Q. And that's a letter that you sent to my
8 client on January 25th of year 2000, correct?

9 A. Yes.

10 Q. Okay. And your first concern noted behind
11 numeral one is there's an unfenced lot line between
12 the park and my client's property, correct?

13 A. Correct.

14 Q. And that's been rectified, hasn't it?

15 A. In five months.

16 Q. But that's been rectified, hasn't it?

17 A. Not to my standards no, because there's
18 nothing that will stop one of those huge trucks from
19 going through that fence.

20 Q. I'm going to ask that listen to my question
21 and you answer it. Is there a fence now between the
22 property line at 9200 King Drive -- King Street and
23 Robinson Crusoe Park?

24 A. Yes, there is.

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1 Q. Thank you.

2 Additionally, under concern number four
3 you refer under sub C, outside phone amplifiers.
4 Where are those located?

5 A. I'm not sure because the -- all I do is
6 hear -- a phone amplify from 270 feet would be a
7 small instrument and I cannot -- I didn't take any
8 field glasses or anything to try and find it. I
9 just assumed that since I was hearing it and quite
10 loudly, that it was somewhere located somewhere
11 either outside the building or inside the building
12 with the doors open.

13 Q. Okay. And so again, this is another issue
14 you did not investigate before putting it in the

15 letter, did you?

16 A. Yes, I did. I eyeballed it and I heard the
17 phone. That's an investigation.

18 Q. Let me ask you some more specific questions
19 regarding investigation. Did you ask anyone at TL
20 Trucking if they had outside amplifiers?

21 A. No, I just accused them of having them.

22 Q. Okay. Did you look on their property for
23 outside amplifiers?

24 A. As I stated before, I thought an outside

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1 amplifier would be a small thing and in a building
2 that large, the sound actually could have been
3 coming out of the building rather than being on the
4 building itself.

5 Q. But that's not what your letter states,
6 isn't that a fair statement? 4C specifically states
7 outside phone amplifiers.

8 A. Well, my interpretation of an outside phone
9 amplifier would be any amplifier that was loud
10 enough to make noise outside, whether it was located
11 on the outside of the wall or just inside the wall,
12 would not -- you know, I feel that that's picking it
13 pretty close.

14 Q. I'd like you to look at your Exhibit 8.

15 A. Got it.

16 Q. Okay. That's dated February 4th, year
17 2000, and that's a letter to Mr. McCoy of TL
18 Trucking, correct?

19 A. Correct.

20 Q. Now, I assume when you're writing these
21 letters, you're taking the facts as they're known to
22 you on the day that you make the letter and you're
23 putting down factual information to the best of your
24 knowledge, is that true?

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1 A. This letter was not written by me.

2 Q. Does this letter not indicate that you were
3 the contact person at the bottom of the letter?

4 A. Correct.

5 Q. And who are you ascertaining now wrote this
6 letter?

7 A. I know who wrote -- some people on -- over
8 on the next street, Robinson Avenue.

9 Q. Okay. How did this come into your contact
10 -- into your possession with you being the contact
11 person?

12 A. Because they sent me a copy of it.

13 Q. Did you review this letter?

14 A. Yes.

15 Q. And is it correct?

16 A. In the heavy print again it speaks of
17 outside phones of which I said my interpretation of
18 an outside phone would be some phone amplifier that
19 was strong enough to get outside, but it technically
20 -- maybe it wasn't. All the rest I agree with.

21 Q. So you agree that there was an unfenced
22 children's park on February 4th, year 2000,
23 paragraph one, enumerated one?

24 A. I'm sorry. I don't see anything about a

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1 fence on paragraph one.

2 Q. You have an indented paragraph with 1, 2, 3
3 in bold.

4 A. This is number one to me. Okay. This
5 would be a sub line, tankers and unattended running
6 tractors three feet from an unfenced children park,
7 I agree with that.

8 Q. So you agree that was a fair statement on
9 February 4th, year 2000?

10 A. Again, not being exactly sure of the times
11 that the fence was down, TL Trucking moved in there

12 sometime in December and this is February and I
13 don't know if they got that fence knocked down at
14 that time, but I think the author of this letter
15 writes about an unfenced area. I think that she
16 wouldn't write about it unless she observed it.

17 Q. You would have received the letter, I
18 assume, shortly thereafter February 4th, correct?

19 A. Yeah, I would say in a general time frame.

20 Q. And when you received it, did it appear to
21 be correct to you at that time?

22 A. Yes, nothing stood out. I was just elated
23 that there other people who were concerned about the
24 noise and that I wasn't just being paranoid.

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1 Q. And, in fact, the two previous exhibits we
2 just went over in January of 2000, you made
3 reference to no fence, correct?

4 A. If that's what it says, that's what I did.

5 Q. Okay. Would you have presented Exhibit 8
6 if you felt it was incorrect?

7 A. No.

8 Q. Okay. I'd like you now to look at Exhibit
9 7. That's a letter by yourself in your handwriting,
10 I presume, dated February 3rd, year 2000 to

11 Mr. Pritchett, correct?

12 A. Correct.

13 Q. And in that letter, the second to last
14 paragraph, you state, yesterday they put up a chain
15 link fence, is that not true?

16 A. Yes.

17 Q. So we have to assume that at least by
18 February 2nd the fence was up by your own letter?

19 A. Let's see. Yeah, there is a conflict
20 there. All I know the fence was down. Whether she
21 dated her letter correctly or I didn't date mine
22 correctly, there was a period of five months when
23 there was no fence there.

24 Q. You had indicated that you made several

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1 complaints to several agencies and you received no
2 relief, correct?

3 A. That's right.

4 Q. In fact, those agencies had told you that
5 they found no merit in your complaint, isn't that
6 true?

7 A. No, they didn't. They just said they were
8 afraid of being sued if they pursued my complaint.

9 Q. The police report that I showed you earlier

10 indicated that your complaint was not founded,
11 correct?

12 A. I would have to read it again. They said
13 no problem.

14 Q. No problem, correct.

15 A. But that's their opinion, isn't it?

16 Q. All of your paperwork in this case from the
17 very beginning has courtesy copies to a Mr. Greg
18 Zak, why is that?

19 A. Because Greg Zak was one of the only people
20 early on that answered any of my correspondence and
21 he informed me that he was -- well, I knew he was
22 because I sent a letter to the EPA and he was the
23 person that answered that letter, and he said that
24 he was a noise expert and that he would like to get

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1 the correspondence that I was sending out and I
2 forwarded that to him.

3 Q. Did Mr. Zak provide you with the forms to
4 submit to the Court in your pleading or otherwise?

5 A. Yeah. The formal complaint he did either
6 show me an extract from a case or he provided the
7 form, but I thought I copied it out of an extract
8 from another case.

9 Q. Lastly, I want to turn your attention to
10 some photographs.

11 A. Are these to be admitted?

12 HEARING OFFICER HALLORAN: They've already been
13 admitted.

14 BY MS. REISEN:

15 Q. Some of these have not yet been admitted,
16 but you've already viewed them before.

17 This is Respondent's Exhibit 58, 59 and 60
18 and those pictures are taken right on -- I'll give
19 you 61 too -- right on TL Trucking lot. You're
20 talking about continuous fumes and dust. Can you
21 point out fumes and dust in those pictures for me?

22 A. No. This was probably taken when the
23 trucks were parked. I don't -- and these may have
24 been taken during a period of rain because it

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1 appears that this driveway is quite wet here. So
2 maybe -- and those clouds look like the aftermath of
3 a rain believe it or not from what I know of
4 meteorology, but I'm no expert so don't get on my
5 case about that.

6 Q. I'm going to interrupt you there, actually
7 those photos show quite a blue sky, don't they?

8 A. Yes, they do.

9 Q. And they show nice white clouds, not storm
10 clouds, would you agree?

11 A. Yeah, but what I say is this could be wet
12 because of a rain the previous night, but in either
13 event, these pictures do not show any truck movement
14 as my pictures show and so I wouldn't expect to see
15 any dust there.

16 Q. I'm going have you look at some of your own
17 photos.

18 A. Sure.

19 Q. These are your photos that I'm handing you
20 and if I remember correctly they are all underneath,
21 with the exception of a few, Exhibit 3 and then
22 certain attachments.

23 This is Exhibit 3, attachment 27, that's a
24 photo you took of Robinson Crusoe Park and would you

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1 agree that that looks like sometime in the winter?

2 A. Yes.

3 Q. Show me the smoke and the fumes in that?

4 A. This picture is obviously taken away from
5 the TL Trucking.

6 Q. That's the park you're concerned about the

7 fumes in though, correct?

8 A. Yes, but this picture is obviously taken on
9 a nice clear day with the wind probably out of the
10 north because if it was windy there wouldn't be any
11 dust in such a situation if we had this much snow
12 fall on their parking lot, that would prohibit the
13 dust from rising.

14 Q. Do you recall taking any measurements or
15 taking any observation of the wind on the day that
16 you took this picture?

17 A. Of course not.

18 Q. I'm going to hand you your Exhibit 3,
19 attachment 20, which shows the trucks in the lot.
20 Where's the dust in that?

21 A. The trucks are not moving so I wouldn't
22 expect to see any dust there.

23 Q. Okay. Next is Exhibit 3, attachment 22,
24 and that appears to be a truck moving. Where's the

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1 dust from the truck moving?

2 A. How can you tell that the truck is moving?

3 Q. Can you show me any dust?

4 A. No, I didn't ask that. I said how can you
5 tell me that that truck is moving. I don't even see

6 a driver in it.

7 Q. That's fine, you've made your point clear
8 for the record, but can you answer my question. Is
9 there any dust in that photo?

10 A. No.

11 Q. Okay. The same question, Exhibit 3,
12 attachment 14, that being Robinson Crusoe Park, the
13 park that you've referred to on numerous occasions.

14 A. Yes, I understand.

15 Q. Can you show me any dust in that picture?

16 A. Yes, all this in here is dust. You can see
17 the light refraction and the dust particles.

18 Q. That's your interpretation of what you see
19 as dust in there?

20 A. Of course.

21 Q. The same question, Exhibit 3, attachment
22 13.

23 A. I notice you're avoiding certain pictures
24 that do show dust, but I don't see any dust in this

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1 picture.

2 Q. What I'm trying to get at is there's not a
3 constant state of dust, is there?

4 A. No. It could rain. The last month or two,

5 there's been very little dust because we've had
6 record rain falls.

7 Q. And even on sunny days such as you have in
8 your attachment six to Exhibit 3, perfectly clear
9 sunny day, no rain, we can have periods of nothing?

10 A. Yeah, but this doesn't say what it was like
11 the night before and I imagine if you really saw a
12 truck moving in this picture, you might see some
13 dust, but again, it's all the circumstances that are
14 there.

15 HEARING OFFICER HALLORAN: The last photo
16 Mr. Brill was observing was Exhibit 3, attachment
17 six for the record.

18 MS. REISEN: Thank you. I have no other
19 questions.

20 HEARING OFFICER HALLORAN: Mr. Brill, do you
21 have anything further to state?

22 MR. BRILL: I imagine if they paved their lot
23 the dust is not going to be a problem anyhow. I
24 don't know. But our problem is they've been there

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1 almost two years and they haven't paved it and I
2 don't know if they can't afford it or what the
3 reason is, but we find it a little hard to believe

4 that other areas are being paved in our town even
5 though there are some that aren't, but we're
6 wondering why we can't get any paving in a two year
7 -- less than a two year time frame.

8 I mean, I would think if a person wanted
9 to be good neighbors and they knew they had to pave
10 that lot anyhow, what is the hesitation? They send
11 us letters that they were looking into bids. These
12 bids say on there they're only good for a month,
13 these bids are over a year old. When are they going
14 to get to the paving and stop perusing bids and
15 start doing it? That's what our question is. That
16 doesn't sound like good neighbors to me and to use a
17 method of sodium chloride which is a stop yet method
18 at best and is also harmful to children, it advises
19 in the chemical directions on using this that people
20 should be wearing masks and protective clothing when
21 they're putting this down. Well, I don't remember
22 them telling the kids to get out of park if that's
23 indeed what they were spraying.

24 HEARING OFFICER HALLORAN: Any further

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1 redirect, if you will?

2 MR. BRILL: No, I don't think so.

3 HEARING OFFICER HALLORAN: Ms. Reisen, any
4 recross?

5 MS. REISEN: No.

6 HEARING OFFICER HALLORAN: Okay. You may step
7 down, Mr. Brill.

8 MR. BRILL: Should I take this with me?

9 HEARING OFFICER HALLORAN: Yes.

10 MR. BRILL: I would like to call my next
11 witness. I believe that's you.

12 HEARING OFFICER HALLORAN: Step up please and
13 the reporter will swear you in, ma'am.

14 (Witness sworn.)

15 MR. BRILL: Nancy Gibas.

16 HEARING OFFICER HALLORAN: I'm sorry, Mr.
17 Brill, what was the witness' name.

18 MR. BRILL: Nancy Gibas.

19 THE WITNESS: G-i-b-a-s.

20 HEARING OFFICER HALLORAN: Thank you.

21

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1 WHEREUPON:

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N A N C Y G I B A S

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

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

by Mr. Brill

Q. Could you show us on the map on the wall, Nancy, where your home is located?

A. I'm right here (indicating).

HEARING OFFICER HALLORAN: And what number is that, ma'am?

THE WITNESS: 9147.

HEARING OFFICER HALLORAN: Thank you.

BY THE WITNESS:

A. I'm right next to the park and my house is back on the lot very close to that fence.

BY MR. BRILL:

Q. As long as you're on that, how far are you from TL Trucking's property? Your property, how far is it from TL Trucking's property?

A. My property backs another factory and my lot line is right next to the park and that's where there's begins.

Q. Does any part of your property touch TL

1 Trucking's property?

2 A. Yes.

3 Q. In other words, it abuts in certain areas?

4 A. Yes.

5 Q. Okay. Are you taking time off to be here
6 today?

7 A. Yes, I am.

8 Q. Okay. Does anyone else live with you in
9 that house?

10 A. Yes. My daughter and son-in-law.

11 Q. Okay. How long have you occupied that
12 house?

13 A. We bought the house in 1976.

14 Q. You do know where TL Trucking is located
15 and you do know where the park is located, right?

16 A. Correct.

17 Q. Could you point those out on our map?

18 MR. BRILL: Let the record show that Nancy is
19 pointing out where the park is and where TL Trucking
20 is.

21 HEARING OFFICER HALLORAN: And where is that?

22 Is that --

23 BY THE WITNESS:

24 A. That's to -- give me the directions. What

1 are we, south of that?

2 MR. LATORIA: She's kitty corner adjacent to my
3 property.

4 MS. GIBAS: Thank you.

5 BY MR. BRILL:

6 Q. It's not exactly kiddy corner because a
7 part of it shows on the map that it actually abuts
8 your property?

9 A. Right. This is my driveway (indicating).

10 HEARING OFFICER HALLORAN: Sir, thank you. So
11 for the record to make it clear the Board has to
12 read and look at a cold record. I'm having trouble
13 visualizing exactly -- Ms. Gibas, you live at 9147?

14 MS. GIBAS: Right.

15 HEARING OFFICER HALLORAN: And where you're
16 pointing to is that pretty much due south of the
17 trucking company or is it southwest?

18 MR. BRILL: She's not good on directions.

19 HEARING OFFICER HALLORAN: For the record, the
20 hearing officer is going to mark the chart, put an N
21 in the upper part of the chart on Robinson Avenue
22 and an S at the bottom by King Street for south.

23 MS. GIBAS: They're south of me.

24 HEARING OFFICER HALLORAN: Thank you.

1 BY MR. BRILL:

2 Q. Since you've lived in this home on Crescent
3 Drive, could you describe the living conditions
4 there over the years?

5 A. It's been fine. I mean, all we had before
6 was the airplanes as far as noise since I've been in
7 there.

8 Q. Okay. The airplanes, are they constant
9 noise or are there some days there's less days than
10 other?

11 A. Yeah. There's not that much plane traffic
12 depending on what run, but the plane traffic over
13 our house or over our area is that not bad.

14 Q. The noises from the planes, are they of a
15 startling nature?

16 MS. REISEN: Objection, leading question.

17 HEARING OFFICER HALLORAN: Rephrase that
18 please, Mr. Brill.

19 BY MR. BRILL:

20 Q. What affect does the noise of the airplanes
21 have on you?

22 A. I've lived in Franklin Park all my life so
23 the planes where we live now I'm used to it. They
24 don't wake me up. They don't upset me.

1 Q. Okay. Before TL Trucking started up
2 operations next to your home, where would you go for
3 relaxation after a day's work?

4 A. I usually stay in my own house unless my
5 grandchildren are there and then we go to the park.

6 Q. Now that TL Trucking has set up operations,
7 can you relax at the park or in your home?

8 A. When I go to park with the kids, there's
9 little activity going on in their lot. It's
10 normally a weekend and even though there are some
11 trucks, it's not that bad in the afternoon when I
12 take them there.

13 Q. In other words, what you're saying is you
14 usually have your grandchildren on the weekends when
15 TL Trucking is not as busy as during the week?

16 A. Right.

17 Q. Do you ever go to Robinson Crusoe Park by
18 yourself to relax?

19 A. No.

20 Q. When I say diesel fumes I'm meaning exhaust
21 from trucks, does that ever get into your house?

22 A. Yes, it does. Once it turns cold until
23 April, my driveway smells like fuel.

24 Q. How do you get away from this noise and

1 dust and fumes?

2 A. I have to stay in the house.

3 Q. Even in the house you get some of it, huh?

4 A. Uh-huh.

5 Q. How is your home built that noise and dust
6 is getting inside?

7 A. How is it built that it wasn't?

8 Q. That noise and dust is getting inside your
9 house.

10 A. I have a frame house. I don't have
11 thermopane windows. I have storm windows, but that
12 doesn't block the sound of the banging and in the
13 morning and the stuff that goes on at five a.m.,
14 which I'm getting up then anyway. It's when I'm
15 trying to sleep at night.

16 Q. How do you know that noise and dust and
17 fumes are coming from TL Trucking?

18 A. Because I see the trucks out there and the
19 trucks --

20 Q. But you're sure it's coming from TL
21 Trucking and not someone else nearby?

22 A. I am positive.

23 Q. I'm trying to be brief, this lady has to go
24 to work.

1 Now, you said that your property abuts TL
2 Trucking's property?

3 A. Uh-huh.

4 Q. It sure looks that way on the map as well,
5 but we heard a statement here not long ago that your
6 property does not abut that property because there's
7 a claim of a road in TL Trucking -- a road in there?

8 A. A road? There's no road.

9 Q. You don't know of any road?

10 A. There's no road.

11 Q. It just appears to be driveway to you in TL
12 Trucking's lot?

13 A. Going into their lot? I don't understand
14 what the question is.

15 Q. What they're trying to say is that this is
16 a road through here. So when I claim that your
17 property -- or when you claim your property abuts
18 their property, they're saying what it really abuts
19 is a road here.

20 HEARING OFFICER HALLORAN: Mr. Brill, excuse
21 me, could you explain for the record what you're
22 pointing at? You have to understand that the Board
23 members are not here.

24 MR. BRILL: All right. TL Trucking enters

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1 their lot along this blank area here.

2 HEARING OFFICER HALLORAN: That blank area is
3 coming off King Street, sir?

4 MR. BRILL: Yes. And they're claiming that
5 this is a road. I don't know if it's a private road
6 or what it is, but it seems to me if this road was
7 taken away from TL Trucking --

8 HEARING OFFICER HALLORAN: Excuse me, sir, the
9 road you're referring to -- you have to make it
10 clear for the record. The road you're referring to
11 allegedly is coming off King Street, kind of running
12 right up to Ms. Gibas' property at 9147?

13 MR. BRILL: Yeah. Can I draw a line on there,
14 would that help?

15 HEARING OFFICER HALLORAN: Sure. You may do
16 whatever you want.

17 MR. BRILL: This may not be proportional, but
18 I've got an idea that the road runs similar to that
19 if there's indeed a road there.

20 HEARING OFFICER HALLORAN: Let the record
21 reflect that Mr. Brill just drew a line, a red line,
22 indicating where the alleged road is.

23 BY MR. BRILL.

24 Q. But even if your property did not directly

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1 abut TL Trucking's property because they claim
2 there's a road in there, would your property line be
3 kiddy corner at least to their property?

4 A. Right.

5 Q. Okay.

6 A. However, I believe there's a tanker parked
7 on that road.

8 Q. Well, sometime you don't pay attention to
9 where roads begin and end. I see Franklin Park
10 didn't pave that road, either.

11 MS. REISEN: Objection, Mr. Brill's testimony
12 is completed and at this point he needs to pose
13 questions to the witness and I ask that that
14 response be stricken.

15 HEARING OFFICER HALLORAN: Sustained.

16 BY MR. BRILL:

17 Q. Did you notice if that so-called road has
18 been paved?

19 A. No.

20 Q. Would you like to describe some of the
21 noises that you hear from TL Trucking?

22 A. It sound like they're taking wrenches and
23 beating on those trucks and I don't know what
24 they're doing. I don't go out there to see what

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1 they're doing, but I hear it. My bedroom is on the
2 second floor facing the park and I hear that noise.

3 Q. Now, there was a previous tenant in that
4 property and when TL Trucking set up operations in
5 there, was there a change in the noise levels coming
6 from that property?

7 A. There was no noise before they moved in or
8 no noise that I heard.

9 Q. At least you never complained to the
10 police about it?

11 A. No.

12 Q. Did you notice whether TL Trucking did
13 anything to soften the noises they were producing,
14 like build anything?

15 MS. REISEN: Objection, leading question.

16 BY MR. BRILL:

17 Q. Did you notice anything TL Trucking did to
18 mitigate the noises they were producing?

19 A. My opinion was I thought -- I think that
20 they thought that that fence was going to end it.

21 Q. I see. Was there a considerable time
22 period between the time they tore down the fence and
23 when they rebuilt it?

24 A. There was. The exact amount of time, I

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1 don't remember, but I know it was down for a while.

2 Q. Would you say it was weeks, months?

3 A. It was more than weeks.

4 Q. Did you see a temporary fence built in
5 there in the meantime between the park --

6 A. I did not.

7 Q. Did you notice TL Trucking do anything to
8 control the dust coming from their lot?

9 A. No.

10 Q. Did you notice that they did anything to
11 control the use of air horns at their facility?

12 A. I, myself, have not really heard air horns
13 that have bothered me. It's the banging on the
14 trucks.

15 Q. Fair enough.

16 Did they do anything to control other
17 noises from their facility?

18 A. Not that I'm aware of.

19 Q. You don't know how they clean these

20 tankers?

21 A. I've seen through the fence, but I really
22 haven't paid that much attention.

23 Q. Has the noise from TL Trucking impacted
24 your life in any way?

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1 A. I have to say I don't get a good night's
2 sleep.

3 Q. How would you say these diesel fumes affect
4 your life?

5 A. That gets bad during the cold months. It
6 gets very bad. It seems like they're doing it right
7 up against the fence, which is the closest to me.

8 Q. How does dust affect your life?

9 A. Breathing is not very easy when you have
10 that.

11 Q. In regard to your automobiles?

12 A. My car gets dirty and I'm not going to
13 blame it all on them because of the area we do live
14 in, but it does contribute.

15 Q. You have no idea why they leave trucks idle
16 out in their yard, do you?

17 A. I don't, but I believe it's something to do
18 with the trucks itself in the cold weather.

19 Q. Is there anything else you'd like to add
20 about disruption of your life from TL Trucking?

21 A. Just that I'd like a good night's sleep.
22 If you just move it from the other end closer to
23 your building.

24 Q. Are there any days when you don't hear

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1 noise from TL Trucking?

2 A. No. Sunday I have to say has been pretty
3 good in the afternoon. There's less activity going
4 on. They're not banging on the trucks. I know
5 they're washing and I can't swear by that, but I
6 mean at least the metal on metal isn't that loud
7 banging sound.

