

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 PEOPLE OF THE STATE OF)
 ILLINOIS,)
 4)
 Complainant,)
 5)
 vs) No. 96-256
 6)
 CRIER DEVELOPMENT CO., and)
 7 BRADLEY S. COWELL,)
)
 8 Respondents.)

9

10 The following proceedings were
 11 held before HEARING OFFICER BRADLEY HALLORAN
 12 taken before GEANNA M. IAQUINTA, CSR, a
 13 notary public within and for the County of
 14 Cook and State of Illinois, at 404 Wood Dale
 15 Road, Wood Dale, Illinois, on the 11th day of
 16 April, A.D., 2002, scheduled to commence at
 17 10:00 o'clock a.m., commencing at 10:05
 18 o'clock a.m.

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

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3 ILLINOIS POLLUTION CONTROL BOARD,
4 100 West Randolph Street
5 Suite 11-500
6 Chicago, Illinois 60601
7 (312) 814-8917

8 BY: MR. BRADLEY P. HALLORAN, Hearing Officer

9

10 STATE OF ILLINOIS
11 OFFICE OF THE ATTORNEY GENERAL,
12 188 West Randolph Street
13 Chicago, Illinois 60601
14 (312) 814-3816

15 BY: MR. ZEMEHERET BEREKET-AB

16

17 Appeared on behalf of the Complainant.

18

19 ALSO PRESENT:

20

21 Mr. Charles W. Gunnarson

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23 Ms. Maureen A. Brehmer

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25 Mr. Frank H. Gorham

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1 HEARING OFFICER HALLORAN: Good
2 morning. My name is Bradley Halloran. I'm a
3 hearing officer with the Illinois Pollution
4 Control Board. I'm assigned to this matter.

5 We are here today in
6 Pollution Control docket number PCB 96-256
7 entitled People versus Crier Development
8 Company and Bradley S. Cowell. This is an
9 enforcement action under the Board's water
10 pollution regulations.

11 It's approximately 10:05,
12 April 11th in the year 2002. I want to note
13 for the record that there are no members of
14 the public here, but if there were, they'd be
15 allowed to testify subject to
16 cross-examination.

17 We're going to run this
18 hearing pursuant to Section 103.212 and
19 Section 101 Subpart (f) under the Board's
20 general provisions.

21 I note that this hearing is
22 intended to develop a record for review for
23 the Pollution Control Board. I will not be

24 making the ultimate decision in the case.

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1 It's up to the Pollution Control Board who
2 will be doing that.

3 They will review the
4 transcript of this proceeding and the
5 remainder of the record and render a decision
6 in the matter.

7 My job is to ensure an
8 orderly hearing, a clear record, and to rule
9 on any evidentiary matters that may arise.
10 After the hearing, the Board -- the parties
11 will have an opportunity to submit
12 posthearing briefs. These, too, will be
13 considered by the Board.

14 I note that the Board
15 granted complainant's motion for summary
16 judgment against the respondents on May 3rd,
17 2001, and directed that a hearing be held on
18 the issue of penalties.

19 To that end, the parties are
20 only to present testimony and evidence that
21 are relevant to the factors and costs that
22 are set forth in Sections 33(c), 42(f), and

23 42(h) of the Act.

24 I also want to note for the

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1 record that it does not appear that either
2 respondents have ever appeared at a
3 telephonic status conference, nor have they
4 filed any pleadings in this matter, and at
5 this point, I want to ask Mr. Bereket-Ab if
6 he wants to comment on the service.

7 I looked at the record, and
8 it looks like the complainants filed a proof
9 of service on December 17th, 1996, showing
10 that Crier Development Company was served;
11 whereas, the complaint gives two addresses
12 for the notice of filing and certificate of
13 service, and that would be Crier Development
14 Company at 10B4 Hudson Court, Bartlett,
15 Illinois, and Bradley S. Cowell in Winfield,
16 Illinois.

17 I also want to note that in
18 the receipt for the certified mail, it
19 appears that possibly that Brad Cowell could
20 have signed it, but at this point, I'm not
21 really sure.

22 Mr. Bereket-Ab, would you
23 like to address that now briefly or would you
24 like to address the service inquiry in your

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1 posthearing brief?

2 MR. BEREKET-AB: I could address
3 it right now too.

4 As you may recall, Brad
5 Cowell and Crier Development Company more or
6 less have the same address. They were served
7 really -- Brad is the alterego. They are one
8 and the same. The company does not have any
9 separate address.