8 Q. Have you ever done anything to try and
9 resolve this issue with noise coming from there?

10 A. I haven't, but my daughter has. I haven't
11 personally, my daughter did.

12 Q. Do you have any idea why the village seems
13 to be inactive when it comes to noise from TL
14 Trucking?

15 A. No, I don't.

16 Q. What prompted you to be a witness here
17 today?

18 A. Because I was afraid if I didn't come
19 nothing would get done.

20 MR. BRILL: Okay. No more questions.

21 HEARING OFFICER HALLORAN: Thank you,
22 Mr. Brill. Ms. Reisen? You may stay seated,
23 please. Ms. Reisen may have some cross.

24 MS. GIBAS: I'm sorry.

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1 MS. REISEN: Yes. Thank you.

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

3 by Ms. Reisen

4 Q. Ms. Gibas, if I'm pronouncing your name
5 correctly, regarding the noise in your area, we've
6 had some testimony before lunch regarding the
7 industry around Crescent Drive and you're familiar
8 with where King Street is, correct?

9 A. Uh-huh.

10 Q. And are you aware of the other businesses
11 located on King Street?

12 A. The factories are there, yes.

13 Q. Do you know specifically which factories?

14 A. Just the corner ones, the Rosemont and -- I
15 don't go down King Street at all.

16 Q. Are you aware of what some of those

17 factories do?

18 A. No.

19 Q. Are you aware of their hours of operations?

20 A. Well, I know Rosemont Expo is an exposition
21 contractor and they're mainly an eight to 4:30
22 business.

23 Q. Are you aware that there are other 24 hour
24 a day, seven day a week businesses operating in your

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1 general area?

2 A. No, I was not.

3 Q. Okay. You're familiar with Dean Foods,
4 correct?

5 A. Uh-huh.

6 Q. Okay. You're not aware that they run those
7 hours?

8 A. No, I wasn't nor do I hear anything from
9 Dean Foods.

10 Q. You're a little removed from them, correct,
11 you're down a little ways from them?

12 A. From Dean Foods?

13 Q. Correct.

14 A. Yes.

15 Q. Would it be a fair statement that if you

16 were right next to their property you might be
17 hearing them?

18 A. I don't know because from what I see of the
19 property, I never drove into theirs, but their
20 facility is like quite a ways. It doesn't back
21 those houses.

22 Q. Okay. But if your house was near that, is
23 it a fair statement you'd probably hear it?

24 A. Maybe I would hear it, yes.

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1 Q. Okay. Do you know what Bruner Forge is?

2 A. No.

3 Q. Okay. Do you hear trains from your house?

4 A. I can hear a whistle, yes, not actual
5 trains, but I can hear their whistle.

6 Q. That can be quite loud at times, can't it?

7 A. It's kind of faded, though, by the time it
8 gets to us.

9 Q. Okay. How about the planes, there are
10 noise from the planes on occasion, correct?

11 A. Yes.

12 Q. You testified that you got used to that.
13 Was that just with time, you just didn't pay
14 attention to it anymore?

15 A. I've lived in Franklin Park since I was 12
16 years old.

17 Q. So you're kind of used to noise?

18 A. You get used to the sound of the airplanes.

19 Q. Okay.

20 A. And it's not as heavy as it is like in
21 Schiller Park from the airplanes.

22 Q. When you go to the park with your
23 grandchildren, do you stay for five minutes, couple
24 hours?

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1 A. Depending on which grandchildren I have
2 there.

3 Q. Depending on the age of the grandchild most
4 likely?

5 A. Yes.

6 Q. But you and your grandchildren have fun at
7 the park, is that a fair statement?

8 A. Yes.

9 Q. I've got here what's been marked as
10 Respondent's Exhibit 45 and this is an aerial
11 photograph and maybe this will help you in
12 determining the location of your property. Crescent
13 Drive is noted in yellow on the exhibit as is King

14 Avenue and the Des Plaines River Road and Lombard
15 Street, does that give you an idea of bearings?

16 A. Yeah.

17 Q. I'm going to hand you a highlighter --

18 HEARING OFFICER HALLORAN: I'm sorry.

19 Mr. Brill, have you seen this exhibit?

20 MR. BRILL: No, I haven't.

21 HEARING OFFICER HALLORAN: Would you like to
22 step up and take a look at it, please?

23 MR. BRIL: Yes, I would.

24

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1 BY MS. REISEN:

2 Q. Now, if I point out to you that this is TL
3 Trucking Foodliner and I'm going to put a box around
4 it and I'm going to put a T and an L?

5 A. That's my roof right there.

6 Q. Just color in your roof there. I'm going
7 to hand you a red pen since we're on an exhibit and
8 put a circle around that. Thank you. And why don't
9 you put a G in there since your last name is Gibas
10 so we can identify it later.

11 A. Can you see that?

12 Q. Sure can. Good job.

13 So you essentially are kiddy corner from
14 TL Trucking Foodliner?

15 A. Uh-huh.

16 Q. Now, there's a number of trees on your lot
17 line, is that correct?

18 A. Up front, but my house is back here.

19 Q. Toward the back. Looking at what looks
20 like a trailer behind your house -- between your
21 property and TL Trucking Foodliner, do you want to
22 put an X over that with the red pen.

23 A. A trailer?

24 Q. Do you know what that is?

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1 A. No.

2 Q. We better not doing anything to it because
3 I'm not sure either.

4 A. There's no trailer there.

5 Q. Okay. Thank you.

6 Now, do you remember talking to Attorney
7 Cory Thein from my office on or about August 27th,
8 year 2001? Do you remember a young man calling you
9 and asking you some questions?

10 A. Yes.

11 Q. Okay. And you were answering his questions

12 obviously truthfully?

13 A. Uh-huh.

14 Q. You had stated to Mr. Thein that there's
15 not a lot of industry around your residence, is that
16 your position?

17 A. Well, there's not a lot. There's King
18 Street and then there's small ones a couple blocks
19 away from me.

20 Q. Okay.

21 A. I wouldn't consider it Mannheim Road.

22 Q. What would you estimate to be the
23 percentage of Franklin Park that's industrial?

24 A. Oh, Franklin Park has a lot of industry.

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1 Q. Okay. And on Franklin Park are you in what
2 you consider mostly residential or mostly industrial
3 area?

4 A. Right where we're located?

5 Q. Uh-huh.

6 A. We've only got like that four-block radius
7 of houses there and then you have the factories down
8 King Street and Dean Foods to the other side of us
9 so whatever percentage you want to call that.

10 Q. Okay. I want to direct your attention to a

11 map that's now been put on the wall over our lunch
12 break. I don't want to write on this map. This
13 says village of Franklin Park zoning map, correct?

14 A. Correct.

15 Q. And we're going to try and do this as clear
16 as we can for the record. In the upper right-hand
17 corner there's a green section that says Crescent
18 Drive, Robinson Drive, do you see that area?

19 A. Uh-huh.

20 Q. And that's green, correct?

21 A. Uh-huh.

22 Q. What color surrounds all this area?

23 A. Gray.

24 Q. That probably doesn't mean much to you,

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1 does it?

2 A. You're telling me that all of this is
3 factories?

4 Q. You recognize that there's a small amount
5 of green there and a lot of gray surrounding it?

6 A. Correct.

7 Q. And that is Crescent Drive?

8 A. That's what it says, yes.

9 Q. Thank you. You can sit back down if you

10 want. I'm sorry.

11 You stated that TL Trucking Foodliner
12 creates dust, that they're not paved. When was the
13 last time you went by there?

14 A. Went by there?

15 Q. Correct.

16 A. I live right next door to it.

17 Q. So as you live right next door you've not
18 seen any paving?

19 A. No, I have not.

20 Q. Okay.

21 A. But I mean, I don't go to the fence and
22 look in there to see if they're doing it yet. I've
23 been told now -- or I'm hearing that they're already
24 doing it.

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1 Q. I'm going to show you what's been
2 previously marked as Respondent's Exhibit 59, 60, 61
3 and I apologize, 58, and do those represent the lot
4 that is TL Trucking as you recognize it?

5 A. Uh-huh.

6 Q. Those are paved, are they not, those
7 photos?

8 A. It doesn't look it. Does this. This

9 doesn't look like it's paved.

10 HEARING OFFICER HALLORAN: Could you, for the
11 record, describe what you're pointing at, what
12 attachment or exhibit, please?

13 BY MS. REISEN:

14 Q. You believe Exhibit 61 is not paved.
15 You're looking right at that and that's your belief
16 that's not paved?

17 A. Right.

18 Q. And you stated that Exhibit 60 does look
19 paved to you?

20 A. That look paved.

21 Q. And on Exhibit 59 there's a raised area
22 like a platform bed, correct?

23 A. That's not by me.

24 Q. There's a lower area. My question is at

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1 least the raised area right now is paved, correct?

2 A. Uh-huh. But that's not where the trucks
3 are at.

4 Q. Have you ever inquired to any of the
5 personnel at TL Trucking as to what their paving
6 schedule is?

7 A. No, I did not.

8 Q. Okay. Have you ever inquired to the city
9 as to whether or not permits have been submitted and
10 paving is indeed underway?

11 A. No, I have not.

12 Q. Okay. Have you ever done an inventory or a
13 visual inspection of the other industries on King
14 Drive to ascertain if their lots are paved or not
15 paved?

16 A. No, I have not.

17 Q. Is it a fair statement there are many
18 trucks that use King Street?

19 A. Correct.

20 Q. And there are trucks not necessarily
21 belonging to or doing business with TL Trucking?

22 A. Correct.

23 Q. Okay. So if you're not aware if the other
24 lots are paved or not paved, you really can't give

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1 an opinion as to how much dust may be caused by
2 other residents on King Street?

3 A. I'm sure they add to it.

4 Q. Now, River Road, you're familiar with,
5 correct?

6 A. Yes.

7 Q. And that's a pretty busy four-lane highway?
8 A. Yes.
9 Q. And that's been under construction?
10 A. Yes.
11 Q. For how long now?
12 A. Over a year.
13 Q. Okay. And that would you say contributes
14 to the dust in the area?
15 A. Sure.
16 Q. You stated that you were not familiar with
17 TL Trucking doing anything to minimize the dust.
18 Were you aware that calcium chloride was being
19 sprayed on the lot?
20 A. No.
21 Q. Had you ever inquired about it?
22 A. No.
23 Q. Did you ever see them spraying anything on
24 the lot?

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1 A. No.
2 Q. Do you look out your window to see what's
3 going on all the time?
4 A. I can't get a clear view if I look out the
5 window. I have to go out in my drive to see what's

6 actually going on.

7 Q. Okay. So is it more often than not --

8 A. If it's dark, I can see the truck lights
9 then I know the trucks are there and I can hear them
10 running.

11 Q. Is it more often than not that you don't
12 actually go out and ascertain the source of the
13 noise then? Are you more likely to stay in your
14 home?

15 A. After going out there once -- I mean, when
16 I hear the noise, I know what it is and I can see
17 the truck lights. I know when they're running in
18 that lot.

19 Q. You stated that you don't hear the air
20 horns, those don't bother you, correct?

21 A. I haven't personally had heard air horns.

22 Q. You stated you were not sure why the
23 village doesn't do anything, correct?

24 A. Right.

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1 Q. Could a basis be that my clients are in
2 compliance with their zoning expectations?

3 A. Could be.

4 MR. BRILL: Objection, that calls for

5 speculation on my witness' part.

6 HEARING OFFICER HALLORAN: I'll allow it.

7 Overruled.

8 MS. REISEN: No other questions. Thank you.

9 MS. GIBAS: Thank you.

10 HEARING OFFICER HALLORAN: Mr. Brill, do you
11 have any redirect, sir, of Ms. Gibas?

12 MR. BRILL: No, I'm not that flashy. There's
13 some points that I'd like to bring out, but I don't
14 know how to question her.

15 HEARING OFFICER HALLORAN: Thank you very much.
16 Thank you, Ms. Gibas. You may step down.

17 Ms. Reisen, are you going to call her --

18 MS. REISEN: You can go ahead and go. Thank
19 you.

20 MR. BRILL: Can we call our next witness?

21 HEARING OFFICER HALLORAN: Mr. Brill, you may
22 call your next witness, please.

23 MR. BRILL: Manuel Harrah.

24 HEARING OFFICER HALLORAN: Before I forget and

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1 before we have this witness' testimony, after lunch
2 at approximately 1:10 a new face entered the room.
3 Miss, are you -- is Mr. Brill calling you as a

4 witness or are you a member of the public?

5 MR. BRILL: She's on our witness list.

6 HEARING OFFICER HALLORAN: And your name is?

7 MS. O'NEILL: I'm Sherri O'Neill.

8 HEARING OFFICER HALLORAN: Thank you.

9 (Witness sworn.)

10 WHEREUPON:

11 M A N U E L H A R R A H,

12 called as a witness herein, having been first duly

13 sworn, deposeth and saith as follows:

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

15 by Mr. Brill

16 Q. Manuel, go up to that map there and show us

17 where you live, please.

18 HEARING OFFICER HALLORAN: Mr. Brill, could you

19 please give us the witness' name, please?

20 MR. BRILL: Manual --

21 HEARING OFFICER HALLORAN: And have him spell

22 it for the record.

23 MR. BRILL: How is the last name pronounced?

24 MR. HARRAH: Harrah.

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1 HEARING OFFICER HARRAH: Could you spell that

2 please for the record?

3 MR. HARRAH: The last name or the whole name?

4 HEARING OFFICER HALLORAN: The last name is
5 fine.

6 MR. HARRAH: H-a-r-r-a-h

7 HEARING OFFICER HALLORAN: Thank you. Your
8 question, Mr. Brill?

9 BY MR. BRILL.

10 Q. Could you point out on the map, Manuel,
11 where you live?

12 A. Right here, 9200.

13 Q. Next door neighbor.

14 A. Yeah.

15 HEARING OFFICER HALLORAN: For the record, the
16 witness was pointing to Exhibit A that has been
17 taped on the wall by the complainant, Mr. Brill.

18 BY MR. BRILL:

19 Q. How long have you lived there?

20 A. All my life.

21 Q. And that is?

22 A. Twenty-nine years.

23 Q. Could you look at Exhibit A again, Manuel,
24 and show us where the Robinson Crusoe Park is?

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1 A. It's right here where a D is marked.

2 Q. Okay.

3 MR. BRILL: Let the record show that Manuel is
4 pointing to an area marked park identified with a D.

5 BY MR. BRILL:

6 Q. Could you show us on the diagram where TL
7 Trucking is located, if you know?

8 A. Right here where it's marked with a C.

9 Q. Okay. You can sit down. I don't think we
10 have anymore.

11 A. Okay.

12 Q. Are the street names on that map there, do
13 they look correct to you?

14 A. Yeah.

15 Q. Since you lived on Crescent Drive all your
16 life, could you describe what living has been like
17 there for those 29 years other than the first
18 couple?

19 A. It's been pretty pleasant. I grew up there
20 as a kid. As a kid, I played in the park a lot.

21 Q. Is there a lot of traffic on your street?

22 A. No.

23 Q. Is there much parking on your street?

24 A. As far as vehicles parked on the street?

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1 Q. Yeah.

2 A. Not that many.

3 Q. Before TL Trucking came into the
4 neighborhood, where did you go to relax?

5 A. Normally out in the yard or -- pretty much
6 out in the yard.

7 Q. All right.

8 A. Occasionally over to the park with one of
9 my nieces or nephews, but not a regular practice.

10 Q. Now that TL Trucking has set up operations,
11 is the quality of your relaxation in your yard equal
12 to what it was before?

13 A. No, not at all.

14 Q. Could you explain why?

15 A. Well, where I live, the house faces the
16 back of their lot and my house sits almost at the
17 back of our lot so all we have is a front yard. We
18 have no backyard to go into, therefore, I mean with
19 the dirt and the smell, I mean there's no getting
20 away from it.

21 Q. Alluding to the smell, is that the smell of
22 diesel exhaust fumes?

23 A. Yeah.

24 MS. REISEN: Objection, again, leading

1 question.

2 HEARING OFFICER HALLORAN: Sustained.

3 Mr. Brill, could you please rephrase that?

4 BY MR. BRILL:

5 Q. What kind of fumes do you smell in your
6 front yard?

7 A. Diesel exhaust -- diesel fuel.

8 Q. Isn't it possible to get away from these
9 noises by going indoors?

10 A. Well, I'm far enough away where the noise
11 is not a tremendous issue for us.

12 Q. But can you still hear noises even --

13 A. Yeah. For me, it's -- we hear the trucks
14 backing up to the tankers when they lock up, you
15 know.

16 Q. How do you know that that noise you're
17 hearing is coming from TL Trucking?

18 A. I can look out the window and I can see the
19 truck in the evening, backing -- the trucks backed
20 up to it, all the lights are on.

21 Q. Do you have many problems with dust since
22 TL Trucking took occupancy of that area?

23 A. The dust is horrible.

24 Q. Could you explain how you know this or why

1 it is?

2 A. I can't give you exact days or times, but
3 I've been out there in a driveway coming home from
4 work and I've actually seen the dust coming off that
5 lot through the park towards my house. I cannot
6 even keep a clean vehicle at all except for when it
7 rains and when it rains, the vehicle ain't clean
8 anyhow so...

9 Q. Okay. Since you've been living there 29
10 years you're a little bit familiar with other people
11 who have occupied that site. Did you hear noises
12 from those people?

13 MS. REISEN: Objection, we're going to ask that
14 he first identify who the other persons are who
15 occupied that site to ascertain that the witness
16 does in fact have familiarity.

17 BY MR. BRILL:

18 Q. The former occupants of the site where TL
19 Trucking now is, did they produce noises that
20 bothered you?

21 A. No.

22 Q. When TL Trucking moved in in January of
23 1999, did you notice a change in the noise levels
24 that were coming from the 9200 King Street site?

1 A. Well, for us, noise has not been a big
2 issue. It is more or less the dirt, the dust.

3 Q. Did you notice anything that TL Trucking
4 did to soften or stop the dust from coming on your
5 vehicles and on your lawn?

6 A. No.

7 Q. Did you notice that -- first of all, do you
8 ever hear air horns in use from TL Trucking?

9 A. I can't say for sure. With where our house
10 is at and prior to them moving in there, we had our
11 house -- we have new windows in the house, which are
12 thermopane windows. We had --

13 Q. Pardon me. I'm speaking of outside.

14 A. Outside, yeah. I've have heard noise
15 coming from --

16 Q. Specifically air horns?

17 A. I would say, yeah.

18 Q. Not to be confused with train horns. You
19 know the difference?

20 A. Yeah, I do know the difference.

21 Q. Have you seen anything that they've done
22 over there to try and control these noises and dust?

23 A. No, I haven't.

24 Q. When you look over towards TL Trucking,

1 what does it look like from your vantage point?

2 A. As far as the lot?

3 Q. Yeah. What do you see when you look in
4 that direction?

5 A. There's probably about 15 or 20 tanker
6 trucks lined up there facing us, some of them exceed
7 the height of the fence. I've walked over and
8 looked, it's a gravel driveway.

9 Q. Do you know how many trucks are being
10 washed there in that facility at any given time?

11 A. No, I don't.

12 Q. Do you know from your own experience how
13 they clean these trucks?

14 A. I have no idea how they clean them.

15 Q. Okay. Aside from your relaxation in your
16 front yard, does TL Trucking impact your life in any
17 other way, I mean other than the relaxation?

18 A. It's just the dust and the dirt. You can't
19 go out of your house. You can't open windows. Most
20 of my windows on my house face them. You know, all
21 the bedrooms upstairs face them. How am I going to
22 open a window? I wake up the next day with dirt all
23 over me and my bed.

24 Q. Since they moved into that site, are you

1 smelling any diesel fumes around your home?

2 A. I've smelled them in the past, yes.

3 Q. Personally has this -- yeah, you
4 personally, is this dust affecting your life?

5 MS. REISEN: Objection, this is been asked and
6 answered at least three times.

7 HEARING OFFICER HALLORAN: I agree. Sustained.

8 MR. BRILL: Could I rephrase it?

9 HEARING OFFICER HALLORAN: Yes.

10 BY MR. BRILL:

11 Q. I'm saying personally meaning healthwise,
12 do you notice any difference in your life since TL
13 Trucking moved to that site?

14 A. Well, it makes it more difficult to
15 breathe. For me, I have asthma and I have allergies
16 and the excessive amount of dust coming off that lot
17 and across towards my house does not help it. Yes,
18 there's dust in the air, you know, but it's
19 unnecessary what comes off that lot towards us.

20 Q. Do you know why the tractors in TL's lot
21 are left sitting idle?

22 A. In the wintertime I'm assuming because
23 they're diesel trucks.

24 Q. Does this dust settle on anything other

1 than your cars?

2 A. It settles over everything. It's on the
3 driveway. It's on our house, our garage.

4 Q. Are there any days when you don't hear any
5 noises coming from TL Trucking?

6 A. Yeah, there's days where we don't hear any
7 noise.

8 Q. Have you ever done anything like call the
9 police or make a report?

10 A. I haven't personally, no.

11 Q. You signed our petition about the concerns
12 you had from TL Trucking. Other than what you
13 stated that it's harder to breathe, was there
14 anything else that was affecting your life that you
15 know of that was because of TL Trucking being there?

16 MS. REISEN: Objection, asked and answered
17 numerous times.

18 HEARING OFFICER HALLORAN: I'll allow it one
19 more time.

20 MR. BRILL: No, I won't go there. No more
21 questions.

22 HEARING OFFICER HALLORAN: Thank you.

23 Ms. Reisen, cross?

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

2 by Ms. Reisen

3 Q. Mr. Harrah?

4 A. Yeah.

5 Q. Do you work?

6 A. Yes.

7 Q. What do you do?

8 A. I'm in quality assurance.

9 Q. Days?

10 A. Yes, it recently changed.

11 Q. What was it?

12 A. I used to work second shift.

13 Q. When would you sleep?

14 A. During the day. Well, second shifts ended

15 at 11.

16 Q. And how many years did you work nights?

17 A. I want to say about seven or eight years.

18 Q. And you were able to maintain those hours?

19 A. Yeah.

20 Q. Okay. What do you do for recreation?

21 A. As far as around the house or just in

22 general?

23 Q. In general.

24 A. In the wintertime I go snowmobiling, in the

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1 summertime out with friends.

2 Q. So you find time to socialize and do
3 things, is that correct?

4 A. Yeah, here and there, yeah.

5 Q. I want you to listen for a minute. Can you
6 hear the traffic of the street below? Wait until it
7 starts up again. Give it a minute when the light
8 changes.

9 A. I don't understand what you're asking me
10 here.

11 Q. I want you to just listen a minute.
12 Can you hear those horns?

13 A. I don't hear anything.

14 Q. Can't hear the traffic?

15 A. No.

16 Q. Maybe I've just got better hearing than the
17 average bear, but when you were sitting in the back
18 of the room, could you hear the traffic starting and
19 stopping?

20 A. No.

21 Q. It's one thing to hear something, it's

22 another thing to have it interfere with your life,
23 correct?

24 A. Yeah.

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1 Q. And you stated that the noise in your
2 neighborhood does not interfere with your life,
3 correct?

4 A. The noise, no.

5 Q. Okay. Your primary concern is the dust?

6 A. Yeah.

7 Q. Before we move on to the dust, as far as
8 the noise goes, you reside at 9204 Crescent Drive,
9 correct?

10 A. No.

11 Q. Where do you reside?

12 A. 9200.

13 Q. 9200. I'm sorry. Mr. Brill resides at
14 9204?

15 A. Yeah.

16 Q. You two are next door neighbors?

17 A. Yes.

18 Q. So your property lien is smack dab on top
19 of his, correct?

20 A. Yes, it is.

21 Q. Now, he's described earth shattering noises
22 that are causing him to bump his head on the car and
23 things like that, but you don't hear that same
24 noise? You don't get that same reaction, do you?

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1 A. My house is further back than his.

2 Q. Well, what's the width of your lot? It
3 looks like a narrow lot.

4 A. Yeah, but our lot is a double lot.

5 Q. Let me ask you a question. What's the
6 width of your lot?

7 A. I don't know the exact measurement of my
8 lot.

9 Q. Okay. You can see Mr. Brill's house from
10 your window, right?

11 A. Yeah, the back of his house.

12 Q. Okay. He's right there by you.

13 River Road is just around the corner from
14 where you live, correct?

15 A. Uh-huh.

16 Q. And how would you describe the traffic on
17 River Road?

18 A. It's fairly busy around rush hour.

19 Q. Okay. And that's been under construction

20 for about a year, correct?

21 A. Uh-huh.

22 Q. And the construction causes dust of its
23 own, wouldn't you agree?

24 A. Yes, it does.

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1 Q. Have you inspected any of the other
2 business on King Street? Have you checked out their
3 property?

4 A. As far as?

5 Q. Are their lots paved or not paved?

6 A. Most of the lots over there are paved.

7 Q. Which ones are paved?

8 A. Which ones are paved?

9 Q. Uh-huh. Can you give me names of the
10 businesses with paved lots?

11 A. Rosemont Exposition is paved. Belmont
12 Plating is paved. There's an -- I believe it's
13 Grooms Electronics (phonetic), they're paved.
14 There's another business down the street from TL
15 Trucking, their lot is paved.

16 Q. So do you drive up and down King Street and
17 inspect the lots?

18 A. No, I don't.

19 Q. How do you know that?

20 A. I've been down the street before.

21 Q. And when you're referring to the status of
22 their lots, I assume you're referring to the part of
23 their lot that faces the street, you're not going
24 back into their property, are you?

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1 A. No.

2 Q. Can you say that none of the businesses on
3 King Drive create dust?

4 A. No, I can't say that.

5 Q. Okay. You were around TL Trucking this
6 morning looking at their lot, weren't you?

7 A. Yeah, I looked over there.

8 Q. Where were you looking from?

9 A. I was looking from --

10 Q. From the park or from King Street?

11 A. Yeah, from the park, from right here
12 (indicating).

13 Q. Were you aware that they paved some of
14 their lot?

15 A. From where I was standing, I couldn't see
16 any paving.

17 Q. Okay. But you didn't go around King Street

18 or on their property to ascertain the extent of
19 paving, did you?

20 A. No.

21 Q. I'm going to hand you what's been marked as
22 Exhibits 59, 60 and 61 and do you recognize those as
23 being TL's lot?

24 A. This one I really couldn't say.

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1 Q. Okay. You just pointed to Exhibit 60.
2 If I were to tell that's the view of the lot from
3 King Street, would that maybe clarify why you're not
4 familiar with that view?

5 A. It's possible, yeah.

6 Q. Do you have any reason to doubt that that's
7 part of their property?

8 A. I don't know for sure if it is or if it
9 isn't.

10 Q. Okay. If the record later establishes that
11 it is part of their property, is it paved?

12 A. Yes, it's paved.

13 Q. Okay. Thank you.

14 On Exhibit 59 there's two levels of
15 ground, there's an elevated bed and then there's a
16 lower front area, correct?

17 A. Uh-huh.

18 Q. The lower front area we can tell is not
19 paved, is that a fair statement?

20 A. True.

21 Q. The elevated bed is paved, is it not?

22 A. It looks to be paved, yes.

23 Q. Thank you.

24 Lastly, on Exhibit 61, that's part of TL's

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1 lot near the building, does that appear to be paved
2 to you?

3 A. It appears to be, yes.

4 Q. Thank you.

5 Now, since dust is your main concern, when
6 this whole lot is finally paved, do you assume that
7 your primary complaint will be significantly
8 lessened?

9 A. Yes. Another part of the complaint is the
10 site of the trucks.

11 Q. Let me ask you a question about the dust
12 while we're still on that.

13 When you stated that my clients were
14 doing nothing to keep the dust down, were you aware
15 that they were spraying with calcium chloride?

16 A. No, I was not.
17 Q. Are you familiar with calcium chloride?
18 A. No, I'm not.
19 Q. Okay. You have no idea what it does?
20 A. No.
21 Q. Did you ever ask anyone at TL Trucking what
22 steps they were taking to reduce the noise?
23 A. No, I did not.
24 Q. Are you aware if anybody else in the area

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1 sprays with calcium chloride?
2 A. No.
3 Q. In addition to the calcium chloride, TL
4 Trucking was watering the lot twice a day, were you
5 aware of that?
6 A. No.
7 Q. Again, you made no inquiry as to what they
8 were doing, is that correct?
9 A. True.
10 MS. REISEN: I have no other questions. Thank
11 you, sir.
12 HEARING OFFICER HALLORAN: Thank you.
13 Mr. Brill, any redirect?

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

15 by Mr. Brill

16 Q. When Ms. Reisen asked you to listen to the
17 noise coming in from that window, you said you
18 didn't hear anything. That was the testimony,
19 wasn't it?

20 A. Yeah.

21 Q. You didn't hear anything. Could that be
22 the same reason that noise from TL Trucking doesn't
23 bother you?

24 A. Probably.

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1 MR. BRILL: That's all I have.

2 MS. REISEN: No other questions.

3 HEARING OFFICER HALLORAN: No recross? Thank
4 you, Mr. Harrah. You can step down. You won't need
5 him anymore, Ms. Reisen?

6 MS. REISEN: No.

7 HEARING OFFICER HALLORAN: Thank you. You may
8 leave. Thank you for your testimony. I think we'll
9 take a six, seven-minute break.

10 (Whereupon, after a short
11 break was had, the
12 following proceedings
13 were held accordingly.)

14 HEARING OFFICER HALLORAN: We're back on the
15 record. It is approximately 2:45. Mr. Brill, I
16 believe, is going to call his fifth witness.

17 MR. BRILL: I don't know the number anymore,
18 but it's this young lady here, Sherri O'Neill.

19 HEARING OFFICER HALLORAN: Please take the
20 stand and the reporter will swear you in.

21

22

23

24

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1 (Witness sworn.)

2 WHEREUPON:

3 S H E R R I O ' N E I L L ,

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

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

7 by Mr. Brill

8 Q. My first question, Sherri, is can you
9 approach that map up there?

10 HEARING OFFICER HALLORAN: Could you please,
11 Mr. Brill, put her name in the record, please, ask
12 her her and name spell for the record.

13 BY MR. BRILL:

14 Q. Could you enter your name and spell it?

15 A. The name is Sherri O'Neill, S-h-e-r-r-i, O,
16 apostrophe, N-e-i-l-l.

17 HEARING OFFICER HALLORAN: Thank you.

18 BY MR. BRILL:

19 Q. Could you approach that map and point out
20 where you live?

21 A. I live at 9147 Crescent Drive.

22 Q. Nancy was your mother?

23 A. Yes.

24 Q. Is your mother, I'm sorry. Can you point

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1 out where TL Trucking is on that map?

2 A. They're right here at 9200 (indicating).

3 Q. And can you point out where the park is?

4 A. The park is right next to my house.

5 Q. Okay. Thank you. You can sit down.

6 How long have you lived at that address?

7 A. Twenty-nine years -- 25 years -- 29 years.

8 Q. Did you move in there originally or were
9 you born there?

10 A. No. I moved there when I was nine years
11 old.

12 Q. Are you taking time off to be here today?

13 A. Yes, I am.

14 Q. When you look at this map, does that look
15 like a reasonable map of the area?

16 A. Yes.

17 Q. I mean, the streets appear to be correct
18 and in their proper place?

19 A. That is a fair representation.

20 HEARING OFFICER HALLORAN: The witness is
21 referring to Complainant's Exhibit A. Thank you.

22 BY MR. BRILL:

23 Q. Since you've lived in that home on Crescent
24 Drive, can you describe what living was like there

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1 over the years?

2 A. It's a very quiet neighborhood. There's
3 only one way in and one way out of our neighborhood
4 so we don't get through traffic. It's just always
5 been a very quiet, pleasant neighborhood.

6 Q. Before TL Trucking started up operations
7 next to your neighborhood and in your case next to
8 your house, where would you go to relax after a
9 day's work?

10 A. When I was child, I played in that park

11 constantly. Now that I'm older I mostly -- we have
12 a deck in our backyard that we barbecue and hang out
13 on our deck and we also have a pool in our yard so
14 we spend a lot of time in our yard. I also for
15 recreation like to go jogging and ride my bike
16 around the area.

17 Q. Now that TL Trucking has set up
18 operations, can you relax in your backyard?

19 A. When I am in backyard I can hear basically
20 the machines I believe that they use, the steam
21 cleaners that they use to clean the trucks which
22 like if you imagine somebody running a vacuum
23 cleaner constantly. It does affect -- the fumes are
24 bad.

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1 MS. REISEN: Objection, I'm going to interrupt
2 the witness and ask that she testify from memory
3 rather than --

4 MS. GIBAS: There's nothing on here.

5 MS. REISEN: Okay.

6 BY THE WITNESS:

7 A. The fumes are bad, the noise is bad.
8 Overall, I mean it's definitely affected the quality
9 of our life.

10 BY MR. BRILL:

11 Q. You stated that when you were younger you
12 used to go to Robinson Crusoe Park. What would you
13 think of going there now?

14 A. Actually, I try to stay away. My mother
15 will take the kids into the park, but when they come
16 by me we usually go somewhere else. We go to other
17 parks in the area. I take them -- I have to get in
18 my car and actually drive to other places, but I
19 don't go in the park.

20 Q. Do any -- do you ever smell any diesel
21 fumes on your lot?

22 A. Yes.

23 Q. Do you know the source of those diesel
24 fumes?

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1 A. I can only speculate because I can hear the
2 trucks idling that it's coming from those trucks.

3 Q. Do you ever get diesel fumes in your home?

4 A. I don't think so much in the home, no.
5 When I go out like I get up in the morning sometimes
6 at six in the morning to go for a jog and that's
7 when I'll smell it and I smell it not only from my
8 house at the 9147, but when I go around the block,

9 I'll also smell it at 9221 so it kind of spreads
10 over the whole area.

11 Q. Do you ever hear any noise from TL
12 Trucking?

13 A. Well, just this morning as a matter of fact
14 at about six a.m. I could hear the -- I can only
15 describe it as a sonic boom, but I think it's from
16 the trucks hooking up to the tractors and it makes
17 this horrendous noise. I heard that a couple times
18 this morning and these notes spread back over about
19 five months of last year and a lot of morning
20 activity and that's when I hear the trucks booming
21 is in the morning and we called TL Trucking last
22 week and as a matter of fact a couple weeks before
23 to complain about the -- what I call the vacuum
24 cleaner noise.

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1 Q. Do you ever hear -- do you ever see anybody
2 slamming down a lid on one of those tankers out
3 there?

4 A. No. But as my mother mentioned, I hear
5 what seems to be somebody banking on a pipe. It's a
6 loud clanking noise, a lot of that that we hear at
7 night.

8 Q. How can you -- I don't know if you stated
9 this or not but, there is a dust problem now that TL
10 Trucking moved?

11 A. I have noticed since they've been there and
12 since they've paved the lot I've actually witnessed
13 as I stand in my window in my kitchen washing dishes
14 I've seen when the wind has come and blown dust
15 clouds through the park to the point where I
16 couldn't see across the park and there were kids
17 there and they ran out. So I mean I've seen that.
18 Now, the dust in general yes, it's bad, but I mean
19 occasionally when there's a good wind and I've even
20 seen it as soon as two weeks ago, dust comes rolling
21 off there.

22 Q. Could you say with any certainty that that
23 dust is coming from TL Trucking?

24 A. Well, I've never seen dust like that before

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1 they were there so that's the only reason that I
2 believe it's them.

3 Q. How close is your house to TL Trucking,
4 can you estimate that?

5 A. I would have to say it's -- guessing and
6 I'm not real good on footage, but it would be within

7 100 feet.

8 Q. Would you say that your house of all the
9 houses in our neighborhood is the one that's closest
10 to --

11 A. Yes.

12 Q. Okay. Now, you've lived there 29 years,
13 did you ever hear noises from other businesses that
14 occupied that site?

15 A. No.

16 Q. So when TL Trucking moved in, was there a
17 change in the noise levels of the neighborhood?

18 A. Yes.

19 Q. And what were those changes?

20 A. Well, I never heard the booms, the banging,
21 the winding of the cleaner or any of that prior to
22 them being there.

23 Q. Did you observe TL Trucking doing anything
24 to mitigate the noises they were producing?

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1 A. No. In fact, we've called them and we've
2 called the village numerous times. When I called as
3 recently as a couple weeks ago and talked to the
4 night dispatcher, Charlotte, the noise did stop for
5 a couple of hours and then it started back up. So I

6 don't know that they're doing physically, but I've
7 made phone calls.

8 Q. You did see that they put up a fence along
9 the property?

10 A. That fence actually was not completed. It
11 stopped about probably a foot or two short of the
12 fence that was next to it. So for about the first
13 month we had people, I can only guess factory
14 workers, cutting through my driveway to go to Burger
15 King and then cutting through back. So when I made
16 the village aware of it, they told TL Trucking and
17 somebody strung a bunch of rope around it now so
18 that that's how the fence --

19 Q. Isn't that gap on what TL contends is a
20 public street?

21 A. If it's a street public street, that I
22 don't know, but that's my driveway here right in the
23 corner where your red line is, that's my driveway
24 behind it (indicating).

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1 Q. Have you ever seen any speed limits on that
2 so-called street that they have?

3 A. No.

4 Q. You certainly haven't had any -- you've

5 said that foot traffic walks down there and they go
6 through --

7 A. They were before he roped it off.

8 Q. But no cars go through there?

9 A. No, they can't. Their concrete block ends
10 next to my garage -- is next to my garage.

11 Q. You didn't see -- how long do you think
12 that that fence was down they took down?

13 A. I don't know for sure.

14 Q. You didn't see any temporary fence while it
15 was down, did you?

16 A. Huh-huh.

17 Q. You didn't see children playing in TL
18 Trucking's lot or entering it when there was no
19 fence?

20 A. I didn't see any.

21 Q. Do you get -- are you bothered by any
22 lights from -- headlights?

23 A. No.

24 Q. What about yard lights from TL?

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1 A. No.

2 Q. Is there a reason for that?

3 A. Their lights don't shine onto my property.

4 Q. Do you ever hear air horns used over at TL
5 Trucking?

6 A. I'm hearing what I thought were the air
7 brakes. I always hear bursts of air, but I don't
8 actually recall hearing horns, but I'm not home all
9 the time. I'm gone from approximately seven in the
10 morning or eight in the morning until six at night.

11 Q. Is that a fairly busy establishment there,
12 I mean are there a lot of trucks in that lot?

13 A. Sure. They seem to operate seven days a
14 week, 24 hours a day with of course some down time
15 on Sunday that they're not as busy, but they're busy
16 during the week.

17 Q. Now, your line of site is somewhat askew
18 from their bay doors?

19 A. Correct.

20 Q. Can you see any trucks being washed in
21 there?

22 A. No.

23 Q. Do you see any tractors being washed
24 outside of the building?

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1 A. No.

2 Q. You don't know how they wash those things?

3 A. I do as a matter of fact because I had a
4 party at my house on Labor Day in 2001 and one of my
5 guests actually stood over there looking at the
6 property and I said yeah, it's kind of noisy and he
7 said, oh, I know that noise I used to work for them,
8 that's what they use to clean their trucks.

9 Q. Aside from your areas of relaxation like
10 your deck and your lawn and things like that, has TL
11 Trucking impacted your life in any other way?

12 A. Well, yeah, we have the -- like I said,
13 every morning the 5:00 o'clock boom wake up several
14 times. In the evenings -- if I could just refer for
15 one minute to my notes I believe I called at 1:00
16 o'clock in the morning to their dispatcher, 11:00
17 o'clock in the evening calling their dispatcher to
18 complain about the steam cleaner.

19 Q. Did you call the police?

20 A. I would say from the period of about March
21 of 2000 through approximately August of 2000 we
22 called 911 probably about once a week and the cops
23 would -- I'm assuming would go there and tell them
24 be to quiet because the noise would stop.

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1 Q. You're very persuasive.

2 A. Well, it didn't stop permanently, but it
3 would stop for a while.

4 Q. What about these diesel fumes, do they have
5 an effect on your life?

6 A. Well, sure, you don't want to take a deep
7 breath of morning air when you feel like you're
8 sniffing up the diesel fumes.

9 Q. When you do your jogging, do you try to
10 avoid those areas where you smell diesel fuels?

11 A. In all honesty after that happened, which
12 happened quite a bit over the past winter, I
13 basically do my jogging at the health club now
14 because I just don't think it's worth it.

15 Q. How does the noise from TL Trucking impact
16 your life?

17 A. It just basically interrupts my sleep. It
18 interrupts any quiet relaxation time I might have
19 after work or on the weekends.

20 Q. So it does awaken you at times?

21 A. Uh-huh.

22 Q. Do you know any reason why TL Trucking
23 would allow trucks to sit at idle in their yard?

24 A. Well, from what I know about tractors and

1 things like that, in the winter they have to keep
2 them running or the heaters don't work and it takes
3 a long time from what I understand.

4 Q. This dust that comes over, where do you
5 notice it settling?

6 A. Well, our car is -- that's the first place
7 you can see it and people at work make fun of me
8 because my car is always covered with white dust.
9 Also, in my home because we don't have central air
10 so we keep our windows open in the summer and I
11 notice it quite a bit in my home.

12 Q. So when it's been stated today that there's
13 been some paving going on, that hasn't lessened the
14 dust, has it?

15 A. No.

16 Q. Is it possible that that noise and dust is
17 coming from somewhere else other than TL?

18 A. Like I said, I never noticed it before they
19 were there so I can't say if it comes from anywhere
20 else.

21 Q. Is there any other noise you hear in your
22 home or in your yard that doesn't come from --

23 A. It has been mentioned airplanes, what you
24 hear with the airplanes is you will gradually hear

1 them coming and they'll go over and they go away.
2 Again, we're not in a direct flight pattern so we
3 don't get a lot of airplanes that close to our home.
4 Occasionally, we do hear the train whistles, but
5 that's mostly what I hear.

6 Q. Are there any days when you don't hear any
7 noise from TL Trucking?

8 A. There might -- maybe on weekends like say
9 Sundays, but not any long period of time.

10 Q. Are there any hours that are noise free?

11 A. Probably when I'm not home, when I'm at
12 work or something, but I notice them constantly.

13 Q. You're here as a witness today against --
14 as a complainant witness against TL Trucking.
15 Why did you get involved in this?

16 A. I think it's impacting our neighborhood,
17 our homes, our way of life.

18 Q. Do you have anything in your notes that you
19 feel is important for this hearing to record?

20 A. Well, I mean, you can make a copy of it. I
21 tried to kind of keep a diary of the noise, of the
22 people I called to complain and people I spoke to
23 and what kind of problems, whether it was noise or
24 fumes so if you want to make a copy. It's just kind

1 of scribbled.

2 Q. Is it kind of clear who made these notes?

3 A. It's all my handwriting.

4 Q. Was it signed ever?

5 A. No, it's my private diary I guess.

6 Q. If you wrote your name on those notes,
7 could we have those admitted, Mr. Hearing officer?

8 MS. REISEN: I would make an objection based
9 upon many of the same foundation issues that we had
10 with Mr. Brill. She's here. She's testifying. She
11 quite clearly has an accurate memory, has no problem
12 putting into words what she feels her recollections
13 are. That would duplicative and unnecessary.

14 HEARING OFFICER HALLORAN: Mr. Brill?

15 MR. BRILL: I think that the notes would speak
16 for themselves and I think that they would be
17 important informing for the Board to consider.

18 HEARING OFFICER HALLORAN: I think she
19 testified that she pretty much testified to
20 everything in those notes.

21 MR. BRILL: Let me ask one last question then.

22 BY MR. BRILL:

23 Q. Going from your memory without looking at
24 the notes, is there anything in there that I didn't

1 cover that you think is important?

2 A. No. I think we've gotten it all. It's
3 basically the noise, the fumes, who I've called to
4 complain to, who I've spoken to. It goes from
5 November when the letter came through about June.

6 MR. BRILL: Okay. No more questions.

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

8 by Ms. Reisen

9 Q. Ms. O'Neill, you live with your mother,
10 correct?

11 A. Yes.

12 Q. Is it her home or your home?

13 A. It's her home that I'm actually optioning
14 to buy.

15 Q. Have you been with her -- how long have you
16 been back in the home with her?

17 A. I've been in the home all my life.

18 Q. Okay. So you stayed in the home?

19 A. Yes.

20 Q. And you have children?

21 A. No.

22 Q. Pardon?

23 A. No.

24 Q. I thought I heard you say --

1 A. No. My nephews, niece I was referring to
2 as children.

3 Q. Okay. How many nephews and nieces do you
4 have?

5 A. Three nephews and a niece.

6 Q. So four total. Are they younger?

7 A. One's two, yeah 11, ten, eight somewhere.

8 Q. All right. Now, you indicated you've got a
9 back deck, is there a barbecue grill or gas grill on
10 that?

11 A. Yes.

12 Q. How often do you use that?

13 A. It's a natural gas grill that we've got
14 hooked to our gas supply and we probably use it a
15 couple times a week.

16 Q. Obviously more in the summer than the
17 winter?

18 A. Uh-huh.

19 Q. Have you ever had any problems with any
20 food that's come off the grill?

21 A. No, we keep it covered. We have a leather
22 cover that goes over it whenever it's not in use,
23 it's covered.

24 Q. But you still need to open it when you're

1 doing the cooking, correct?

2 A. Uh-huh.

3 Q. What sort of pool do you have in your
4 backyard?

5 A. We have an above ground 15-foot round pool.

6 Q. And you do the standard chlorination of
7 that pool?

8 A. Uh-huh.

9 Q. Any specific problems you've had with
10 drainage with the pool?

11 A. We never drain it.

12 Q. Any specific problems you had with algae or
13 bacteria or anything in the pool you've had to have
14 it professionally cleaned?

15 HEARING OFFICER HALLORAN: Can we slow down
16 just a little?

17 MS. REISEN: Sure.

18 HEARING OFFICER HALLORAN: Thanks.

19 BY THE WITNESS:

20 A. Now that you mention it, we do have an
21 algae problem, but I don't know if it's due to our
22 maintenance or what, but we had this summer quite a
23 bit of algae problems, but I don't know why.

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1 BY MS. REISEN:

2 Q. And actually, there's been quite a bit over
3 the summer regarding the heat and other sources of
4 water with algae, are you familiar with that?

5 A. No, but I know the heat's been --

6 Q. How often are the kids going in the pool?

7 A. Well, I use it more. They come over on the
8 weekend and I use it a couple times a week probably.

9 Q. Does it cause you any problems when you're
10 in the pool?

11 A. No.

12 Q. And how often are you jogging?

13 A. Well, I had been on a bit of a health kick
14 back in say starting about February of last year for
15 couple of months, two, three months and then I
16 stopped and I go to my health club and run indoors.

17 Q. How often were you jogging outside in your
18 neighborhood?

19 A. Probably a couple times a week. I take my
20 dog with me.

21 Q. For how many months?

22 A. Two, three months.

23 Q. And in that two, three months then would
24 you like make a circle from Crescent Drive to

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1 Robinson or what would be your general path?

2 A. I would leave my house, go to the right,
3 come around Robinson, I actually go up Birch Street
4 and Lombard Street behind it and then come back up
5 Crescent Drive.