10 So the one that does I
11 presented to the Board on December 17th,
12 1996. It was signed by Bradley Cowell for
13 the company, but I can go back to my records,
14 and since I don't have a copy of the receipt,
15 certified receipt with me, I can go back and
16 check and make a posttrial -- posthearing
17 brief to address that issue.

18 HEARING OFFICER HALLORAN: All
19 right. Thank you.

20 As there does not appear to

21 be either of the respondents here today, this
22 hearing will be run in accordance with
23 Section 101.608 entitled default where it
24 states that if a respondent fails to appear

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1 at a hearing, the complainant or petitioner
2 must prove its prima facia case in order to
3 prevail on the merits.

4 With that said, and, again,
5 I -- it's my understanding there's no
6 preliminary motions. Mr. Complainant, would
7 you please introduce yourself and your
8 witnesses?

9 MR. BEREKET-AB: Yes. Good
10 morning, Mr. Hearing Officer. My name is
11 Zemeheret Bereket-Ab, Z-e-m-e-h-e-r-e-t, and
12 the last name is B-e-r-e-k-e-t, hyphen, A-b.
13 I'm the assistant attorney general presenting
14 the complainant and the People of the State
15 of Illinois.

16 I've got with me Mr. Chuck
17 Gunnarson, who is the Illinois EPA attorney
18 who handles this matter from the EPA's side,
19 and also I've got Maureen Brehmer, who would

20 be the Illinois EPA witness, and Mr. Frank
21 Gorham, the engineer who prepared the plans
22 for Mr. Cowell to work.

23 We are here today to respond
24 to the Board's 2001 order which found that

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1 there are no general issues of material fact
2 and that the complainant is entitled to
3 judgment as a matter of law and granted our
4 motion for summary judgment, and the Board
5 ordered that a hearing be held on the issue
6 of penalties, and we are here today to
7 present our case for the purposes of
8 determining the proper penalty against
9 Mr. Brad Cowell, as the individual who was in
10 charge of the day-to-day operations at Crier
11 Development Corporation.

12 On June 19th, '96, we
13 served -- we filed a complaint with the
14 Board, and the complaint alleges that
15 respondent began and completed the
16 construction of a sanitary sewer without
17 first obtaining a construction permit from
18 the Illinois EPA.

19 This is in violation of
20 Section 12(b) of the Act, which prohibits any
21 construction of any equipment capable of
22 causing or contributing to water pollution in
23 Illinois without first obtaining a
24 construction permit, and the Illinois EPA is

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1 the agency which is empowered to review any
2 permit application and issue the permits if
3 it finds it proper, and the sewer line is
4 equipment capable of causing or contributing
5 to water pollution.

6 For the record, I would like
7 to note that Mr. Cowell has never responded
8 to any of the pleadings in this matter nor
9 has he participated in any telephone
10 conference with the Pollution Control Board
11 hearing officer.

12 Respondents were served with
13 the complaint and has presented the proof of
14 service on December 17th, 1996, and we tried
15 to contact Mr. Bradley Cowell several times
16 through the address that he has given us, but
17 when we were not able to get him, we

18 contacted our Illinois Attorney General's
19 Investigation Bureau and they could not also
20 find him at the address that he provided in
21 spite of the fact that all the computer shows
22 that he's still at that address, but finally
23 they, the investigators, contacted the postal
24 service, and they came out with a different

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1 address than we are now using.

2 So I'd like to present that
3 as our Exhibit 1 for exhibits, and I would
4 like to mark it as an exhibit. That is the
5 current address. That is the address where I
6 sent him informing him of the hearing today.

7 HEARING OFFICER HALLORAN: Do you
8 want to enter this as Exhibit B?

9 MR. BEREKET-AB: No. I just --
10 use your own exhibit probably. I think I
11 wrote something there.

12 HEARING OFFICER HALLORAN: Okay.
13 I will allow it into evidence as Exhibit A,
14 and this is the Department Of Investigations,
15 Attorney General's Office investigative
16 report dated -- the reporting date was August

17 10th, 2001. Exhibit A is so admitted.

18 MR. BEREKET-AB: At this time, I
19 would like to enter as an exhibit the Board's
20 order of May 2001. We were granted -- our
21 motion for summary judgment is granted.

22 HEARING OFFICER HALLORAN: This
23 would be -- I note for the record these were
24 marked Exhibits A and B at the May 3rd order

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1 of the Board. I will put a sticker on it.
2 Evidently, the Attorney General's office
3 doesn't have an exhibit sticker, but I'll
4 mark the Board order of May 3rd, 2001, as
5 Exhibit B and allow it into evidence.