6 Q. You testified that when you were in front
7 of 9221 Crescent Drive that at times you could smell
8 fumes, correct?

9 A. Uh-huh.

10 Q. And that is right on the west side of
11 Robinson Crusoe Park, correct?

12 A. Correct.

13 Q. But you didn't make any mention of any
14 other areas specifically. Is that --

15 A. It seemed to be when I was running it was
16 hanging right over the park. When I went around the
17 block, no I did not smell any fumes. Even when I go
18 up on Lombard Street which is closer to other
19 factories, I don't smell any fumes and I didn't
20 smell until I actually got right by their house.

21 Q. Okay. Now, there's a lot of industry on

22 King Street, correct?

23 A. Uh-huh.

24 Q. And many of those businesses use trailers

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1 and tractors, correct?

2 A. Uh-huh.

3 Q. Okay. And is it a fair statement that we
4 don't know how much of any fume comes from TL trucks
5 as opposed to other trucks?

6 A. I don't think that's a fair statement.

7 Q. Have you done any testing to determine how
8 you can differentiate out who's providing to the
9 smell?

10 A. No, I have not.

11 Q. Do you keep track of the number of other
12 trucks that go up and down King Street?

13 A. No, I do not.

14 Q. Okay. Do you keep track of the number of
15 trucks that go up and down River Road?

16 A. No.

17 Q. Regarding River Road, you indicated that
18 the dust has been worse recently, correct?

19 A. No. Since they've been there.

20 Q. Okay. River Road's been under construction

21 for at least a year, correct?

22 A. Yes.

23 Q. Would you think it's a fair statement that
24 might be exacerbating the dust issue?

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1 A. Well, making a bad situation worse.

2 Q. Okay. Other lots on King Street, are you
3 familiar with which ones might be paved as opposed
4 to not paved?

5 A. Sometimes I do take my dog up and down King
6 Street and there's another street behind King Street
7 that some of those factories back up to and most of
8 them that I can see from the street or from the
9 street behind them, they're paved.

10 Q. You can't state that they're all paved?

11 A. No, I cannot. I can state when Rosemont
12 moved in right on the corner, they paved their lot
13 within a week.

14 MS. REISEN: I would ask that that be stricken
15 as a question was not posed to the witness.

16 HEARING OFFICER HALLORAN: Stricken.

17 BY MS. REISEN:

18 Q. Are you aware of what the lot surface was
19 with the prior owners at 9200 King street?

20 A. No.

21 Q. You have no idea if it was gravel versus
22 crushed stone?

23 A. Huh-huh.

24 Q. And are you aware of the activities that

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1 took place there before TL Trucking moved in?

2 A. I never heard anything so no, I don't know
3 what they were doing over there.

4 Q. It was a scrap yard, do you remember that?

5 A. They never -- they had trees -- the fence
6 had a block on it, like a mesh blocking and there
7 were trees behind it so I could never see in there,
8 so no, I did not know what was going on in there.

9 Q. Are you aware which owner, meaning my
10 client or the previous owner, actually tore down
11 that prior fence?

12 A. Your client was in there when the fence
13 came down.

14 Q. And what month do you recall my client
15 being in there?

16 A. I think I remember them being in there
17 somewhere around Christmas of what would have been
18 '99, I believe.

19 Q. When do you recall that fence coming down?

20 A. I already said to Mr. Brill I can't
21 remember. I just remember that I saw them cut down
22 all the trees and tear down the fence.

23 Q. Is it possible that fence came down just
24 prior to my clients taking possession of the

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1 property?

2 A. It's possible.

3 Q. Were you aware of any repair issues with
4 that old fence?

5 A. No.

6 Q. Had you ever inquired?

7 A. No.

8 Q. Were you aware of prior citizens requesting
9 that the -- one of the old buildings on 9200 King
10 Street be torn down before my clients -- or about
11 the time my clients took over the property?

12 A. No.

13 Q. So you're just not aware, you don't know?

14 A. I don't know.

15 Q. Okay. Fair enough.

16 Regarding the dust issue, are you familiar
17 with calcium chloride?

18 A. No.

19 Q. You don't know what it does or what it's
20 used for?

21 A. No.

22 Q. Are you aware if my clients were using that
23 to try to keep the dust down?

24 A. No.

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1 Q. It's possible they were and you just
2 weren't aware of it?

3 A. I'm not aware of it.

4 Q. Were you aware that they were watering
5 their lot twice a day to keep the dust down?

6 A. No.

7 Q. Are you aware of any bids that were put in
8 with different contractors regarding paving?

9 A. No.

10 Q. Are you aware if there would be any holdups
11 in construction based upon permits from the village
12 itself?

13 A. No.

14 Q. So basically this is all stuff you just
15 don't know anything about?

16 A. Right.

17 Q. Had you ever asked about it?

18 A. No. Mr. Brill had been dealing with the
19 situation so I believe he would have -- you know,
20 he's keeping up on the things. I never saw anything
21 get done so that's where my complaint is.

22 Q. So most of your information about what was
23 going on came from Mr. Brill, correct?

24 A. As to what they were doing to rectify the

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1 situation, we really don't talk much about it. I
2 know that Mr. Brill told me that they were going to
3 pave it and different things like that, yes.

4 Q. Were you here for Mr. Brill's testimony
5 whereby he admitted in his testimony he did not do
6 those sorts of inquiries, did not inquire about
7 permits or paving? Were you there for that
8 testimony?

9 A. I think that was right after lunch. I was
10 here right after lunch.

11 Q. So you would have missed the morning
12 testimony?

13 A. Right.

14 Q. If the records reflect that inquiry about
15 his own questioning was had before lunch, you would

16 have not heard that then?

17 A. Correct.

18 Q. The portion where there was no fence, the
19 one to two foot short where you felt construction
20 workers were --

21 A. I saw them.

22 Q. Okay. Do you know if that's actually on
23 TL's property, if that's just past their property?

24 A. The village-- when I complained to the

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1 village, told me that they needed to finish it. So
2 I don't know if it's their property or the people
3 next door. The village said TL had to finish it.

4 Q. Okay. But you don't know though if they
5 were finishing on somebody's else property or on
6 their own?

7 A. No. But the fence that was there prior to
8 this one did go all the way to the end. So I don't
9 know if they stopped that one foot due to the fact
10 that it wasn't their property or not.

11 Q. How would you describe the traffic on River
12 Road?

13 A. Regular busy road.

14 Q. All sorts of vehicles on it?

15 A. Yes.

16 Q. Including tractors and trailers?

17 A. Uh-huh.

18 Q. You indicated that you had a party Labor

19 Day 2000 at your house, correct?

20 A. Uh-huh.

21 Q. Do you do other entertaining like that at

22 your home?

23 A. Uh-huh.

24 Q. How often do you do that kind of

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1 entertaining?

2 A. In the summer, probably about once a week.

3 Q. And guests continue to come to your house?

4 A. Yes.

5 Q. Okay. Have you been on TL's property

6 recently or at all?

7 A. I've never been on their property, no.

8 I've looked through the fence at it.

9 Q. And that being the fence between the park

10 and the property?

11 A. The fence that actually abuts up to my

12 driveway.

13 Q. Have you ever observed their property from

14 King Street?

15 A. I've only seen the -- noticed the front of
16 the building. I never paid attention to the side.

17 Q. Okay. Would that be a fair statement when
18 you're walking by you're not inspecting any of the
19 businesses really, you're just doing your business?

20 A. I mean I see all the buildings. I have
21 nothing to do but look at them. I don't observe
22 what they're doing in their property or anything
23 like that, but I do look at them because I have
24 nothing else to look at.

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1 Q. I'm going to show you what's been marked
2 as Respondent's Exhibit 59 and ask if you recognize
3 that as TL's property?

4 A. Uh-huh.

5 Q. And on this Exhibit 59 there's a raised bed
6 so to speak and then there's a lower area, correct?

7 A. Uh-huh.

8 Q. Does it appear to you that the raised bed
9 is paved?

10 A. Yes.

11 Q. Okay. And lower area is not, correct?

12 A. Correct.

13 Q. On Exhibit 60, do you recognize that as the
14 side lot of TL?

15 A. No, I don't recognize it.

16 Q. Okay. If I were to tell you that is TL
17 property, does it appear paved to you?

18 A. Uh-huh.

19 Q. I'm going to show you Respondent's Exhibit
20 61 and do you recognize that as TL's lot?

21 A. Uh-huh, their trucks I recognize.

22 Q. And does that appear to be paved?

23 A. Yeah, I guess so.

24 Q. Okay. Now, once paving is complete, is it

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1 a fair statement that dust would be greatly reduced
2 on the lot?

3 MR. BRILL: Objection. That's asking for her
4 to speculate what kind of paving will be put in
5 there and how good the job is and whether it will
6 indeed reduce dust. You're asking a question that
7 is asking her to make a judgment on something she
8 hasn't seen.

9 MS. REISEN: I can lay a better foundation if
10 you would like.

11 HEARING OFFICER HALLORAN: Quickly.

12 BY MS. REISEN:

13 Q. If there is gravel or sandstone, crushed
14 stone, that's going to create dust, correct?

15 A. Yes.

16 Q. And if we remove that gravel, then it would
17 remove the resulting dust, correct?

18 A. Uh-huh, yes.

19 Q. Thank you.

20 MR. BRILL: I still object. As a paving
21 contractor, dirty asphalt pavement causes as much if
22 not more dust to be airborne.

23 MS. REISEN: And I'm going to object, this is
24 now testimony, not a legal objection.

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1 HEARING OFFICER HALLORAN: I overrule your
2 objection Mr. Brill. You may proceed, Ms. Reisen.

3 MS. REISEN: I have no other questions.
4 Thank you.

5 HEARING OFFICER HALLORAN: Mr. Brill, any
6 redirect?

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

8 by Mr. Brill

9 Q. Ms. Reisen asked you about algae in your
10 pool this summer and you stated that it was probably

11 worse this year than before?

12 A. But I stated I don't know if it's due to my
13 maintenance or outside factors. I don't know.

14 Q. But it was worse?

15 A. Yes.

16 Q. Are you aware that lime dust is a type of
17 fertilizer?

18 A. No.

19 MS. REISEN: Objection, leading.

20 HEARING OFFICER HALLORAN: Mr. Brill, would you
21 care to rephrase?

22 MS. REISEN: I also ask that the questions and
23 response be stricken.

24 HEARING OFFICER HALLORAN: So stricken.

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1 BY MR. BRILL:

2 Q. Do you believe any airborne materials are
3 getting into your pool that could encourage the
4 growth of --

5 MS. REISEN: Objection, leading.

6 BY THE WITNESS:

7 A. I don't know anything --

8 HEARING OFFICER HALLORAN: I'll allow it.

9 BY THE WITNESS:

9 by Mr. Brill

10 MS. ECKERT: Janet Eckert, J-a-n-e-t,
11 E-c-k-e-r-t, 9208 Crescent Drive.

12 HEARING OFFICER HALLORAN: Your address is --

13 MS. ECKERT: 9208.

14 HEARING OFFICER HALLORAN: Thank you.

15 BY MR. BRILL:

16 Q. Could you point out, Janet, where your
17 property is on that map?

18 A. We are directly across the street from the
19 park. We are directly across the street from
20 anything that comes through the park. We would be
21 to the -- we are the west neighbor of the Brills.

22 Q. Okay. When did you and your -- you live
23 there with your husband, is that correct?

24 A. Yes. My husband and my son.

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1 Q. When did you move into this home?

2 A. June of 1984.

3 Q. And you put a home addition on this home
4 prior to TL Trucking moving in?

5 A. Right. In 1995 we doubled the side of our
6 house.

7 Q. This addition that you put on your house,

8 it's to the far end of --

9 A. It's at the back or the north end of the
10 property so it would be the back.

11 Q. Is it further from TL Trucking or closer?

12 A. Yes, it's further.

13 Q. Okay. Are the streets on that diagram
14 fairly accurate?

15 A. Yes.

16 Q. What do you -- what is your opinion of the
17 neighborhood that you live in prior to TL Trucking
18 taking --

19 A. Very quiet, not well traveled, a very nice
20 place to raise children. One of the reasons we
21 bought the house we did is because it was across the
22 street from a park.

23 Q. Do you have of any reasons why that
24 particular neighborhood is more quiet than an

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1 average neighborhood?

2 A. I think the biggest --

3 MS. REISEN: Objection, your question presumes
4 an assumption. I don't believe the witness made any
5 qualitative statement as to how her neighborhood is
6 in reference to any other neighborhood other than

7 just to describe her own.

8 HEARING OFFICER HALLORAN: Do you want to
9 rephrase that, please, Mr. Brill?

10 BY MR. BRILL:

11 Q. Do you think your neighborhood is quieter
12 than the average neighborhoods that you have visited
13 prior to TL Trucking's occupation of that site?

14 A. Yes, it is noticeably quieter because there
15 is only one access into our residential
16 neighborhood.

17 Q. Prior to TL Trucking moving in there, where
18 did you go to relax after a day's work?

19 A. Usually at home in the evening or in our
20 backyard.

21 Q. Is it still possible to relax in that yard
22 area since TL trucking took occupancy of that site?

23 A. Well, if you want to sit down on any of our
24 lawn furniture you have to wipe it off first. If

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1 you don't want to hear the noise, you better have a
2 Sony walkman with head phones on because you're
3 going to hear air horns, you're going to hear trucks
4 backing up and hooking up to tankers, you're going
5 to hear what I'm assuming is some power washing and

6 I am familiar with power washing, I used to work for
7 a company that had their tractor trailers power
8 washed.

9 Q. Did you ever go to Robinson Crusoe Park to
10 relax?

11 A. Occasionally, but it was more in the mid
12 '80s when my son was small. He is now 23 so I would
13 not have any particular reason to go over there now.

14 Q. What was your opinion of that park when you
15 did go over there?

16 A. It was very quiet, very orderly, very well
17 kept up. It was one of the reasons we bought the
18 house that we did.

19 Q. Do you ever pick up the odor of diesel
20 fumes on your property?

21 A. Yes.

22 Q. Do you have any idea where they might
23 possibly come from?

24 A. When I go out in the morning, early in the

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1 morning to get my newspaper. In the evening if I've
2 not been home all day long and I go out to get my
3 mail, I can smell these diesel fumes, truck fumes.

4 Q. Do any headlight beams enter your home?

5 A. Yes.

6 Q. Is it possible to get away from this noise
7 and dust by staying indoors?

8 A. If we have the windows closed and the air
9 conditioning running we do get some relief, however,
10 I still can hear it even with the windows closed.
11 In the morning when I sit and read my paper, I have
12 the sun flashing off of the back of these big tanker
13 trucks just like somebody is putting a flashlight in
14 your front window. At night if we do not close the
15 blinds tight and close the windows, we not only can
16 hear them, but we have the truck headlights, truck
17 lights flashing.

18 Q. Now, your new home addition, how many years
19 old is that now?

20 A. It added on in 1995.

21 Q. So that's new construction?

22 A. Yes.

23 Q. Does noise still get into that portion of
24 the house?

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1 A. Yes.

2 Q. Was it shotty workmanship or --

3 A. No. We have double pane Pella windows.

4 It's been -- I watched it being built. It's well
5 insulated.

6 Q. How are you sure that noises are coming
7 from TL Trucking?

8 A. I've gone out in the evening and stood on
9 my front lawn and I can hear it, I can smell it and
10 I can see it.

11 Q. What about the dust, how do you know that's
12 coming from TL Trucking?

13 A. On June 29th and June 30th for the first
14 time in my life I had a garage sale and for several
15 days prior to this garage sale we worked on cleaning
16 out glassware, things out of our china cabinet,
17 things that we wanted to put out for this garage
18 sale. Now, our two and a half car garage is set
19 well back on our lot. We put the things up the two
20 days prior to the beginning of the garage sale and
21 within hours I could take my finger and wipe the
22 crud off of all the things that we were putting out
23 on tables inside the garage, not on our driveway.

24 Q. You don't know let's say in yards the

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1 distance from the front of your property to TL
2 Trucking's fence?

3 A. I can only speculate. If that map is
4 scale, I know my lot is 50 foot wide by 178 plus and
5 if the back of our lot is 178 feet from the street
6 line, I would assume that the park is about the same
7 distance.

8 Q. So you're about one standard size lot away
9 from TL Trucking?

10 A. Plus the street, yes.

11 Q. Plus the street, very good point.

12 HEARING OFFICER HALLORAN: Just to refresh the
13 record, they're referring to Complainant's Exhibit A
14 and TL Trucking is located 200 King Street?

15 MS. REISEN: 9200 King Street.

16 HEARING OFFICER HALLORAN: Excuse me, 9200.
17 And is also marked park so I guess the fence that
18 Mr. Brill is referring to is between 9200 and the
19 park. Thank you.

20 BY MR. BRILL:

21 Q. Were you aware of any former businesses
22 that occupied the TL Trucking site?

23 A. I knew there was something in there prior
24 that had a big tractor trailer parked there. The

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1 reason I know that is not only because my son was

2 not allowed to go beyond the park, but because I
3 worked at 9333 King Street at Just Manufacturing and
4 that would be approximately across the street from
5 TL.

6 Q. So there was other occupants on that site?

7 A. Yes.

8 Q. Did they make any noise that you heard?

9 A. No.

10 Q. In December 1999 specifically and from that
11 point on, were there any changes in the noise levels
12 that were coming from that area?

13 A. I know that TL Trucking moved in about
14 Christmastime December '99, that is when we started
15 to hear telephones ringing on weekends out at the --
16 permeating through the park. We could hear air
17 horns. We could hear trucks hooking up. We could
18 hear the air brakes.

19 Q. Well, didn't someone -- it's a seven day,
20 24 hour operation, didn't someone --

21 A. On the weekends the phone would ring
22 constantly.

23 Q. No one answered it?

24 A. No.

1 Q. Good business down the drain.

2 MS. REISEN: I'm going to ask that that last
3 remark be stricken. It's not a question. It's not
4 an appropriate response.

5 HEARING OFFICER HALLORAN: So stricken.

6 MR. BRILL: I apologize.

7 BY MR. BRILL:

8 Q. If you were in Robinson Crusoe Park, how
9 close to these trucks -- how close could you get to
10 these trucks?

11 A. I'm not a fair judge of distance as far as
12 the back of the park and how many feet there are
13 from the park edge to the back of the tankers. I do
14 know I can look out my front window or stand at the
15 curb at my mailbox and the back of tanker trucks are
16 -- they look like they are backed right up to --
17 very close to the fence. I have not physically gone
18 over there and looked through the fence, but I can
19 see through the fence from the front of my house.
20 There is not really a barrier there. Whatever slats
21 are in the cyclone fence, does not cover up visually
22 anything.

23 Q. Did you notice if TL Trucking did anything
24 to subdue or mitigate the noises they were

1 producing?

2 A. Not that I could see, but as I said, I have
3 not gone to the park and peered through the fence or
4 gone out of my way to look. It's what I can see
5 from the front of my house or from the curb.

6 Q. But there's no solid fences or berms or
7 anything of that nature?

8 A. No.

9 Q. This may be repeating, what kind of fence
10 did TL Trucking build on that lot?

11 A. It looks like a cyclone fence that has some
12 kind of green material woven through it.

13 Q. How long did it take them to put up that
14 fence after they tore down the other?

15 A. I don't remember exact dates. I do know it
16 was open for a while. I would -- I would typically
17 and I don't remember what time of the year it was,
18 but it was open for more than a few weeks.

19 Q. Did you see any evidence of a temporary
20 fence installed while the other one was down?

21 A. No. The reason I noticed that the fence
22 was down and the trees were gone or the brush and
23 bushes were gone was because when my son very small
24 and they would lose basketballs or soccer balls, he

1 was not allowed to go over there. We would actually
2 get in the car and drive around when the former
3 owner owned the property and go retrieve things.
4 We didn't want the kids over there on somebody
5 else's property without adult supervision. So I
6 know the trees were there because it was very hard
7 to see anything when the trees were up.

8 Q. Did you notice TL Trucking doing anything
9 to control the dust from their lot?

10 A. No. In fact, there was -- the week that we
11 were preparing for the garage sale, I went out of my
12 way to call my husband out to the front of our
13 house. There was a day where -- I'm assuming the
14 wind was coming from the south. When we looked from
15 the front of our house through the park it looked
16 like fog. You could look down Crescent Drive in
17 each direction to the east and the west and it was
18 nothing, but there was like a fog or a dust hanging
19 over the park.

20 Q. Do you ever hear truck air horns from that
21 facility?

22 A. Yes.

23 Q. Are they loud?

24 A. Yes. Startling, yes.

1 Q. Did you notice any change in the
2 frequencies of these air horns over the years? Are
3 they used more or less at this time than they were
4 previously?

5 A. I can't say that I've really noticed any
6 change.

7 Q. In other words they're still in use?

8 A. I hear them -- yes. I hear them probably
9 more so now because I have been home 24 hours a day
10 since February.

11 Q. What does TL Trucking's facility look like
12 from your property line?

13 A. Like a truck parking lot.

14 Q. And you're able -- are you able to see
15 through that fence to see that it looks like a truck
16 parking lot?

17 A. Yes. Our house is a ranch house. We are
18 street level. So even if there are trees in the
19 park and whether there are leaves on the trees or
20 not, we get a straight shot through, which is why we
21 are startled quite often if we have our front blinds
22 open by headlights or sun bouncing off of trucks.

23 Q. If you can see into that site and you
24 described it as a truck parking lot, do you see any

1 truck movement in that?

2 A. Yes. I've stood there one day actually and
3 got a flash of light from the sun and realized that
4 what is happening is when the tankers are turned
5 around, the sun is hitting off of the round back of
6 the tankers and flashing like somebody flashing a
7 flashlight in your window.

8 Q. How many -- could you estimate the number
9 of trucks that are usually in that lot on any given
10 time?

11 A. I would guessestimate anything between ten
12 and 20 that are backed up against the fence.

13 Q. Do you ever see these trucks being washed
14 in those wash bays?

15 A. I've not ever gone to the park to go up and
16 see what they are doing. I can only tell you what I
17 can see from my house. I have seen what -- I have
18 seen and heard what sounds like a power washing of a
19 truck and I have seen clouds of some material
20 puffing out of the top of this. I'm assuming that
21 it is a power washer that's blowing or an air
22 cleaning that is blowing dust or grit or whatever is
23 inside.

24 Q. What you're saying then that apparently the

1 doors of the bays are not closed when they're doing
2 this?

3 MS. REISEN: Objection, leading question.

4 HEARING OFFICER HALLORAN: I'll allow it.

5 BY THE WITNESS:

6 A. I've not paid attention to whether it is
7 bay doors that are open or not, but I have seen the
8 clouds of material, whatever it is, being either
9 blown or water power washed out of the tankers and
10 flying around in the air.

11 BY MR. BRILL:

12 Q. You don't know if there's any chemicals in
13 those sprays, do you?

14 A. I have no idea.

15 Q. Aside from those areas of relaxation around
16 your house, how has TL Trucking, since they've been
17 there, impacted your life in other ways?

18 A. I would say that it's made it worse.
19 Noticeable enough having lived in that house for 17
20 years that the difference between before and now is
21 very noticeable.

22 Q. Do you sleep in this new addition on your
23 house?

24 A. Yes.

1 Q. Are you ever awakened in that new addition
2 by noise from TL Trucking?

3 A. Yes. It's usually around 5:00 o'clock in
4 the morning. There was actually a two or three week
5 period of time back several months ago where I
6 thought I was losing my mind because I would wake up
7 every morning and look at the clock and it said 5:22
8 and I kept thinking, what is going on between 5:00
9 and 5:30 that I am waking up around the same time,
10 is it a coincidence, is it some kind of noise going
11 on from outside and that is how I know a couple of
12 times I set an alarm clock so I could get up earlier
13 and I have gone out at 5:00 o'clock in the morning
14 to look and see if a newspaper is on my driveway and
15 that's where the noise is coming from.

16 Q. Could you identify any of those noises?

17 A. It's truck noise, truck idling.

18 Q. Is there anything else you'd like to add to
19 your testimony about the disruption of your life
20 from TL Trucking?

21 A. I would like to see the paving done. I
22 would like to see something done to address the
23 visual of what we have to look at, the dirt and the

24 grit that we have to put up with. If I were

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1 looking for a house today and I had six-year-old
2 like I did in 1984 and I pulled up in front of my
3 house and was looking to buy it and then turned
4 around and looked at that park that my child was
5 supposed to play in and saw the industrial
6 atmosphere, I would run the other way.

7 Q. How do you know that the dust and noise and
8 fumes, odors and headlight beams are coming from TL
9 Trucking?

10 MS. REISEN: Objection, asked and answered.

11 MR. BRILL: Totally?

12 HEARING OFFICER HALLORAN: I'll allow it.

13 BY THE WITNESS:

14 A. In 1984 when we bought our house, I worked
15 at company that was formerly at 9000 King Street
16 which I believe is Letter-Rite. I was very familiar
17 with the area. I was very familiar with King
18 Street. I was very familiar with the Burger King
19 that we have on Robinson Road and River Road.
20 Familiar with Robinson Crusoe Park. So I was very
21 aware of what was in that neighborhood and what the
22 neighborhood had to offer and I know that difference

23 between having worked on King Street twice at two
24 different companies and the way it has been in the

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1 last approximately 18 to 20 months, I know what the
2 difference is because I've been there long enough.

3 Q. Well, you state there's a difference, is it
4 a worse impact on your life?

5 A. Yes, more dirt, more noise.

6 Q. Is there any other noises that comes from
7 King Street that you hear in your home?

8 A. We can occasionally hear trains whistles.
9 We can occasionally hear planes. We are not
10 bothered as much by the planes because first of all
11 we knew what the area was like when we moved there.
12 Most of the flight patterns goes through Schiller
13 Park, which just to our north. The plane noise is
14 the kind of noise that starts out slow and goes
15 away. It's not something that's going to startle
16 you or something abrupt.

17 Q. Did you ever call any of the village
18 officials about the noise problems?

19 A. No.

20 Q. What prompted you to be a witness against
21 TL Trucking?

22 A. My concern is that the problems there are
23 not being addressed quickly enough.

24 Q. Okay.

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1 A. I have heard for the last 18 months about
2 paving, but yet I ask is it done, is it completely
3 done. I'm not out to bust a business in our area
4 that is trying to survive. I am the first one to
5 tell you I know what it's like to lose a job because
6 of economic times and I know what it's like to work
7 on King Street. I've worked there. I would not
8 want to see the company I worked for being given a
9 hard time about something that was within their
10 control, but I question opportunity to do these
11 things and how long it's going to take to get them
12 completed.

13 MR. BRILL: No more questions.

14 HEARING OFFICER HALLORAN: Ms. Reisen?

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

16 by Ms. Reisen

17 Q. Ma'am, you said that you were very familiar
18 with the area when you bought your house in 1984
19 based upon the fact you worked on King Street and
20 you just knew the area, correct?

21 A. Right.

22 Q. So you would have known when you bought
23 your house that King Street was zoned for industry,
24 correct?

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1 A. Yes.

2 Q. Okay. Now, you stated just a moment ago,
3 though, that if you were to look at your house back
4 in '84 and looked across the street and see industry
5 you'd take off running. But there was industry in
6 '84 and you didn't take off running?

7 A. But what we saw when we bought our house
8 was a park that had a solid fence or a fence that
9 had some kind of canvas covering over it. We saw
10 trees. We didn't see the butt end of a tanker
11 truck.

12 Q. Let me ask you this: Did you ever inquire
13 if that zoning -- first of all, what that zoning
14 actually was and what it permitted, did you ever
15 inquire about that?

16 A. No. Because I -- having worked for two
17 different companies on King Street, I knew that it
18 was industrial. King Street is an industrial area.
19 Crescent Drive and Robinson Road are not, they're

20 residential. They're very residential.

21 Q. And when you worked on King Street you had
22 to have known that at some point some of the
23 businesses were going to change, it's a fair
24 statement?

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1 A. Of course.

2 Q. Okay. And with that in mind that
3 businesses are going to change, you knew it was
4 zoned industrial in a manner that could bring in
5 other industry that might be different?

6 A. Correct.

7 Q. Okay. You state that Crescent and Robinson
8 are very residential, but Franklin Park as a whole
9 has quite an industrial background, doesn't it?

10 A. Correct.

11 Q. Okay. And if you look at the map on the
12 wall that's titled village of Franklin Park zoning
13 map, there's certain areas in different colors,
14 correct?

15 A. Right.

16 Q. There's an area in the upper right-hand
17 corner that's green, do you see where I'm pointing
18 to the green area?

19 A. Yes.
20 Q. Can you read that, it says Crescent Drive
21 underneath it?
22 A. Uh-huh.
23 Q. Okay. Can you see that from where you're
24 at?

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1 A. Yes.
2 Q. Okay. And that green area, that's where
3 you live, isn't it?
4 A. Correct.
5 Q. Now, I'm now expecting you to understand
6 the whole map, but what color is predominately
7 around that green predominantly?
8 A. The gray zone I'm assuming is zoned
9 industrial, however --
10 Q. Thank you.
11 A. -- we did not see it.
12 Q. Excuse me. There's no question posed right
13 now.
14 You did not inquire, correct?
15 A. I didn't need to. I worked on King Street.
16 I knew exactly what it was.
17 HEARING OFFICER HALLORAN: Mr. Reisen, is this

18 map of village of Franklin Park, is this going to be
19 offered into evidence?

20 MS. REISEN: I cannot offer it into evidence
21 because it's the only one that the Franklin Park has
22 right now and it's of excessive value so I'm going
23 to try and keep references to it as clear as
24 possible and when we get the zoning administrator

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1 in, he's going to testify as to what the colors
2 mean.

3 HEARING OFFICER HALLORAN: I'm not sure how
4 that's going to help the Board if they don't have --

5 MS. REISEN: I understand that and could I
6 make a motion then -- he just was able to get that
7 to me that we can supplement with a duplicate of it?
8 I could do that possibly by tomorrow.

9 HEARING OFFICER HALLORAN: Certainly. Thank
10 you.

11 MR. BRILL: Could I have redirect?

12 MS. REISEN: I'm not finished.

13 MR. BRILL: Oh, I'm sorry.

14 BY MS. REISEN:

15 Q. You indicated that this garage sale you had
16 you experienced quite a bit of dust with it,

17 correct?

18 A. Right.

19 Q. And that was the summer of year 2001?

20 A. Correct.

21 Q. We still have in summer of year 2001

22 construction on River Road, correct?

23 A. Correct.

24 Q. So we really can't ascertain what

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1 percentage of dust is due to Truck Country versus
2 River Road, is that a fair statement, not without
3 testing anyway?

4 A. I've never had a garage sale in the year
5 2000 so I wouldn't know. I can tell you that my
6 car and my truck if I leave them parked on my
7 driveway --

8 Q. I'm going to ask that you listen to the
9 questions and answer the questions, okay, because
10 that's the format we're supposed to use. Okay?

11 The garage sale was summer 2001 and we
12 also have other factors in 2001 which may or may not
13 contribute to the dust such as construction on River
14 Road, correct?

15 A. Yes.

16 Q. And where you sit today with the knowledge
17 you have in front of you today, you can't say what
18 percentage of the dust is from construction from my
19 client or anything else, can you? You can guess,
20 but you can't say.

21 A. Correct.

22 Q. Okay. You've never made any calls to the
23 city or the police, why not?

24 A. Because I knew that there were people that

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1 were.

2 Q. If it's that bothersome to you, why didn't
3 you make calls of your own?

4 A. Until February of 2001 I had a job that
5 kept me away from home at least 12 hours a day.

6 Q. And so during that time frame it wasn't
7 problematic?

8 A. It wasn't that it wasn't problematic. My
9 life was so stressed out and full, I did not have
10 the wherewithal to take on another problem.

11 Q. Okay. You stated that you want the paving
12 done, correct?

13 A. Yes.

14 Q. And you've not actually been on the

15 property to determine what the status is with the
16 paving, correct?

17 A. Correct.

18 Q. I'm going to show you Respondent's Exhibit
19 59 and do you recognize that as TL's property?

20 A. I don't know. I have no idea. I would
21 have to be up against the fence looking through it
22 to have a firsthand knowledge of what the back of
23 their building looks like.

24 Q. You said that you look out your window and

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1 all you see is the back of their building, does that
2 look like what you see?

3 A. No. What I see are the back of tanker
4 trucks.

5 Q. If it's later established that Exhibit 59
6 represents TL's property, there are two areas of
7 land, there's a raised bed and there's a lower area,
8 do you see those areas?

9 A. Uh-huh.

10 Q. Okay. And does it appear that the raised
11 bed is paved?

12 A. I can't tell.

13 Q. You can't tell looking at that photograph

14 -- you can't tell the difference between this
15 surface and that surface?

16 A. I can't tell. I would not be prepared to
17 tell you whether it is or it isn't because I'm not
18 familiar with the photo that you're showing me.

19 MS. REISEN: First I'm going to ask the Court
20 to take note that we have a hostile witness and ask
21 that the Court direct her to answer the questions.

22 HEARING OFFICER HALLORAN: No. I don't feel
23 she is hostile, but please answer the questions as
24 best you can.

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1

2 BY THE WITNESS:

3 A. I cannot tell if that is paved or not. I
4 can't tell what material is on here.

5 BY MS. REISEN:

6 Q. I'm going to show you Exhibit 60, does that
7 look paved to you?

8 A. Yes.

9 Q. I'm going to show you Exhibit 61, does that
10 look paved to you?

11 A. That, I cannot tell.

12 Q. How good is your eyesight?

13 A. Very good.

14 Q. You wear glasses?

15 A. Uh-huh.

16 Q. What's your prescription?

17 A. I have no idea.

18 Q. How often do you get your eyes checked?

19 A. These glasses are from a year ago.

20 Q. Have you made any inquiry with the city or
21 with my clients as to the status of paving?

22 A. No.

23 Q. Why not?

24 A. Because any questions that I've had I've

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1 asked Mr. Brill.

2 Q. Did Mr. Brill inform you that we had made a
3 settlement agreement whereby we would immediately
4 put up an eight-foot fence and he rejected that --
5 solid fence and he rejected that?

6 A. Yes, he did tell me that.

7 Q. And was that something he checked with you
8 on before he made that statement, that that wasn't
9 good enough?

10 A. I really don't remember.

11 Q. Are you aware if Franklin Park has zoning

12 restriction on the heights of fences?

13 A. No, I'm not.

14 Q. What do the trains sound like from your
15 house?

16 A. The only time I would notice them would be
17 late at night, we can hear train whistles sometimes.

18 Q. Would you describe that as loud or quiet?

19 A. It's more quiet.

20 Q. So it's your statement that you don't hear
21 loud train whistles from your property?

22 A. No, I usually don't.

23 MS. REISEN: I have no other questions.

24 HEARING OFFICER HALLORAN: Thank you. Any

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1 redirect, Mr. Brill?

2 MR. BRILL: Yes.

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

4 by Mr. Brill

5 Q. Alluding to this Franklin Park map here
6 which only shows the area that is controlled by
7 Franklin Park, do you know what's in this space in
8 here, this white space (indicating)?

9 A. I know the river is there and I know on the
10 other side of the river is forest preserve and

11 probably a golf course.

12 Q. There's a lot of trees --

13 A. Correct.

14 Q. -- in this area?

15 Now, if those trees were green as most
16 trees are, wouldn't the preponderance of color in
17 this map be green and not gray?

18 MS. REISEN: Objection, Mr. Brill is making an
19 assumption that all the green on the map is
20 referring to trees, which clearly has no basis in
21 fact or testimony.

22 MR. BRILL: I'm not making that assumption.
23 What I'm saying is that you are trying to say that
24 the preponderant occupancy of this area is gray when

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1 I'm contending that the preponderant occupancy of
2 this area is forest preserve.

3 MS. REISEN: Your Honor, I'm going to object
4 because this is an apposite. We are going so far
5 off base at this point.

6 HEARING OFFICER HALLORAN: For one, Mr. Brill,
7 can you please, for the record, tell the Board where
8 you're pointing to on that map?

9 MR. BRILL: I'm pointing just to the east side

10 of River Road which runs here. This is a picture of
11 the river. There's a grove of trees here, a grove
12 of trees here and a huge acreage of open greenery
13 here that goes all the way to Cumberland Avenue
14 which would be in here (indicating).

15 HEARING OFFICER HALLORAN: Ms. Reisen, I assume
16 your witness will clarify why that is not green
17 outside the --

18 MS. REISEN: That is correct.

19 HEARING OFFICER HALLORAN: So I'll reserve my
20 ruling.

21 MR. BRILL: Very good.

22 BY THE WITNESS:

23 A. Are you asking me if I knew that the forest
24 preserve and the river was there when I bought my

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1 house?

2 BY MR. BRILL.

3 Q. You can answer that.

4 A. Yes. Very familiar with that forest
5 preserve area.

6 Q. Ms. Reisen asked you if you thought there
7 might be changes of businesses on King Street when
8 you moved in there, would you have moved in there if

9 you knew a truck wash was going to be one of those
10 businesses?

11 MS. REISEN: Objection, speculative.

12 MR. BRILL: I think it's a fair question.

13 HEARING OFFICER HALLORAN: Could you read back
14 the question? I'm sorry, Terry.

15 (Whereupon, the requested
16 portion of the record
17 was read accordingly.)

18 HEARING OFFICER HALLORAN: I'll allow it.

19 MR. BRILL: Thank you. No more questions?

20 BY THE WITNESS:

21 A. Do you want me to answer it?

22 BY MR. BRILL:

23 Q. I thought you did. No, please answer.

24 A. If I were pulling up in front of my home

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1 looking at my house having a six-year-old child and
2 I looked across through the park and saw the back
3 end of trucks, I would run the other way.

4 When I looked at this house in 1984 and
5 had a six-year-old child, there was an obstructed
6 type fence, there was a lot of trees, there was a
7 lot of bushes. Whatever business was on the

8 property where TL Trucking is right now, was not
9 visible. It was not in my face. It was not
10 something that I could look out my front window or
11 stand in front of this property if I were a
12 prospective buyer and see a truck yard. It was a
13 park and it was a park that was set up in such a way
14 that it looked like a park. It didn't look like the
15 back end of a truck yard. Does that clarify?

16 Q. One further question. Do you see any
17 six-year-olds or about that age in the park
18 nowadays?

19 A. Not as many as there were in 1984 and I do
20 see the kids that are in our neighborhood. There
21 are kids occasionally in the park. The foot of our
22 driveway on Crescent Drive -- across the street from
23 the foot of our driveway at the park happens to be a
24 bus stop so I do have a conception of how many

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1 children are in our neighborhood because there are I
2 believe two or three bus pickups right at the end of
3 our driveway where the kids accumulate in the
4 morning around 8:00 o'clock.

5 Q. How many kids would you say were there?

6 A. The kids that would be kindergarten age to

7 fourth grade, there is probably about eight and I
8 notice a little bit earlier than the young ones are
9 picked up there is probably at any given time four
10 or five and they look like they would be the Hester
11 Junior High kids that would be like grade five, six
12 seven, eight.

13 Q. In your opinion, do you believe those
14 children are exposed to any fumes or dust from TL
15 Trucking while they're waiting for the bus?

16 A. In my opinion, yes.

17 MR. BRILL: No further questions.

18 HEARING OFFICER HALLORAN: Thank you. Any
19 recross, Ms. Reisen?

20 MS. REISEN: No.

21 HEARING OFFICER HALLORAN: Thank you. You may
22 step down, Ms. Eckert. Thank you for your
23 testimony. We're going to take a six-minute break.

24

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1 (Whereupon, after a short
2 break was had, the
3 following proceedings
4 were held accordingly.)

5 HEARING OFFICER HALLORAN: We're back on the

6 record. It's approximately 4:05. After about a
7 ten-minute break, Mr. Brill was calling his last
8 witness to the stand. Mr. Brill?

9 MR. BRILL: Yes, I am.

10 HEARING OFFICER HALLORAN: Would you please
11 raise your right hand and the reporter will swear
12 you in?

13 (Witness sworn.)

14 MR. BRILL: Do you need the spelling of his
15 name?

16 HEARING OFFICER HALLORAN: I need his name and
17 the spelling, sir.

18 MR. ZAK: Greg Zak.

19 MR. ZAK: My name is Greg Zak, G-r-e-g, Z-a-k
20 and my address is 36 Birch Drive, Chatham, and
21 that's spelled C-h-a-t-h-a-m, Illinois 62629.

22

23

24

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1 WHEREUPON:

2 G R E G Z A K,

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

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

6 by Mr. Brill

7 Q. Mr. Zak, are you -- when I first contacted
8 you -- I'll rephrase it.

9 Are you self-employed, sir?

10 A. Yes, I am.

11 Q. Could you describe your education and
12 experience with sound measurement and control?

13 HEARING OFFICER HALLORAN: Ms. Reisen, did you
14 guys make a stipulation as to the expert witness
15 status?

16 MS. REISEN: No, and that's something I'm going
17 it bring up. Do you want to do that before we start
18 the actual testimony?

19 HEARING OFFICER HALLORAN: Sure. Depending on
20 the outcome it might save Mr. Brill --

21 MS. REISEN: I can voir dire and then make my
22 objection if you'd like me to do that.

23 HEARING OFFICER HALLORAN: I'll let Mr. Brill
24 ask his questions and if you're still not satisfied

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1 you can voir dire.

2 MS. REISEN: Just as long as we get a break
3 before he goes into actual questions on --

4 HEARING OFFICER HALLORAN: Sure.

5 BY MR. BRILL:

6 Q. Mr. Zak, I have here your resume. Would it
7 be better for you to just describe your experience
8 with sound management and the impact on human
9 response by putting this in as Exhibit 5?

10 MS. REISEN: And I'm going to object that we
11 should not be putting in an exhibit as to expert
12 qualification unless and until he's been qualified
13 as an expert. A foundation needs to be laid first
14 and that determination needs to be made.

15 HEARING OFFICER HALLORAN: It doesn't sound
16 like Ms. Reisen is going to stipulate to his
17 expertise. Mr. Brill go ahead with your foundation
18 for his qualifications.

19 BY MR. BRILL:

20 Q. All right. Can you describe your education
21 and experience in sound measurement and control?

22 A. Yes. My experience actually goes back to
23 my time in the United States Marine Corps. I'm a
24 qualified radar technician. I attended schools for

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1 approximately one year wherein we went into waive
2 theory, electronic theory that duplicates acoustic

3 theory. The equations and formulas are the same
4 formulas.

5 Subsequent to that I went to college, got
6 a bachelor of science degree in biology. After that
7 I got a master degree in public administration
8 working for the state of Illinois. I was employed
9 by the state of Illinois for 29 years, two months
10 and 16 days mainly in the capacity of either working
11 noise as a field person, as a manager and finally
12 running the entire program for the last 15 years.

13 I have testified before the Board numerous
14 times in a variety of cases. I testified in many
15 Circuit Court hearings as an expert in noise, before
16 Federal Court as an expert in noise and I believe
17 all these things are outlined in my resume. I have
18 published numerous papers and assisted in some of
19 the research and writing for the various standards
20 used by the Pollution Control Board for control of
21 noise.

22 MR. BRILL: With those statements I therefore
23 submit that Mr. Greg Zak is a sound expert and I
24 would like to submit his resume for Board approval.

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1 HEARING OFFICER HALLORAN: Ms. Reisen?

2 MS. REISEN: I have no doubt Mr. Zak is an
3 expert in general terms. We need to qualify him as
4 an expert in this particular case in order for his
5 expert opinion to be allowed and therefore I would
6 like to voir dire the witness.

7 HEARING OFFICER HALLORAN: You may do so.

8 MS. REISEN: You had indicated Mr. Zak that you
9 have helped promulgate some of the Illinois
10 Pollution Control Board writings pertaining to
11 sound, correct?

12 MR. ZAK: That's correct.

13 MS. REISEN: And specifically, is there
14 protocol to be followed in sound readings?

15 MR. ZAK: On some sound readings yes, there is.

16 MS. REISEN: And specifically what sort of
17 sound readings require protocol?

18 MR. ZAK: Protocol is required in -- for
19 sections 901.102(a), 901.102(b), 901.104, 901.106.

20 MS. REISEN: And that's a requirement that
21 there be sound readings in those?

22 MR. ZAK: That's correct.

23 MS. REISEN: Are you aware that Mr. Brill's
24 petition raises violations of those very code

1 sections with the exception of 106, that his
2 petition raises violations of 102(a) 102(b) and 104?

3 MR. ZAK: Yes, I'm aware of that.

4 MS. REISEN: So by your own -- well, by the
5 protocol that you help promulgate, that requires
6 sound readings be taken, correct?

7 MR. ZAK: Are you -- I need you to clarify the
8 question. Are you referring to in order to prove a
9 violation of those specific sections?

10 MS. REISEN: Correct.

11 MR. ZAK: Yes. You would have to follow the
12 absolute correct protocol.

13 MS. REISEN: And part of the protocol requires
14 a differentiation between ambient and extraneous
15 sound from what you're trying to test, correct?

16 MR. ZAK: Yes.

17 MS. REISEN: Okay. Because you have to know
18 that what you're claiming is making the noise is
19 actually the source?

20 MR. ZAK: That's correct.

21 MS. REISEN: Okay. There are decibel reading
22 differential levels in order to determine whether or
23 not that can be excluded, correct?

24 MR. ZAK: That's correct.

1 MS. REISEN: Okay. And what's that decibel
2 differentiation, what's the minimum threshold?

3 MR. ZAK: Three and ten.

4 MS. REISEN: Okay. And does the protocol
5 established indicate the type or quality of sound
6 testing information being used?

7 MR. ZAK: Could you rephrase that?

8 MS. REISEN: Sure. Does the protocol or the
9 rules that you help promulgate, do those indicate at
10 least the minimum standard of the type of equipment
11 used in testing?

12 MR. ZAK: Yes.

13 MS. REISEN: And what are the minimum standards
14 required?

15 MR. ZAK: The minimum standards require is
16 quite simply ANSI type one.

17 MS. REISEN: Repeat that.

18 MR. ZAK: A-N-S-I, all capitals, type one.

19 MS. REISEN: And if the reading is from
20 anything other than that, it does not meet the
21 Board's own recommendations of required protocol?

22 MR. ZAK: No, that's not correct.

23 MS. REISEN: Okay. What is ANSI type one, a
24 certain make and model?

1 MR. ZAK: ANSI type one is a very detailed set
2 of specifications defining what is a precision
3 microphone, a precision preamplifier and a precision
4 instrument.

5 MS. REISEN: And you want those precision tools
6 to get the best read possible?

7 MR. ZAK: You want the -- it's not -- you can
8 do better than type one. The Board specifies type
9 one to meet the level of precision required by the
10 Board. That is not the most precise type there is.

11 MS. REISEN: That's the minimum you allow?

12 MR. ZAK: That's the minimum.

13 MS. REISEN: On the cases that you testified
14 before the Board, did you conduct sound testing?

15 MR. ZAK: No.

16 MS. REISEN: And how was that about that you
17 testified as to actual sounds or did you?

18 MR. ZAK: Are you referring to this case or
19 other cases?

20 MS. REISEN: Strike that. That is confusing.
21 I apologize.

22 In this particular case, did you take any
23 sound readings?

24 MR. ZAK: No, I did not.

1 MS. REISEN: Did you have access to those --
2 that equipment in you had desired to take the
3 reading or if Mr. Brill had asked you to take the
4 reading?

5 MR. ZAK: Yes, I did.

6 MS. REISEN: And did Mr. Brill ask you to take
7 the reading?

8 MR. ZAK: Yes, he did.

9 MS. REISEN: And you did not take the reading?

10 MR. ZAK: That's correct.

11 MS. REISEN: So you have no objective data to
12 present to the Court from a sound read, correct?

13 MR. ZAK: No, I do have specifically under
14 900.102.

15 MS. REISEN: You indicated under 901.102, which
16 is what Mr. Brill's petition alleges, that you need
17 the sound readings to testify?