6 MR. BEREKET-AB: Thank you.

7 The evidence that we present
8 this morning will show that Mr. Brad Cowell
9 submitted a permit application in '92 to the
10 Illinois EPA to build a sanitary sewer at the
11 Hudson Hills subdivision, but on November
12 24th, '92, the Illinois EPA rejected the
13 permit application because of certain defects
14 that it had.

15 In July of '93, Mr. Cowell

16 resubmitted his application and a final
17 permit was granted in August of '93, but in
18 between '92, the first application of October
19 30, '92, and the final application of August
20 3, 1993, Mr. Cowell simply went ahead and
21 built a sanitary sewer without getting the
22 Illinois EPA's approval, and our office
23 received a complaint from the engineer who
24 prepared the plan, Mr. Gorham, indicating

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1 that his client had actually built the
2 construction -- the sewer line without the
3 Illinois EPA's construction permit, and our
4 investigator went out to the site and
5 interviewed the contractor and also talked to
6 Mr. Bradley Cowell himself who indicated that
7 the construction had already been completed
8 way back in June according to his
9 recollection.

10 HEARING OFFICER HALLORAN: Mr. Bereket-Ab,
11 could you please keep your voice up? I think
12 I still have Gulf water in my ears from my
13 Florida vacation a couple weeks ago,
14 especially when the air-conditioning unit is

15 on. Thank you.

16 MR. BEREKET-AB: And when our
17 inspector contacted Mr. Cowell, he had
18 indicated that the construction had already
19 been completed way back in June, and the
20 contractor, Mr. Kleet, had already been
21 completed either late February or early March
22 of '93, and when our inspector talked to
23 Mr. Cowell, he said he didn't care, there's
24 nothing that the state can do to him, and he

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1 really flaunted any kind of -- any kind of
2 responsibility, and so the evidence will show
3 that.

4 So our first witness to be
5 put on the stand is Mr. Gorham, Frank Gorham,
6 and then my second witness is Maureen
7 Brehmer, but before that, I would like to put
8 into evidence an affidavit of Sharyn,
9 S-h-a-r-y-n, Haney, who is an Illinois EPA
10 employee in charge of the records unit who
11 has sworn that at the time of the
12 construction there was no application permit
13 on file, and I would like to also introduce

14 this into evidence.

15 I marked it as Exhibit B,
16 but disregard it. Put it maybe as Exhibit
17 C.

18 HEARING OFFICER HALLORAN: Mr. Bereket-Ab,
19 are you entering this as written testimony or
20 written statements? I note for the
21 applicable part under written testimony in
22 Section 101.626, written testimony may be
23 introduced by a party only if the person
24 whose written testimony is introduced or

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1 available for cross-examination at a hearing,
2 and it doesn't appear that Ms. Haney is
3 available.

4 MR. BEREKET-AB: No, she's not.

5 HEARING OFFICER HALLORAN: So do
6 you have any objections if we enter it under
7 Section 101.628 under written statements?

8 MR. BEREKET-AB: I don't have any
9 objections.

10 HEARING OFFICER HALLORAN: Exhibit
11 C is so admitted, the affidavit of Sharyn
12 Haney.

13 Mr. Bereket-Ab, do you want
14 to call your first witness? Are we at that
15 point?

16 MR. BEREKET-AB: Yes. I'm
17 ready.

18 HEARING OFFICER HALLORAN: Mr. Gorham,
19 would you please step up and please raise
20 your right hand and the court reporter will
21 swear you in?

22 (Witness sworn.)

23 WHEREUPON:

24 F R A N K G O R H A M,

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

3 E X A M I N A T I O N

4 by Mr. Bereket-Ab

5 Q. Would you please state your name
6 for the record and spell it?

7 A. Yes, sir. My name is Frank,
8 middle initial H, last name Gorham, spelled
9 G-o-r-h-a-m.

10 Q. What do you do, Mr. Gorham?

11 A. I'm a civil engineer in the

12 business of providing consulting services to
13 municipal and private clients.

14 Q. How long have you been at this
15 work?

16 A. Thirty-seven years since I
17 graduated from school, all of that time,
18 except for two years, in this business. The
19 two years which I was not in this business I
20 was a public works director for the city of
21 St. Charles, Illinois.

22 Q. What is your position at the
23 firm?

24 A. I am the president of the firm of

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1 Robert H. Anderson & Associates in
2 St. Charles, Illinois.