18 MR. ZAK: I believe they also allege 901.102.
19 I'm sorry, did I say 900.102 or 901.102? Would you
20 read that back, please? I want to make sure I said
21 the correct numbers.

22 THE REPORTER: You said 900.

23 MR. ZAK: That's correct. It is 900.102.

24 Thank you.

1 MS. REISEN: At any time, did you conduct
2 readings that allowed you to differentiate the
3 ambient and extraneous noise?

4 MR. ZAK: No, I did not.

5 MS. REISEN: Do you have decibel readings that
6 you can provide to this Board?

7 MR. ZAK: No, I will not.

8 MS. REISEN: Did you make an investigation as
9 to other industry in the area?

10 MR. ZAK: Yes, I did, a very cursory one.

11 MS. REISEN: You did not take any sound reads
12 of any of the other industry in the area, did you?

13 MR. ZAK: No.

14 MS. REISEN: So we cannot differentiate their
15 controls out by anything that you put before this
16 Board?

17 MR. ZAK: I would say that's incorrect.

18 MS. REISEN: Let me put it to you real simply,
19 do you have anything other than your opinion to
20 offer today, anything objective?

21 MR. ZAK: What do you mean by objective?

22 MS. REISEN: Reads, decibels, differentiation
23 between different levels, something that was
24 obtained by a statistical measure that we can put on

1 paper.

2 MR. ZAK: Again, I'm commenting on 900.102.
3 I am not going to comment on -- unless you ask
4 questions -- as far as the 901 section of the
5 regulations.

6 MS. REISEN: Do you want to repeat that back in
7 something I can understand?

8 MR. ZAK: Yes. In other words, 900.102 is
9 nuisance and my testimony will be revolving around
10 that particular section of the regulations not under
11 the 901 section, which will be 901.102 (a), (b), 104
12 and 106 under 901. I will just be commenting on
13 900.102.

14 MS. REISEN: My understanding is Mr. Brill has
15 said before this Board today that his interest is in
16 the dust and in the sound and those fall under
17 901.102(a), 901.102(b) and 901.104, correct?

18 MR. ZAK: No.

19 MS. REISEN: So you're saying that you believe
20 he also claimed nuisance?

21 MR. ZAK: There have been numerous Board, and
22 I'm referring to Pollution Control Board, numerous
23 Board decisions regarding measurements taken both

24 precision measurements and nonprecision measurements

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1 relative to 900.102.

2 MS. REISEN: How much time did you spend at
3 Mr. Brill's residence?

4 MR. ZAK: Approximately two hours.

5 MS. REISEN: And what did you do during that
6 two hours?

7 MR. ZAK: Discussed the case to some extent
8 with Mr. Brill, asked Mr. Brill how the noise was
9 impacting him and his family, proceeded outside to
10 look over the area, the park area, the neighbors --
11 the position of the neighbors' homes, noting
12 potential sound corridors in the area, reflection of
13 sound in the area, looked through the fence at the
14 trucking facility, took laser distance measurements
15 from the Brill residence to the property line of the
16 facility and from the property line of the facility
17 back to the trucking bay and also laser measurement
18 as to the width of the facility.

19 MS. REISEN: And would you agree that whenever
20 there is sound -- whenever there are sound
21 measurements that that is a better form of
22 measurement than eyeballing it as Mr. Brill likes to

23 call it? Isn't it the purpose of why you promulgate
24 all the rules?

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1 MR. ZAK: No, I really wouldn't say that
2 because the majority of noise cases heard since 1973
3 have almost without exception involved 900.102 and
4 perhaps half the cases also alleged a numerical
5 violation in addition.

6 MS. REISEN: I understand that, but I think
7 the point I'm trying to ask you is a little
8 different. When you can have access to the
9 readings, that's the better route, isn't it? It
10 gives you a clearer picture as to the different
11 noises and the different levels, the decibels, et
12 cetera.

13 MR. ZAK: The accurate measurements that are
14 properly taken primarily are used in working up the
15 solution to the problem. It is preferable to have
16 precision measurements that are taken in the proper
17 manner but again, many cases don't have that luxury.

18 MS. REISEN: You take three to 4,000 self help
19 calls a year, don't you?

20 MR. ZAK: No. I take probably three or four --
21 right now I'm doing about three or four a week so

22 I'm taking something on the order of say 150 to 200.

23 MS. REISEN: I'm going to show you page two of
24 your resume and ask that you read paragraph four

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1 that's highlighted.

2 MR. ZAK: Number four, assisting the public
3 with the self help procedure to obtain relief from
4 various noise pollution sources, three to 4,000
5 phone calls annually.

6 MS. REISEN: Sound like three to 4,000?

7 MR. ZAK: Your question was how many I take a
8 year and currently the last two months I'm
9 self-employed and the picture of how many calls I
10 take a year has completely changed.

11 MS. REISEN: Do you have an updated resume
12 then?

13 MR. ZAK: I have one in my briefcase if you'd
14 like an updated one.

15 MS. REISEN: So at least until the two months
16 you did three to 4,000 self help calls a year?

17 MR. ZAK: I did three to 4,000 calls a year
18 some of which were self help. They weren't all self
19 help. There were quite a bit of calls.
20 Approximately 1,000 calls from lawyers and

21 approximately 1,000 calls from technical people
22 asking questions on how to take noise measurements.

23 MS. REISEN: That's not what your resume says.
24 You just read it into the record. That's not what

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1 your resume says.

2 We would object to anything that Mr. Zak
3 has to say as an expert on the basis that one, we do
4 not have any sound readings from him and he
5 indicated quite clearly that's the preferable route
6 to go and we do have a sound expert with readings in
7 the case.

8 Additionally, the time spent indicating
9 other businesses was cursory by his own terminology.
10 We do not have any way to differentiate out the
11 noise from the other businesses as opposed to his
12 own and quite honestly it appears that this is one
13 of the self help cases that he's taken on, although
14 it seems that he's trying to minimize that at that
15 time.

16 HEARING OFFICER HALLORAN: I will overrule your
17 objection. I find Mr. Zak has more than sufficient
18 qualifications and I stress more in the areas of
19 noise pollution control and environmental impact.

20 Mr. Brill, you may continue. I find Mr. Zak
21 qualified to testify as an expert.

22 MR. BRILL: Thank you.

23 At this time, again, I would like to enter
24 his resume as Exhibit No. 5.

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1 MS. REISEN: May I see that? This is not the
2 updated one, do you have an updated one with you?

3 MR. ZAK: Yes, I do. Mr. Hearing officer,
4 could I get the updated one?

5 HEARING OFFICER HALLORAN: Yes. Go ahead,
6 Mr. Zak.

7 MR. BRILL: Will we have to mark the new one as
8 Exhibit 5?

9 HEARING OFFICER HALLORAN: Yes, we will, sir.

10 MR. BRILL: At this time I'd like to enter Greg
11 Zak's latest resume as Exhibit 5.

12 HEARING OFFICER HALLORAN: Any objection?

13 MS. REISEN: I realize it will be admitted, I'd
14 just like our prior objection renoted for the
15 record.

16 HEARING OFFICER HALLORAN: So noted for the
17 record. I will admit Exhibit No. 5 --
18 Complainant's Exhibit No. 5 over objection of

19 respondent. Thank you.

20 BY MR. BRILL:

21 Q. Mr. Zak, are you being paid for your trip
22 here today?

23 A. No. I'm doing this strictly pro bono with
24 absolutely no charge involved either hourly or

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1 travel.

2 Q. My next question is about the resume.

3 MR. BRILL: I don't -- do I have to --

4 BY MR. BRILL:

5 Q. Do you want to describe what's in there or
6 do you think you've fully described already what's
7 in there at least to the extent that was needed?

8 MS. REISEN: Objection. We would ask Mr. Brill
9 be reminded that the format is question and answer.

10 HEARING OFFICER HALLORAN: Mr. Zak may give a
11 summary of his resume if he hasn't covered all the
12 bases as of yet. If you want to give a summary of
13 your resume -- I thought he did already, but if
14 he --

15 MR. ZAK: I thought I did too.

16 MR. BRILL: It feels like a heavy document, he
17 only spoke for about five minutes so I thought maybe

18 there was more meat in there.

19 HEARING OFFICER HALLORAN: Well, I've already
20 qualified him as an expert, sir.

21 MR. BRILL: Very good, sir.

22 HEARING OFFICER HALLORAN: And the Board will
23 have this to look at.

24 BY MR. BRILL:

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1 Q. Have you been contacted in the past by me
2 about this noise problem we're having?

3 A. Yes, I have.

4 Q. Do you recall about when that was?

5 A. I would say -- I believe it was in the year
6 2000. I have a little difficulty getting it more
7 pinned down than that because of the number of --
8 large number of complaints that I was dealing with
9 at the time you contacted me.

10 Q. Since you're doing this case pro bono, do
11 you have any financial relationship with the
12 complainant?

13 A. No.

14 Q. Are you being paid for your testimony here
15 today?

16 A. No. Pro bono basically means that

17 everything is without charge.

18 Q. Mr. Zak, would you please identify what has
19 been marked as Complainant's Exhibit No. -- this
20 should be marked 14 or should I change the exhibit?
21 It's the sound recorder. Should I change -- I
22 either can change it in here, but then Ms. Reisen
23 probably has that same number 15 or --

24 MS. REISEN: I've already got 15.

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1 MR. BRILL: So could I change the number that I
2 have on this box so that it's correct.

3 HEARING OFFICER HALLORAN: Yes, you may.
4 That's Exhibit 14 now or what --

5 MR. BRILL: This becomes Exhibit 15.

6 HEARING OFFICER HALLORAN: All right. Is
7 Exhibit 14 out there somewhere?

8 MR. BRILL: What was the resume? Oh, that was
9 earlier, wasn't it?

10 HEARING OFFICER HALLORAN: We just entered it
11 as Exhibit No. 5.

12 MR. BRILL: I could run down my list, we might
13 have skipped a number, but as long as it's a
14 definite number, I believe that should be all right.

15 HEARING OFFICER HALLORAN: Let's make it

16 Exhibit No. 14, that's where I have being left off.

17 MR. BRILL: We ended there?

18 HEARING OFFICER HALLORAN: Yes, sir. That's
19 where you ended.

20 BY MR. BRILL:

21 Q. I'd like to show this instrument to you,
22 Mr. Zak, and see if you can identify what it is and
23 what it's used for?

24 A. Yes. It's a Radio Shack sound level meter

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1 and they designate it as catalog number 33-2050. It
2 has an analog display on the meter.

3 Q. Could you please describe its function?

4 A. The function of the instrument is to
5 measure sound in a general manner as opposed to the
6 more precise measurement of a type one meter. The
7 different typically being about one decibel
8 difference between this type of meter and the
9 precision meter.

10 Q. A small amount?

11 A. A small amount.

12 Q. Based on your knowledge of such
13 instruments, are they reasonably reliable for a
14 measurement of sound intensity?

15 A. They are reasonably accurate for -- I would
16 like to correct the question, I would say for sound
17 level measurement. Sound intensity is an area of
18 acoustics that the Board does not normally deal with
19 and I would kind of like to clarify that. We're
20 talking about sound levels and sound pressure
21 levels. The Radio Shack meter is one that I
22 typically recommend for the average noise
23 complainant who calls me on the phone and wants to
24 have an idea as to whether or not the noise that he

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1 is being bothered by is of sufficient magnitude to
2 exceed or possibly exceed the Board's numerical
3 regulations. Again, the rationale there is that
4 this meter costs anywhere between 30 and \$60. The
5 instrumentation that is typically used to meet ANSI
6 precision costs usually in the area of three to
7 \$5,000.

8 Q. For a calibrated difference of one decibel?

9 A. That's correct.

10 Q. Have you ever tested such an instrument for
11 reliability?

12 A. Yes, I have. I have actually used them
13 myself for the last 20 years.

14 Q. And what is your conclusion about its
15 reliability?

16 A. They typically don't drift and by drifting
17 I mean when they're calibrated, they basically hold
18 their calibration. The accuracy is normally within
19 one decibel or less of a precision meter. Because
20 they are so inexpensive, if I have one in the field
21 and I drop it or it gets somehow destroyed in the
22 field, the loss is much, much less than it is with a
23 precision instrument.

24 Q. You keep alluding to these precision

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1 instruments and yet this one is only one decibel
2 different from the precision instrument.

3 Wouldn't this almost qualify as a
4 precision instrument?

5 A. No, it wouldn't, and I can explain that
6 to you, but to give you a fairly comprehensive
7 explanation is about a two-and-a-half-hour
8 explanation. For brevity, we may want to skip and
9 suffice it to say that if one reads the ANSI
10 standards, one can see the difference between the
11 two instruments.

12 Q. From your experience with these

13 instruments, what's the likelihood that the
14 calibration would change over time?

15 A. Again, very little.

16 Q. Mr. Zak, were you here when the complainant
17 described how he took measurements with this sound
18 level meter?

19 A. Yes.

20 Q. Based on the knowledge you have of such
21 instruments, also assuming this is a reliable
22 instrument and assuming the testimony of the
23 complainant is true and correct, do you have an
24 opinion based on a reasonable degree of scientific

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1 certainty whether or not the complainant's records
2 on Exhibit No. 16 accurately reflect the noise
3 values?

4 MS. REISEN: I'm going to object and I have a
5 question if I may ask the witness.

6 MR. BRILL: Now?

7 MS. REISEN: It goes correctly to what you're
8 reading off that piece of paper in front of you.

9 MR. BRILL: That's for cross-examination.

10 HEARING OFFICER HALLORAN: Let's go off the
11 record for a minute.

12 (Whereupon, a discussion
13 was had off the record.)

14 HEARING OFFICER HALLORAN: Before we got off
15 the record Mr. Brill alluded to Exhibit 16. We went
16 off the record. He's tried to locate it. He cannot
17 locate it. It's my understanding he wants Mr. Zak
18 to form an opinion based upon Exhibit 16, which no
19 one has seen that I know of. Ms. Reisen, have you
20 seen Exhibit 16?

21 MS. REISEN: No, I've not.

22 HEARING OFFICER HALLORAN: Mr. Brill, not that
23 it makes any difference, but what exactly is Exhibit
24 16 on your --

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1 MR. BRILL: I believe it's excerpts from my log
2 that I transcribed to another paper that I marked as
3 Exhibit 16 and that was a list of all the sound
4 readings that I had in -- that I took from the log
5 itself. Is it on the last page on that one,
6 Mr, Halloran?

7 HEARING OFFICER HALLORAN: The log you're
8 referring to is Exhibit 1, which has not been
9 admitted into evidence. I've reserved ruling on
10 that. Yes. There's three pages of yellow colored

11 --

12 MR. BRILL: That's the one. Is that marked as
13 an exhibit?

14 HEARING OFFICER HALLORAN: It's marked as
15 Exhibit 1.

16 MR. BRILL: Well, that should be Exhibit 16.
17 It's part of number one, but because it's a separate
18 entity, it probably should be marked as Exhibit 16.

19 MS. REISEN: Your Honor, I have an objection to
20 a greater issue at this point.

21 HEARING OFFICER HALLORAN: Go ahead.

22 MS. REISEN: It is apparent that Mr. Brill is
23 reading questions that are not of his own words and
24 my question is if those questions were supplied by

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1 Mr. Zak or where Mr. Brill got those questions.
2 Mr. Brill proceeds pro se, both to his detriment and
3 to his benefit. His benefit being that he's not had
4 to incur any legal expenses. His detriment being
5 that he needs to pose his own questions and he needs
6 to find a way to present his evidence in a manner
7 similar to what anybody else would have to do.

8 HEARING OFFICER HALLORAN: Has anyone assisted
9 you, Mr. Brill, in those questions?

10 MR. BRILL: My questions were taken from
11 transcripts of former hearings. Mr. Zak did not
12 advise me as to what questions to ask him. I just
13 was able to transcribe them off of a case of a -- in
14 the case of Overland Trucking, they had a number of
15 questions in there and I took questions that I
16 thought were pertinent to this case.

17 HEARING OFFICER HALLORAN: Ms. Reisen, and your
18 objection was?

19 MS. REISEN: That he needs to present his own
20 evidence, his own questioning and he had previously
21 --

22 MR. BRILL: But all knowledge is secondhand and
23 if I take knowledge from a dictionary or a former
24 transcript, it's all secondhand knowledge and if I

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1 take questions that I figure that are apropos to
2 this case, I can't see anything wrong with it.

3 HEARING OFFICER HALLORAN: I'm going to deny
4 Ms. Reisen's objection about Mr. Brill's method of
5 gathering the questions he's asking Mr. Zak.

6 At this point, I'd like to tender back to
7 Mr. Brill -- it looks like a portion of Exhibit 1
8 which has not been yet admitted into evidence and

9 it's entitled measured noise levels from logs.

10 Mr. Brill -- have you seen this?

11 MS. REISEN: No.

12 MR. BRILL: No. That's a compilation of all of
13 my readings.

14 HEARING OFFICER HALLORAN: We're off the record
15 for a moment.

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

18 HEARING OFFICER HALLORAN: We're back on the
19 record. Mr. Brill? I'm sorry. Ms. Reisen was
20 looking over Exhibit 16. Mr. Brill, there's your
21 exhibit back.

22 MS. REISEN: Mr. Brill, there's your exhibit
23 back.

24 MR. BRILL: I'm sorry. Should this be remarked

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1 16? It's part of the log. It's excerpts word for
2 word from the logs, but it is a separate entity in
3 the fact that it is a compilation of only the parts
4 of the log that refer to my readings with the sound
5 level meter.

6 HEARING OFFICER HALLORAN: A copy would have
7 been greatly helpful. In fact, copies would have

8 been greatly helpful for all this stuff to make the
9 hearing go a little smoother and easier.

10 At this point, leave it marked as Exhibit
11 1. We'll have to make a copy of it and mark it
12 Exhibit 16, but would you like to tell the Board
13 exactly what Exhibit 16 is?

14 MR. BRILL: Well, it's still one.

15 HEARING OFFICER HALLORAN: Sir, whatever,
16 Exhibit 1 or 16, it seems to be one and the same.

17 MR. BRILL: This is a compilation of all of my
18 sound reading -- sound readings that I took and I
19 took them all from my logs and there's nothing else
20 in here except sound readings and when and where and
21 under what conditions they were taken.

22 I thought it would be a simplified matter
23 because of the fact that my log -- I would have to
24 look around -- as long as we're going to be working

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1 about readings, I thought it would be better to put
2 them all on a couple pages so that they would be
3 easier to address rather than me going through the
4 whole log and picking off each one. All the entries
5 are dated and they run in sequence from when I took
6 those readings and I just thought it would be a

7 simplified method of -- that would pertain to noise
8 readings and noise readings alone.

9 HEARING OFFICER HALLORAN: Well, the problem is
10 if I don't accept Exhibit No. 1 into the evidence,
11 that's going to go out the door as well. So that's
12 my concern. That Exhibit No. 16 you have in front
13 of you, soon to be 16, that was authored by you?

14 MR. BRILL: Yes.

15 HEARING OFFICER HALLORAN: You took the
16 readings.

17 MR. BRILL: Yes, I did, sir.

18 HEARING OFFICER HALLORAN: Ms. Reisen, any
19 comments?

20 MS. REISEN: Obviously if the Court is going to
21 accept it, we'd like our objection to be noted on
22 the record that these are readings taken by
23 Mr. Brill, not by Mr. Zak and that actually the log
24 indicates the time and what he has a read for, but

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1 doesn't necessarily indicate other conditions.

2 HEARING OFFICER HALLORAN: I'm going to admit
3 it, not so much to prove there was a fact of a
4 violation, but just to bolster Mr. Brill's claim
5 of his alleged violations. Exhibit No. 16 is

6 admitted over the objection. You may proceed,
7 Mr. Brill. Thank you.

8 BY MR. BRILL:

9 Q. We left off with that rather long
10 convoluted question that I asked you. I don't know
11 if you remember what it was, but I was going to ask
12 you if you had any opinion on that question.

13 A. Somebody has to read the question back to
14 me.

15 HEARING OFFICER HALLORAN: Mr. Brill, would you
16 please --

17 BY MR. BRILL:

18 Q. Based on the knowledge you have of such
19 instruments --

20 HEARING OFFICER HALLORAN: Let's nip this in
21 the bud right now. Has Mr. Zak -- before you get
22 done with that long question, has Mr. Zak ever laid
23 eyes on Exhibit 16? You might want to --

24 MR. BRILL: He has laid eyes on --

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1 HEARING OFFICER HALLORAN: You might want to
2 ask Mr. Zak that before you ask him if Exhibit 16 is
3 --

4 BY MR. BRILL:

5 Q. I don't think you've ever seen this because
6 it's been lifted. You've seen parts of it on my
7 log, but you haven't seen a compilation of the
8 readings and the readings alone entered on this --
9 on these three sheets?

10 A. Not until a few minutes ago.

11 Q. Huh?

12 A. Not until a few minutes ago.

13 Q. Okay. And if I let you look at this, can
14 you give me an opinion on what you read?

15 HEARING OFFICER HALLORAN: I'm sorry. Let's go
16 ahead and reread your question. I apologize. And
17 let's see what that flushes out.

18 BY MR. BRILL:

19 Q. Based on the knowledge you have of such
20 instruments, also assuming that this is a reliable
21 instrument and assuming the testimony of the
22 complainant is true and correct, do you have an
23 opinion based on a reasonable degree of scientific
24 certainty whether or not the complainant's records

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1 on Exhibit 16 accurately reflect the noise values
2 that would have occurred at the time of the
3 recordings?

4 HEARING OFFICER HALLORAN: I don't think
5 Mr. Zak has seen Exhibit 16. If you -- if that's
6 the question you're asking him, I assume that
7 Mr. Zak has to look over Exhibit 16.

8 BY THE WITNESS:

9 A. Yes.

10 BY MR. BRILL:

11 Q. So your opinion is that -- they could very
12 well be a true reflection of the readings that I
13 took?

14 A. If I understood the question, you asked me
15 if I could give you an opinion on Exhibit 16 and my
16 answer to that was yes.

17 Q. Okay. What's that opinion, I'm sorry?

18 A. Having calibrated your meter with a
19 precision calibrator to ensure it's accuracy and
20 your data here indicates some measurements were
21 taken indoors and some measurements were taken
22 outdoors, but the levels in general are typical of
23 the levels that normally would result in a
24 significant amount of interference from the noise as

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1 far as sleep is concerned, as far as listening to
2 television, using your backyard.

3 Q. How about normal conversation?

4 A. And normal conversation would also be
5 interrupted by levels this high. This is my main
6 concern, though, is from the levels and all the
7 testimony today as far as the impulsive nature of
8 much of the noise that it would make it difficult to
9 sleep or nap with the impulsive nature of the noise
10 present at the trucking facility.

11 I would compare this very much to the type
12 of information that was provided to me when I
13 testified in Overland versus -- actually, Cohen
14 versus Overland before the Board and it also is very
15 similar to -- almost identical to Thomas versus
16 Carry Companies and Thomas versus Carry Companies
17 was also a truck washing facility. The difference
18 being the Thomas complaint was located a little bit
19 closer than you are, but not any closer -- about the
20 same type of position as the lady who's first name
21 was Nancy that testified earlier about her house and
22 her location.

23 So I would say the data here compares very
24 much to the data that was taken at Overland and the

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1 testimony compares very much to the testimony at

2 Thomas versus Carry Companies.

3 Q. What do you think the impact of those
4 readings would be on entertaining guests?

5 A. Again, we're looking at levels that are in
6 the upper 60s and those type of levels would make
7 conversation difficult. As far as guests are
8 concerned if conversation is going on, there would
9 be a significant impact on being able to carry on a
10 conversation based on -- based on these types of
11 levels and to kind of continue along the same line,
12 the levels on the C-scale are quite high, which
13 would indicate the noise would be very penetrating
14 to a residence of normal construction, which has
15 been described here today.

16 Q. I would like you to look at Exhibit No. 9,
17 which is our original complaint that was filed with
18 the Illinois Pollution Control Board and I would
19 refer you to page four of that document, paragraph
20 number nine I believe. Is there a ninth paragraph?

21 A. Yes, I have it on page four.

22 Q. Okay. Have you ever or are you familiar
23 with any situation in which a device of this type
24 has been used as a sound controlling mechanism or

1 do you have opinion on -- I'm sorry, maybe I'm ahead
2 of myself.

3 Do you have an opinion on page four,
4 paragraph nine, of our original complaint to the
5 Pollution Control Board?

6 A. Well, my opinion would be that it certainly
7 is doable from a technical standpoint and from the
8 evidence and testimony present today, it would be
9 important to take steps to mitigate the noise.

10 Q. We're talking of the sound barrier here,
11 are we?

12 A. Well, we're talking of several things, I
13 think. As far as the sound barrier itself is
14 concerned, yes that would address the noise problem
15 and in order for it to be effective, the height of
16 the structure would have to be such that it broke
17 line of sight to the highest point where any
18 complainant is likely to be in their home.

19 Q. Would that structure help in any way the
20 people who are located at 9147 Crescent Drive where
21 they have second floor living space?

22 A. Given a situation like that, again, the key
23 factor is breaking a line of sight and in the case
24 of Cohen versus Overland Trucking, we had a problem

1 there with a lot of second story houses and the
2 solution in that case was to erect a 23-foot high
3 structure in order to block a sound from going to
4 the second floor windows of houses adjacent to the
5 trucking facility.

6 Q. So a 14-foot structure wouldn't necessarily
7 help my neighbor at 9147, is that what you're
8 saying?

9 A. If the 14-foot structure will not break
10 line of sight and there is a current line of sight
11 problem there, it would be necessary for at least
12 for a short distance there to have a structure of
13 sufficient height to break the line the sight.

14 Q. Are you familiar with any situations in
15 which a sound barrier of this type has been used to
16 control -- as a sound controlling mechanism?

17 A. Yes. In numerous cases, it's one of the
18 most common types of noise solutions utilized. It's
19 been utilized in Illinois many, many times. It was
20 the solution for the Thomas versus Carry Companies
21 complaint. It was a rather long structure, high
22 enough to break line of sight and having a density
23 of three to four pounds per square foot.

24 In the Cohen versus Overland case, the

1 required structure there was approximately 23 feet
2 high and on the order of 500 feet, plus or minus 100
3 feet, in length to solve that particular problem.

4 Q. Would a dirt berm of sufficient height work
5 as a sound barrier?

6 A. Yes. As a matter of fact, the berm is
7 usually preferred to a wall. The solutions normally
8 will revolve around either a noise wall.
9 Occasionally, if it's located on the property line
10 we could call it a noise fence, but if it's located
11 back from the property line, then it would be
12 considered a noise barrier.

13 A berm is very effective and for example,
14 if we needed 14 feet, what would be typically done
15 by, for example, Illinois DOT would be to build --
16 if there's any kind of a restriction on the height
17 of a wall, my suggestion would be to look into
18 possibly going with let's say a six-foot berm with
19 an eight-foot wall.

20 Q. The combination of the two adding up to 14?

21 A. The combination to hopefully keep the -- if
22 there's a zoning problem, to keep the zoning people
23 happy and I might further add, it's my experience in
24 over 29 years that there has not yet been a case

1 where noise control was impossible due to local
2 zoning.

3 Q. Interesting.

4 What would you think of a building built
5 along that fence line let's say of masonry
6 construction and cinder blocks of sufficient height,
7 would that work as a sound barrier?

8 A. That would work. My suggestion, however,
9 to minimize cost would be to go with wood and again,
10 what could be used in a situation like that -- in
11 this case I understand there's a prohibition against
12 any fence being higher than eight feet. What could
13 be built would be almost like a carport type of
14 thing where you've got it going up, say, 14 feet
15 high with a little bit of a roof on there and -- in
16 other words, making a wooden structure that is not
17 -- would not be considered a wall, but would be
18 considered some type of building structure, but
19 again, very -- keeping the dimensions as small as
20 possible.

21 Q. Out where I golf they have storage sheds
22 that are made of steel and they're at least as high
23 as the 14 feet that I described. I imagine the
24 metal part though is probably only 30,000s of an

1 inch thick. Would this work as a sound barrier?

2 A. Given the provision -- it would work.

3 Given the provision that the metal weight and pounds
4 per square foot was on the order of three to four
5 pounds per square foot. So a gauge of steel would
6 be selected, galvanized steel -- probably
7 corrugated, such that it did provide three to four
8 pounds per square foot of mass or weight.

9 Q. When you're saying pounds per square foot,
10 you're talking about the actual weight of a square
11 foot of this material?

12 A. That's correct.

13 Q. And it doesn't seem to make much difference
14 whether it's wood, ceramic or steel or copper or
15 anything. They all seem to work the same?

16 A. Exactly. It's referred to in acoustics as
17 the Mass Law and the Mass Law basically states that
18 it matters not what material is made out of, it's
19 the mass or weight per unit of area that determines
20 how much noise reduction will be obtained and that's
21 why I said that -- also, the steel, the corrugated
22 steel, has been used in a lot of cases to solve
23 noise problems such as this largely because it is
24 probably one of the least expensive ways to go about

1 solving the problem and there is no maintenance
2 involved normally with that of structure.

3 Q. So a shed type building as we see out on
4 our golf course would basically, if constructed
5 right and air tight and was from let's say wall to
6 wall in this case, the full length of the fence,
7 that could accomplish the need for noise control?

8 A. Yes. The length there, I did measure the
9 length as 57 yards so it would be on the order of
10 approximately 170 feet in length.

11 Q. You've seen situations where these things
12 have been built. Did they do what they were
13 supposed to do or did they accomplish the aim?

14 A. Yes.

15 Q. Okay. When you visited TL Trucking's site
16 referred to in these proceedings, did you envision
17 whether such a structure would control the sound of
18 operations at that site?

19 A. Yes.

20 Q. With your experience, training and
21 scientific background, what type of sound control
22 device structure would you recommend to control the
23 sounds from operations at 9200 King Street?

24 Of all them that we discussed, what one do

1 you think would solve the problem the best and for
2 the least amount of money?

3 A. It would depend upon to some extent the
4 current price of, say, plywood versus corrugated
5 steel and then also balancing that out with cost of
6 maintenance. The corrugated steel solution is a
7 very common one and is a very effective one. Again,
8 the structure would simply be high enough to break
9 line of sight and would be air tight from the ground
10 to the top so that you would have no noise leakage
11 through the metal.

12 Q. If TL Trucking did indeed build a
13 corrugated shed type building there, the cost might
14 be mitigated somewhat because of the fact they could
15 use it for a storage area or for things to keep
16 their tankers from getting dirty from their own
17 dust? I mean, would it in some way reduce the cost
18 to them because they could utilize it?

19 A. I would say that's a reasonable assumption
20 again, depending on their operation there if they'd
21 need that type of structure and could use that type
22 of structure.

23 Q. Of the three types of structures we talked

24 of I suppose you could just say are they doable, but

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1 we'll go -- are they technically feasible and
2 economically reasonable?

3 A. They're technically feasible. Economic
4 reasonableness is an area where I can estimate the
5 approximate cost of that type of thing. It would be
6 up to the Board to decide whether it's economically
7 reasonable or not.

8 Q. But of the structures that we talked about,
9 they should help soften -- they wouldn't eliminate
10 all the noises all the way, but they would soften
11 the effect of those noises upon the neighbors?

12 A. That's correct. It's my impression that
13 we're dealing largely with the nuisance case here
14 and with noise, the expectation is that you're not
15 going to get total silence, you're always going to
16 be able to hear the noise. It's a case of deciding
17 whether the noise is sufficient to be an
18 environmental problem, which in my opinion in this
19 case it is. Once that is decided, then you look at
20 the solution to the problem and you get into the
21 cost factor. For example, I estimated the cost for
22 Carry Companies in that particular case of being

23 approximately \$50,000 and it turns out they -- my
24 understanding they built the structure for \$12,000.

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1 I had a case where it was the People of
2 Illinois versus the Sangamon County Landfill. I
3 recommended a corrugated steel barrier in that case
4 that was approximately 15-feet high and that was
5 constructed at virtually no cost because they had
6 the material on hand, as a matter of fact it was
7 rusty, and they were going to try and get rid of it
8 and they ended up using it for their barrier. So
9 except for, you might say the cost construction
10 which I don't really think there was cost there
11 because they had people there, the landfill was
12 operating at a very slow mode, they had extra people
13 who put the barrier up themselves and they would
14 have been paid by the company just for being on
15 site, so the cost in that situation was virtually
16 zero.

17 Q. If such the structures, the three that we
18 spoke of, were constructed, is there any way in your
19 opinion to assure me that the structure would
20 continue to control the emissions for years into the
21 future?

22 A. No. It depends upon -- obviously, we've
23 had situations in the past where a structure has been
24 built and it's been damaged and typically the way

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1 the damage -- there's two types of damage that there
2 are fairly common, one is wind, wind will blow it
3 down and that's simply usually due to the bad design
4 of whoever put it up. The other thing I run into in
5 a few situations is -- I had one that got hit by a
6 truck and that was subsequently repaired and then I
7 had another one that got hit by a railroad car and
8 that was repaired, but so except for impact damage
9 and wind damage, normally if it's constructed with
10 material that is relatively maintenance free, it
11 should last a long time.

12 Q. What methods would we use if that sound
13 barrier suddenly sprung a leak, how would we
14 convince the owners of that land that it ought to be
15 repaired?

16 A. I would suggest you might want to seek
17 legal advice on that.

18 Q. Speaking extemporaneously, do you think
19 we've got a problem in our neighborhood with noise?

20 A. I believe I answered that, but I'll repeat

21 my answer and that is yes, from the testimony today
22 and the measurements taken that I would say this
23 falls in the same serious nature as both the Carry
24 Companies case and the Overland case.

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1 Q. I have a sound report from respondent's
2 sound expert, Mr. Homans, I sent you copy of that
3 report, did you read it?

4 A. Yes I did.

5 Q. Do you have an opinion on that report?

6 A. Yes. I agreed with the portions in the
7 report there where Mr. Homans made suggestions to
8 mitigate the sound. From memory, he also
9 recommended a barrier, noise barrier --

10 Q. Their sound expert recommended a --

11 A. Yes, Mr. Homans did that and in addition
12 made some recommendation as far as the blower and
13 some of the noisy operations taking place in the
14 building. I believe he mentions something about
15 closing the door when the trailer was in there.
16 My only comment on that is that in the case of
17 Christiansen versus American Milling, the solution
18 that was ultimately used there was to expand the
19 building sufficient so the whole truck could be fit

20 in the building and in that case it was an unloading
21 operation and that was a solution to that particular
22 problem.

23 So again, my concern here with pulling the
24 trailer in there and the tractor pulling away,

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1 lowering the door, when it comes time to get the
2 trailer out, raise the door, the tractor is going to
3 back in there and you're going to get the noise from
4 the coupling operation and that does seem to be a
5 significant part of the problem of a lot of the
6 people who have testified here today.

7 Q. So that solution would be self-defeating?

8 A. My suggestion on that would be -- that
9 would be largely mitigated by the barrier.

10 Q. If a barrier were --

11 A. If a barrier were constructed. Again, I
12 want to emphasize at this point that the barrier is
13 in my opinion probably 80 percent of your solution.
14 It's the key factor. All the other factors that
15 were described by Mr. Homans are good ideas and I
16 think also would reduce the noise levels impacting
17 the neighborhood, but that would be again contingent
18 upon the construction of a sound barrier.

19 Q. What's the best way of us assuring that
20 that structure if it's built stays viable?

21 A. Again, I think you would want to seek legal
22 advice on that.

23 Q. You heard me testify that I thought the
24 building was too small for the work that they were

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1 doing, that when they back a tanker into their bays,
2 the truck portion is still outside, which would
3 necessitate uncoupling that if the washing was to
4 occur entirely indoors and then actually would
5 possibly exacerbate our problem because then it
6 would require rehooking of that tractor to that
7 trailer in order to pull it out, is that correct?

8 A. That's correct.

9 Q. Do you think that part of the problem could
10 be solved if TL Trucking were to extend their
11 building so it was long enough to do the kind of
12 work they're doing there? So that the whole entire
13 rig can fit indoors and then they wouldn't -- they
14 could lower the doors then and wash the vehicle and
15 the tanker off at the same time?

16 A. Yes. Again, that was a solution that was
17 used in Christiansen versus American Milling before

18 the Board.

19 Q. Do you have any other observations of their
20 sound report made by Mr. Homans? How about the
21 accuracy of that report?

22 A. I wouldn't question the accuracy of the
23 report while he was there. Mr. Homans has
24 historically produced very high quality work, but

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1 looking at the data produced by yourself and the and
2 the testimony, I have a little bit of reservation as
3 far as what degree of activity was occurring at TL
4 when Mr. Homans was taking his measurements.

5 HEARING OFFICER HALLORAN: Mr. Brill, excuse
6 me, how much longer do you think you have on direct?
7 It's approximately 5:20. I'm going to be taking a
8 break shortly before I think Ms. Reisen I'm sure
9 she's got cross and, Mr. Zak, if we don't get
10 finished by six, you have to wait until the end
11 because we can't -- we have to leave the building
12 together.

13 MR. BRILL: What time is it?

14 HEARING OFFICER HALLORAN: It's 5:20. I'm just
15 saying that if we don't get finished with Mr. Zak
16 by six and I need a five-minute break in between and

17 I'm not --

18 MR. BRILL: Let me just propose a couple
19 questions.

20 BY MR. BRILL:

21 Q. On this sound report that was filed from TL
22 Trucking, Mr. Homans states that my two pound
23 newspaper landing on my lawn can make substantially
24 more noise than a 20,000 pound highway tractor

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1 ramming into a 20,000 pound tanker with sufficient
2 force to lift it off the ground to accomplish a
3 hook up, does that sound reasonable?

4 A. Yes. And the reason I say it does is it
5 all depends on how close to the microphone the
6 newspaper is as compared to the truck coupling
7 operation. If a newspaper is very close and the
8 truck coupling operation is very far away, I would
9 not be surprised that the newspaper made more noise.

10 Q. Okay. I have just one more question. In
11 the report he said that he's never seen a case where
12 85 percent of his 30 second readings had to be
13 discarded because of overlaying or interfering
14 noises. Did you read that in that report?

15 A. Yes.

16 Q. I'm not a mathematician here, but of those
17 events there's 105 that were thrown out and 120 that
18 were kept which adds up to 225 and I was wondering
19 how 105 could be 85 percent of 225. Does that sound
20 reasonable?

21 A. I was wondering the same thing.

22 Q. I mean, wouldn't the figure 30 percent or
23 34 percent be closer to the actuality?

24 A. Without trying to get into a specific

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1 number, 85 percent when you're comparing 105 to 120
2 seemed --

3 Q. If they had 225 events, in order for it to
4 be 85 percent, wouldn't they have to throw out
5 almost 200 of those events?

6 A. It would seem so.

7 MR. BRILL: No more questions.

8 HEARING OFFICER HALLORAN: Thank you, Mr.
9 Brill. We're going to take a five, six-minute
10 break. Thank you.

11 (Whereupon, after a short
12 break was had, the
13 following proceedings
14 were held accordingly.)

15 HEARING OFFICER HALLORAN: We're back on the
16 record. It is approximately 5:30 and Ms. Reisen
17 would like to address an issue that's come up.

18 MS. REISEN: Correct. The issue I specifically
19 have is we've had several conversations, meaning
20 myself, Mr. Brill as to expected times for the case
21 to be done and by everyone's account that has going
22 beyond well what was anticipated. Mr. Brill has the
23 right to present his case in full, likewise my
24 clients have the right to present their case in full

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1 to rebut the allegations that were made today.

2 Two of my subpoenaed witness are William
3 Esposito, who is the building commissioner in
4 Franklin Park and Don Stumbris, who is the zoning
5 administrator in Franklin Park. It is now after
6 6:30 p.m. and both are scheduled to be --

7 HEARING OFFICER HALLORAN: It's 5:30 central
8 standard time.

9 MS. REISEN: I'm sorry. 5:30. Both are
10 scheduled to be gone in the next bit.

11 HEARING OFFICER HALLORAN: In the next bit?

12 MS. REISEN: What time --

13 MR. STUMBRIS: I have a zoning board --

14 THE REPORTER: I'm sorry. Could he please --

15 HEARING OFFICER HALLORAN: I'm sorry. Yes.

16 THE REPORTER: Identify yourself.

17 MS. REISEN: Mr. Stumbris, if you could
18 identify yourself by name and then indicate what
19 your time frame is for the record.

20 MR. STUMBRIS: My name is Donald A. Stumbris.
21 I'm the zoning administrator of the village of
22 Franklin Park. I have a zoning board hearing
23 tonight which is also from Robinson Road at 9400
24 Robinson for a conditional use for an industrial

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1 building. This has published in the newspapers for
2 the past two weeks and there will be a public
3 hearing tonight. I have to be there at seven p.m.

4 MS. REISEN: And what is your estimated travel
5 time to get there.

6 MR. STUMBRIS: Travel time -- we're taking the
7 time, it's 20 minutes to the train station if we
8 walk over there and another 30 minutes on the train
9 so we're looking at a one-hour time frame. My
10 latest to leave this building would be 6:00 o'clock.

11 MS. REISEN: Okay. Which is 25 minutes from
12 now?

13 MR. STUMBRIS: That's correct.

14 MS. REISEN: And, Mr. Esposito, if you could
15 identify yourself by name. You're the building
16 commissioner and what -- if your time frame is
17 similar or different from Mr. Stumbris.

18 MR. ESPOSITO: William J. Esposito, building
19 commissioner, village of Franklin Park. My problem
20 is that I could stay here as long as you want me to
21 stay here today, but tomorrow I have -- I've got
22 appointments all day and there is just absolutely no
23 way that I'm going to be able to make it down here
24 to do any testimony and to wait three, four hours

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1 like we did -- or five hours, like we did today when
2 I've already set all these appointments for tomorrow
3 so I've already vacated everything that I have on my
4 calendar.

5 HEARING OFFICER HALLORAN: Thank you,
6 Mr. Esposito. How long do you think it would take
7 to direct your first witness, I apologize --

8 MR. STUMBRIS: Don.

9 MS. REISEN: Well, with that aside, first of
10 all, I still have easily probably 20, 25, maybe 30
11 minutes of cross-examination for Mr. Zak.

12 HEARING OFFICER HALLORAN: This may be an
13 anomaly, we may have to ask Mr. Zak to step down and
14 we can go out of turn and you can redirect after you
15 put on your witness so...

16 MR. BRILL: Wouldn't that entail my sound
17 expert to have to come here another day?

18 HEARING OFFICER HALLORAN: Mr. Zak would wait
19 until after the gentlemen's testimony. Just one
20 witness, before Mr. Zak continues the cross.

21 MS. REISEN: Actually, we would request to be
22 able to do both because my understanding, which
23 Mr. Stumbris did not state on the record, is that
24 you are not available tomorrow either, is that

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1 correct?

2 MR. STUMBRIS: It's extremely difficult for me.
3 Mr. Esposito will be busy making up items that he
4 has to makeup. I have to do what happens at my
5 meeting tonight and I have to do other things that
6 -- what we had done is both we established our
7 calendars for today.

8 HEARING OFFICER HALLORAN: If I may interject,
9 Mr. Esposito said he could stay the remainder of the
10 night. So my ruling is that, and I apologize I

11 didn't get your name again, that you call your first
12 witness, we'll take Mr. Zak off the stand and we'll
13 follow-up recross after you're finished with the
14 witness that must leave by 6:00 o'clock.

15 MS. REISEN: Okay.

16 HEARING OFFICER HALLORAN: Is that fine?

17 MS. REISEN: I suppose it's going to have to
18 do.

19 HEARING OFFICER HALLORAN: What else do you
20 propose?

21 MS. REISEN: Well, I was going to make a motion
22 that because I do believe my client has the right to
23 explore their witnesses and their testimony to the
24 same extent Mr. Brill did, that if they cannot be

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1 here today, we reset the second day for a day that
2 everybody can be here and the juncture of the
3 Complainant's case closing is a clean, easy break in
4 that we're not in the middle of his flow, we're not
5 in the middle of our case's flow and it's a clean,
6 easy break and it doesn't inconvenience any of the
7 witnesses. We're under the gun here now. You're
8 expecting me to examine fully two very important
9 witnesses in an attempt to get them on and off.

10 HEARING OFFICER HALLORAN: Ma'am, wait a
11 minute. One witness. Okay. And you stated earlier
12 out in the hallway that it wouldn't be that long,
13 probably -- I thought you said 20 to 30 minutes and
14 we've been arguing for 15.

15 MS. REISEN: And Mr. Brill has a right to
16 cross-exam, and I have the right to rehabilitate.
17 I can't guess those times, your Honor. Obviously
18 that's gone much longer than all of us anticipated
19 today and I'm feeling that I cannot represent my
20 client and I'm clearly quite unclear as to which is
21 the more important of the two not as far as the
22 content, but as far as the time frame of my two
23 witnesses so to put them on and off, I can't
24 guarantee I can do justice to my client. Mr. Brill,

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1 what's your opinion on this?

2 MR. BRILL: Well my heart goes out to
3 Ms. Reisen and her clients, but I thought this was
4 going to be a continuous hearing to conclusion and,
5 of course, I would object to extending it into
6 another time frame, you know, things can happen in
7 those time frames and I would just assume get it
8 over with today.

9 HEARING OFFICER HALLORAN: And for the record,
10 Ms. Reisen, you did subpoena these gentlemen for
11 both days, the 26th and 27th?

12 MS. REISEN: That is correct, but when we spoke
13 with the witnesses I had given the witnesses the
14 same information that we -- myself, yourself and
15 Mr. Brill had shared on the phone, that the case
16 should be concluded in its entirety in one day. In
17 fact, our original setting was that way.

18 MR. BRILL: No. The hearing was set for two
19 days, the 26th and the 27th.

20 HEARING OFFICER HALLORAN: Right. That was a
21 precautionary move on the hearing officer's part
22 based on --

23 MR. BRILL: But I get half of the time --

24 HEARING OFFICER HALLORAN: Sir, you're jumping

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1 the gun. That was just -- everybody anticipated it
2 would be finished in one day and that was my own
3 volition to schedule it for two days just per chance
4 it would go two days.

5 MR. BRILL: It was my mistake. I assumed it
6 was set for two days.

7 HEARING OFFICER HALLORAN: It is set for two

8 days, sir. I don't think your understanding me.
9 Based on numerous telephonic hearing status
10 conferences, you assured me that most probably it
11 could be finished in one day, meaning your case in
12 chief would be finished sometime, you know four,
13 five hours and then Ms. Reisen would also have an
14 opportunity and hopefully wrap this up in one day
15 ending at five or six. Here we are at 5:40 and
16 we're not even finished with your case in chief and
17 I could foresee this going on for another 45
18 minutes, cross and redirect and recross of Mr. Zak,
19 that would put us at 6:30.

20 It was good faith assumption I'm sure on
21 your part.

22 MR. BRILL: Okay. If it's a good faith
23 assumption then cross-examine Mr. Zak, let him go
24 home, and we will allow these gentlemen and their

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1 attorney to set up a different day and I will come

2 --

3 HEARING OFFICER HALLORAN: I just don't want to
4 see this case hurried. I don't want to see anybody
5 prejudiced. I do want to make a clear record for
6 the Board to consider as opposed to a knee jerk or

7 insufficient information by the respondent's side.
8 I think it's a weird situation that's come up and
9 here we are.

10 So with that said, I think what we will do
11 is allow Mr. Zak to finish testifying, cross,
12 redirect, if any, and we'll continue this hearing on
13 record at a date shortly down the road, two or three
14 weeks and we'll do it that way. I don't think I'm
15 going to run into any problems since it will be
16 continued on the record. That's my ruling.

17 MR. BRILL: That's your ruling, that's the
18 ruling.

19 HEARING OFFICER HALLORAN: Okay.

20 MR. BRILL: I understand -- you know, just from
21 a legal standing that I had the impression that it
22 was going to be a two-day event consecutively, but
23 if it's your ruling that we should -- is the word
24 bifurcate this hearing? That's all right with me.

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1 HEARING OFFICER HALLORAN: I've already went
2 through the reason why it was set for two days, but
3 these gentlemen, who are public officials, have
4 already scheduled other public stuff.

5 So I guess over Mr. Brill's objection, I

6 will continue this hearing when the time come when
7 Mr. Zak step downs to a date two or three weeks down
8 the road whenever we can agree on a date.

9 MR. BRILL: Okay.

10 HEARING OFFICER HALLORAN: So be it. Thank
11 you.

12 MS. REISEN: May I take no more than two
13 minutes to talk to these gentlemen outside?

14 HEARING OFFICER HALLORAN: Sure. We're off the
15 record.

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

18 HEARING OFFICER HALLORAN: We're back on the
19 record. It's approximately 5:43 and Ms. Reisen is
20 about to cross Mr. Zak and I remind Mr. Zak that
21 he's still under oath.

22 MR. ZAK: I understand.

23

24

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

2 by Ms. Reisen

3 Q. Mr. Zak, you had indicated that the Radio
4 Shack sound meter that you've identified for the

5 record can give readings within the one decibel
6 range, correct?

7 A. It could be anywhere from exactly right on
8 to an error of -- the typical error is one decibel.
9 I've seen it where the error may be two decibels.

10 Q. Wouldn't you agree that if we could reduce
11 sound in a neighborhood by five decibels even,
12 that's significant?

13 A. No. Ten decibels is significant.

14 Q. If ten decibels is what it takes to be
15 significant, why did the Board adopt the three
16 decibel difference between extraneous and ambient
17 noise?

18 A. It's a mathematical problem. In order
19 to -- and it's a lengthy explanation. When you have
20 -- I'll give you an example, it will be simpler that
21 way. If we measure, say, 50 decibels at a certain
22 frequency and then we measure the ambient at 47
23 decibels, mathematically the 50 is the ambient plus
24 the noise source in order to calculate out -- we can

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1 back calculate the actual level of the noise source
2 in that case and it would turn out to be 40 decibels
3 and because of the fact that it would be that low,

4 we would not want nor do we count a measurement
5 where the difference between the ambient and the
6 noise source is three decibels or less.

7 Q. Okay. You had indicated that that sound
8 read will give differences in intensity or not give
9 difference in intensity of sound.

10 A. I don't think you want to use the word
11 intensity because acoustically that means something
12 entirely different than what we're talking about
13 here. Intensity is directional sound power.

14 Q. Let me ask you this: You were here this
15 morning when Mr. Brill testified as to how he used
16 that machine, correct?

17 A. Yes.

18 Q. And had you calibrated it before he started
19 any of the reads that are on his Exhibit 16?

20 A. No, I calibrated it today.

21 Q. And so you can say that as of today it was
22 calibrated fairly decently, correct?

23 A. That's correct.

24 Q. Can how it's handled such as dropped or

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1 issues like that change the calibration?

2 A. Not normally.

3 Q. What changes the calibration?

4 A. It depends more on the instrument in my
5 experience. I ran a calibration laboratory for the
6 state for several years. The more complex the
7 instrument it seems, the more there is a tendency
8 for drift. The simpler instruments unless there's a
9 major change in an electrical component, don't
10 normally have any significant drift. A Radio Shack
11 meter is one that -- I have had these around for 20
12 years and had examined dozens and dozens of these
13 meters and I've never seen one to have virtually any
14 drift.

15 Q. You're basing your statements on your
16 general knowledge of that particular instrument,
17 correct?

18 A. That's correct.

19 Q. You can state with any degree of certainty
20 that Mr. Brill's instrument was indeed properly
21 calibrated when he took the reads?

22 A. Yes, because I checked it today and they
23 don't drift.

24 Q. They never drift, that's your testimony?

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1 A. That's been my experience for 20 years.

2 Q. But you didn't do any calibration checks at
3 the time of the reads?

4 A. That's correct.

5 Q. Okay. Mr. Brill testified that he
6 essentially just turned the knob until he got a
7 read, do you remember that testimony this morning?

8 A. Yes.

9 Q. So is it your testimony that my
10 eight-year-old son could walk outside, twist the
11 knob and get just as good a read as say you can with
12 the ANSI equipment?

13 A. No. Because I instructed Mr. Brill in
14 great detail on how to do it.

15 Q. His testimony this morning was, however,
16 that he read the book and he didn't have much faith
17 in it himself, do you remember that?

18 A. Yes.

19 Q. He never mentioned at all about your
20 training him?

21 A. We discussed it at length on the phone and
22 I went through the whole procedure with him and
23 basically how to do it.

24 Q. His statement today was he would just twist

1 until he got a read, you do recall that?

2 A. And that's basically what I instructed him
3 to do.

4 Q. What's the purpose of promulgating the
5 rules on sound reading if it's just unnecessary
6 extra information?

7 A. These rules were promulgated 30 years ago
8 and there was a very strong emphasis on measurement
9 and less emphasis on nuisance and what has tended to
10 happen over the years is a much stronger emphasis on
11 the nuisance aspect of noise and the measurement
12 emphasis has tended to shift more toward noise
13 control engineering and solving the problem.

14 Q. You indicated, though, quite clearly that
15 that machine does not give precision, do you
16 remember saying that, it's not a precision read?

17 A. That's correct.

18 Q. Okay. How does the wind affect the read?

19 A. If the wind is over 12 miles an hour at the
20 microphone and the needle is fluctuating on the
21 meter yet the sound source you're recording doesn't
22 -- has no audible fluctuation to it, then as I told
23 Mr. Brill, what you're picking up is wind and it's
24 too windy then to make the measurement.

1 I also told him that it typically, in my
2 30 years of experience taking tens of thousands of
3 measurements, calling the weather service for the
4 wind speed and then measuring the wind speed in
5 every case at my own microphone that typically if
6 the weather service says the wind is 20 miles an
7 hour at the microphone level, it's typically half
8 that or about ten.

9 Q. Okay. And again, you're making a general
10 statement there, correct, based upon your
11 experience?

12 A. Yes.

13 Q. Okay. Nothing on Exhibit 16 indicates that
14 Mr. Brill noted anything to do with the wind or the
15 weather, correct?

16 A. That's correct.

17 Q. How would an overhead plane affect a read?
18 Would it increase the --

19 A. Mr. Brill was instructed if there's any
20 extraneous noise source to not take the measurement
21 while the noise source was present, but only measure
22 noise emissions from the noise source of concern,
23 which was TL Trucking.

24 Q. And in Mr. Homans report, and I apologize,

1 you must have his draft copy, he indicates that 46
2 percent of the data that was separated out was due
3 to extraneous events.

4 So is it your belief Mr. Brill got lucky
5 and just found the 50 percent that wasn't?

6 A. No. I think what happened there is
7 Mr. Brill followed the same technique that we all
8 follow and that is when there's an extraneous noise
9 event, you don't take data then and when the
10 extraneous event is no longer there, then you
11 continue taking data.

12 Q. Okay. Much of your assumptions about the
13 reads are from information you have received from
14 Mr. Brill himself, correct?

15 A. And his testimony, yes.

16 Q. You've done mediation as part of your
17 professional training, isn't that true?

18 A. I'm sorry. Could you repeat that?

19 Q. You've been involved as a mediator before
20 in your profession, haven't you?

21 A. Could you elaborate on what you mean by
22 mediator?

23 Q. Well, you've helped complainants and
24 businesses find a way to solve a problem together

1 regarding noise, isn't that true?

2 A. Yes. That's probably 70 percent of what I
3 do at the agency.

4 Q. And wouldn't you agree at the outset of
5 those mediation sessions for lack of anything better
6 to call them that the beliefs of each side tend to
7 be pretty polar as to what the noise is and how bad
8 it is?

9 A. Somewhat polarized, but after a brief
10 mediation discussion of everything involved, it
11 seemed like both sides were able to come together.

12 Q. And that was with your assistance in
13 mediation?

14 A. Yes.

15 Q. Okay. You've not had the opportunity to
16 hear TL Trucking's case, correct?

17 A. That's correct.

18 Q. Okay. And so essentially, you have a
19 one-sided view as to what you think is going on at
20 TL Trucking, you've heard Mr. Brill and Mr. Brill's
21 witnesses, one side of the case?

22 A. Yes.

23 Q. Okay. And so your recommendations
24 necessarily have to be slanted in that angle because

1 you've not heard the other side of the case?

2 A. Well, based on my nearly 30 years of
3 experience taking the Board regulations and the
4 Board rules, we're all limited as to the amount of
5 noise we can generate in Illinois. Once you have a
6 situation where that is being, in my opinion,
7 exceeded, then it's incumbent upon the noise emitter
8 to work on solving the problem.

9 Q. I understand that. One of the tables
10 that's in Mr. Homans reports is the Illinois
11 Pollution Control Board Property Line Limits and it
12 specifically has an octave band center frequency and
13 it list several octave bands and then it gives
14 decibel reading underneath that. Are you familiar
15 with that table?

16 A. Yes. I helped to generate the data that
17 created that.

18 Q. First of all, what's the difference -- why
19 do you have different decibel levels at different
20 octave frequencies?

21 A. A couple of reasons. Most states in the
22 federal government tend to use -- A-weighted
23 measurements, which is one single measurement and
24 that's it. Illinois and the city of Chicago and

1 most of Europe, Japan, decided to go with octave
2 band and even third octave band. The reason we do
3 that is if we have a low frequency noise source,
4 that will be clearly indicated with the measurement
5 and we can also assign a decibel level that we call
6 the allowable limit where that limit is exceeded --
7 there's been a lot of research done that indicates
8 when you exceed a certain level, you're going to
9 create a certain amount of annoyance in the general
10 population and that's basically how the Illinois
11 regulations came to be based on lot of research.

12 Q. So depending on what frequency you're
13 testing at will determine whether or not the
14 decibels are too high?

15 A. That's right.

16 Q. Okay. And that sort of read usually comes
17 from the better equipment, isn't that correct?

18 A. Not necessarily. If we take an A-weighted
19 measurement that exceeds the sum of the octave bands
20 and that A-weighted measurement is higher than it
21 should be, we know proof positive that one of the
22 octave bands is exceeding the regulation.

23 If we do the -- if we take an A-weighted

24 measurement and it's below what would normally be

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1 allowed for the octave band measurements, we can
2 still have a situation where one of the octave bands
3 is way above the regulatory limit, but because of
4 the nature of A-weighting, it's not shown.

5 I can give you an example of that. If you
6 take 31 and a half Hertz, that particular frequency
7 when it's measured on A-weighting, 39 decibels is
8 subtracted from the measurement. If that's -- with
9 that situation in hand, we can have -- for example,
10 in your client's case, their daytime A-weighted
11 limit would be approximately 61 decibels. They
12 could be 60 and producing 99 decibels at 31 and a
13 half Hertz, which would greatly exceed the allowable
14 limit. So the A-weighted type measurement is -- it
15 indicates a violation, but it doesn't indicate
16 compliance.

17 Q. And all of that that you just explained,
18 you did not provide any of that testing at all
19 yourself? You didn't take any reads of any octaves?

20 A. That's correct.

21 Q. You have a recommendation that some sort of
22 a sound barrier will be sufficient or at least

23 alleviate some sound if the sound is in fact coming
24 from TL Trucking, correct?

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1 A. Correct.

2 Q. That recommendation is premised upon the
3 assumption that the sound is coming just from TL
4 Trucking, isn't it?

5 A. Based on the testimony that we heard today.

6 Q. And again, that testimony today is just
7 Mr. Brills witnesses?

8 A. Yes.

9 Q. Okay. Now, Mr. Homans was not able to
10 separate out the sounds of TL Trucking statistically
11 from the sounds of other noise in the area, correct?

12 A. That's correct.

13 Q. And so if Mr. Homans' report is correct,
14 you can put up a barrier in front of TL Trucking and
15 Mr. Brill is still going to have problems with
16 noise, isn't he?

17 A. It isn't a question of Mr. Homans data
18 being correct or incorrect. The big question really
19 is were the sound emissions from TL Trucking typical
20 when Mr. Homan was there?

21 Q. And if we assume that they were typical

22 when Mr. Homans was there -- first of all, you read
23 that he did his testing from, I believe, five to
24 seven or five to eight a.m., did you note that?

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1 A. That's correct.

2 Q. Okay. And several of the witnesses today
3 testified that the worst time was around that time
4 frame, correct, the early morning hours?

5 A. Correct.

6 Q. In fact, Mr. Homans states that's why he
7 went during that time frame, he wanted to hit the
8 time these people were complaining about?

9 A. That's correct.

10 Q. Okay. And so when he was out there on that
11 date -- strike that.

12 Additionally, several of the witnesses
13 indicated this is a daily event, you heard that
14 testimony too, didn't you?

15 A. Yes.

16 Q. Other than conjecture, we have no
17 information that the day Mr. Homans was there was
18 somehow an atypical day that no one seemed to
19 testify about today, do we?

20 A. I do have my experience and my experience

21 has told me in 30 years that in more cases than not,
22 an industrial noise source will do everything they
23 can when the consultant is there to minimize the
24 noise.

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1 Q. Now, if I were to tell you my office
2 arranged it and did not give prior notice to TL
3 Trucking, would that change your opinion?

4 A. Only if Mr. Homans had taken it over
5 several days so we had a reasonable sample as
6 opposed to a one event type of situation there.

7 Q. So you're feeling that an isolated read is
8 not a sufficient read?

9 A. In cases like this when the consultant is
10 working for the company, a lot of diligence and care
11 must be taken to be sure that the reading is
12 actually an accurate reading. The way I've always
13 done this myself is to have the residents there and
14 ask the residents as I take the measurements, is
15 this typical. If they say -- and it's been my
16 experience that when they say it's typical, in
17 probably 98 percent of the cases, the measurements
18 were over.

19 Q. You stated on your direct examination that

20 Mr. Homans has an excellent reputation generally,
21 correct?

22 A. Absolutely, impeccable.

23 Q. Okay. I'm curious as to why you're holding
24 such a high standard to his report, but you don't

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1 hold a similar standard to the readings Mr. Brill is
2 submitting to this Board?

3 A. I don't understand the question.

4 Q. You were indicating all sorts of problems
5 with Mr. Homans report such as timing, such as is it
6 typical, et cetera, but you're not raising the same
7 typicality questions or motive or bias questions as
8 to Mr. Brill and I'm concerned about your
9 impartiality.

10 A. Well, being a private consultant myself and
11 working for clients, the consultant is somewhat
12 hampered in that he takes the measurements when the
13 client tells him to take to measurements, either
14 through the client or through the client's attorney
15 and in a situation like that, the consultant can be
16 acting in and typically is acting in good faith, but
17 there can be an attempt on the part of the company
18 to minimize the noise levels on the particular day

19 the consultant is there.

20 Q. And that presumes prior knowledge of when
21 the test would be run?

22 A. Or if the consultant is spotted. I've been
23 spotted many times when I worked for the state and
24 as soon as I was spotted, the levels would typically

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1 drop dramatically.

2 Q. Mr. Homans notes in his report that there
3 were three liquid trucks and one dry bulk truck that
4 were being washed during the measurement period,
5 which would indicate that activity was going on at
6 TL Trucking, would you not agree?

7 A. Yes.

8 Q. And you have no reason to doubt that he put
9 that in there without a basis for it?

10 A. Right.

11 Q. Mr. Homans states as can be seen good,
12 parenthesis, nonextraneous, end of parenthesis, and
13 ambient data are within three decibels of one
14 another, therefore, it is not possible to discern
15 noise emissions due to TL Trucking.

16 Are you calling that specific conclusion
17 into question based upon the data that Mr. Homans

18 attached to his report?

19 A. If I can explain that because I'm a little
20 bit fuzzy on your question there. The ambient
21 Mr. Homans measured and extraneous noise Mr. Homans
22 measured would come into -- would be a problem if
23 the levels from TL Trucking were extremely low.
24 Again, we get back to the question of did he really

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1 measure typical levels. His measurement in all
2 honesty -- you could take his measurements and end
3 up with reading low numbers, which would then kick
4 all his data into the ambient problem and into the
5 extraneous noise problem.

6 Q. You met with Mr. Brill in his home for
7 about an hour and a half?

8 A. Two hours.

9 Q. Two hours. And you were able to converse
10 with him?

11 A. Yes.

12 Q. Okay. The Board typically in these sorts
13 of cases needs to look not only at unreasonable
14 interference with the lives of the individuals, but
15 also looks to the benefit of the service being
16 provided, isn't that correct?

17 A. Yes.

18 Q. Are you familiar with what TL Trucking does
19 as a service?

20 A. Somewhat from the testimony today, I
21 believe I am. Basically from your
22 cross-examination.

23 Q. Okay. But other than what limited bit
24 you've heard today, you've not heard either of my

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1 two clients here with me today talk about what they
2 do, why they do it and how they're required to do
3 it, is that correct?

4 A. If I could answer that with my experience
5 through the case against Carry Companies, it
6 basically had the same type of operation there and
7 we spent several days in hearings in this case and
8 again, I got quite an education on their food trucks
9 and their tankers and their being washed out again
10 to meet the various federal requirements for food.
11 So from that case there, I am familiar with the
12 basics of what's going on.

13 Q. Okay. And again, you've not heard the
14 testimony of Mr. Stumbris or Mr. Esposito, who both
15 have been excused for the day, regarding the actual

16 makeup of industry or the neighborhood in Franklin
17 Park, correct?

18 A. That's correct.

19 Q. And your own investigation as to the area
20 was cursory to use your own term?

21 A. Yes, it was.

22 Q. Those are factors the Board should
23 consider, correct?

24 A. I'm not going to tell the Board what they

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1 should or should not consider.

2 Q. Fair enough.

3 I'm curious as to how you rectify in your
4 own mind since you're basing much of your testimony
5 on the witness testimony that you did here today,
6 how we could have witnesses within close proximity
7 -- indeed, we had a mother and a daughter in the
8 same home who one said no, I don't ear air horns and
9 the other one says, but I do. How do you rectify
10 the difference in what these residents are hearing?

11 A. That's not the least bit unusual. Having
12 heard hundreds of people testify over the years, it
13 gets down to the individual personality of the
14 person that is hearing the noise -- we could even

15 say sound as opposed to noise because we have
16 situations were some people will say well, it's a
17 sound and it sounds good to me, others will say it
18 really irritates me.

19 I can give you an example of a case we had
20 against Rock Theater, some of the younger folks
21 heard the rock theater and thought it was great and
22 lived in the house and the parents just couldn't
23 stand it and so the younger folks perceived it as
24 sound, there's no problem, and yet the parents in

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1 the house thought it was just the worse sound
2 possible -- the worst noise possible.

3 Q. Understood. And if you had an incredibly
4 sensitive complainant, then his level might be
5 slightly different than that of other people?

6 A. Absolutely. That's again why in a hearing
7 like this if you only have one witness, in my own
8 mind there's always a large doubt. Once we begin to
9 have several witnesses that are being bothered, then
10 it indicates that there is a problem there.

11 MS. REISEN: I have nothing else. Thank you.

12 MR. ZAK: Thank you.

13 HEARING OFFICER HALLORAN: Mr. Brill, any

14 redirect?

15 MR. BRILL: No, I couldn't add anything to
16 that.

17 HEARING OFFICER HALLORAN: All right. Thank
18 you, Mr. Zak. You may step down. Let's go off the
19 record to a minute, please

20 (whereupon, a discussion
21 was had off the record.)

22 HEARING OFFICER HALLORAN: We're back on the
23 record. We were just discussing when we can
24 continue this hearing on record. It's approximately

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1 6:15. The parties have agreed that we're going to
2 continue it on record to November 7th in the year
3 2001 at 8:30 a.m.

4 I also want to address there's an exhibit
5 -- Complainant's Exhibit 14, the sound level meter,
6 whether he wished to introduce this into evidence at
7 this time or wait until a later time. We'll address
8 that first.

9 MR. BRILL: No. I would rather have it under
10 the protection of the hearing Board. I would rather
11 not take it with me so I would like to enter it at
12 this time.

13 HEARING OFFICER HALLORAN: Ms. Reisen, any
14 objection.

15 MS. REISEN: No objection to the actual meter
16 being put into evidence, no.

17 HEARING OFFICER HALLORAN: Okay. Exhibit 14 is
18 admitted. Now, addressing Exhibit A, it's the
19 diagram that everyone's been using on the wall,
20 Complainant's Exhibit A, what were you planning to
21 do with that?

22 MR. BRILL: I have another copy of that if you
23 would like to put that one as an exhibit into the
24 record. I have no objections.

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1 HEARING OFFICER HALLORAN: You wish Exhibit A to
2 be put into evidence?

3 MS. REISEN: So long as we note that we do not
4 have proof that it's to scale, I have no objection
5 for it being entered just for the purpose of
6 identifying where the various homes are.

7 HEARING OFFICER HALLORAN: Okay. So noted and
8 the record will reflect that. Exhibit A is
9 admitted.

10 Before I let you loose, I want to make
11 sure I have everything. Anybody else have any

12 questions, Ms. Reisen, Mr. Brill?

13 MS. REISEN: I assume you'll send out another
14 order which will identify specifically what room in
15 addition to the date and time?

16 HEARING OFFICER HALLORAN: Correct. The
17 location -- I just -- I had the calendar out, it
18 will be here.

19 MS. REISEN: Same room?

20 HEARING OFFICER HALLORAN: Same room.

21 Mr. Brill, any questions?

22 MR. BRILL: No.

23 HEARING OFFICER HALLORAN: All right.

24 Everybody has to wait and leave together because I

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1 have the letter, otherwise nobody can get out.

2 MS. REISEN: One other question and it will
3 take me a little bit longer to pack up, but I assume
4 then that Mr. Brill has rested his case and when we
5 start, we start with our case in chief.

6 HEARING OFFICER HALLORAN: That's a good point.
7 Mr. Brill --

8 MR. BRILL: I'm through with my witnesses. I'm
9 resting our side of the case.

10 HEARING OFFICER HALLORAN: You're through with

11 your case in chief?

12 MR. BRILL: Yes.

13 HEARING OFFICER HALLORAN: Duly noted. Thank
14 you very much everyone.

15 MR. BRILL: I believe this document belongs to
16 you folks.

17 MS. REISEN: Those were your copies. I'm
18 required to give you a copy of every one of my
19 exhibits as you were supposed to give to me also.

20 MR. BRILL: Okay. Thank you.

21 HEARING OFFICER HALLORAN: Thank you and have a
22 great trip home.

23 (Whereupon, the proceedings were
24 continued.)

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1 STATE OF ILLINOIS)

2) SS.

3 COUNTY OF C O O K)

4

5

6 I, TERRY A. STRONER, CSR, do

7 hereby state that I am a court reporter doing

8 business in the City of Chicago, County of Cook, and

9 State of Illinois; that I reported by means of

10 machine shorthand the proceedings held in the
11 foregoing cause, and that the foregoing is a true
12 and correct transcript of my shorthand notes so
13 taken as aforesaid.

14

15

16

17

Terry A. Stroner, CSR

18

Notary Public, Cook County, Illinois

19

20 SUBSCRIBED AND SWORN TO
before me this ___ day
21 of _____, A.D., 2001.

22

23

Notary Public

24