3 Q. Are you familiar with Mr. Bradley
4 Cowell?

5 A. I never personally met Mr. Cowell.
6 I met Mr. Randy Forest of Crier Development
7 personally.

8 Q. Who is Mr. Forest?

9 A. Mr. Forest is the gentleman who
10 represented Crier Development who came to me

11 and discussed the Hudson Hills project in the
12 Village of Bartlett, Illinois, and who was my
13 contact as we prepared the plans and
14 proceeded with the project.

15 Q. Did you enter into a services
16 contract with Crier Development Company?

17 A. Yes, sir, we did.

18 Q. And would you just explain to us
19 what the content of your agreement was?

20 A. The agreement was for the final
21 engineering and construction services for the
22 Hudson Hills project. The preliminary
23 engineering plans had been prepared by others
24 and already approved by the village, and so

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1 our agreement was to prepare final
2 engineering plans, assist the developer in
3 getting those approved by the community, and
4 then to provide construction staking services
5 for the project when it went to construction.

6 Q. So Crier Development Company knew
7 that it had to submit a construction permit
8 to the Illinois EPA?

9 A. I believe they did. It was

10 discussed. It was a line item in our
11 contract that Illinois EPA permits for both
12 water main and sanitary sewer were to be
13 obtained, and it was discussed on several
14 occasions.

15 Q. And did you, in fact, prepare the
16 permit application?

17 A. Our firm prepared the permit
18 applications, yes, sir.

19 Q. And what happened after that?

20 A. The permit applications were
21 prepared. They were given to Crier
22 Development who obtained signatures on them
23 from their trust officer, returned them to
24 us.

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1 They were forwarded to the
2 community, subsequently signed by the
3 representative from Bartlett, and ultimately
4 at that point forwarded to the Illinois EPA
5 for permits.

6 Q. Do you recall when that would be?

7 A. My recollection is that that
8 would have been somewhere in the summer

9 of '92.

10 Q. That would be the first time a
11 permit was sent to the EPA?

12 A. Yes, sir.

13 Q. And what happened subsequently?

14 A. Both permit applications were
15 sent back and additional information was
16 requested. My recollection is that there
17 were trust disclosure statements and also
18 some fees that were requested, and that
19 information was past on to Crier Development,
20 and no further action was taken by them, and
21 by this time, the project -- Crier
22 Development was not making payments to our
23 company for our work.

24 Q. When did you become aware that

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1 the construction had already been completed?

2 A. I don't remember an exact date,
3 but my guess is that it would have been
4 sometime in that summer of -- was it '93?
5 The summer of '93 when the construction took
6 place. I can't remember exactly what made me
7 aware of that, sir, at this point in time.

8 Q. So that was before the final
9 permit was issued?

10 A. Apparently, it was. Our
11 involvement in the project was terminated
12 shortly after that point. So we were not
13 involved in any further permit work, and I
14 understand that permits were later obtained,
15 but that was not due to our efforts.

16 Q. When you became aware that the
17 construction had been completed without the
18 permit, did you write a letter to the
19 Illinois EPA?

20 A. Yes, sir, I did. I wrote a
21 letter to the Illinois EPA advising them that
22 the project had proceeded without permits.

23 MR. BEREKET-AB: Thank you very
24 much. I've got no further questions.

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1 HEARING OFFICER HALLORAN: Thank
2 you. You may step down, sir.

3 Please step over and the
4 court reporter will swear you in, please.

5 (Witness sworn.)

6 WHEREUPON:

7 M A U R E E N B R E H M E R,
8 called as a witness herein, having been first
9 duly sworn, deposeth and saith as follows:

10 E X A M I N A T I O N

11 by Mr. Bereket-Ab

12 Q. Would you please state your name
13 for the record and spell it?

14 A. Maureen, M-a-u-r-e-e-n, A.
15 Brehmer, B-r-e-h-m-e-r.

16 Q. Where are you employed,
17 Mrs. Brehmer?

18 A. I'm with the Illinois EPA. I'm
19 an engineer.

20 Q. How long have you been with the
21 Illinois EPA?

22 A. Twelve years.

23 Q. What are your duties at the
24 Illinois EPA?

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1 A. I have lots of duties. I do
2 inspections of facilities. I handle
3 complaints. If there's any type of fish
4 kills or emergencies, I could respond to
5 that.

6 Q. Are you familiar with the Hudson
7 Hills subdivision?

8 A. Yes, I am.

9 Q. How did you become familiar with
10 it?

11 A. The engineer for the project had
12 sent a complaint in to our Springfield
13 office, and it was sent to our office in
14 Maywood. It was referred there, and then I
15 was asked to handle that complaint.

16 Q. So what did you do after you
17 received the complaint?

18 A. Well, what I did was first I
19 called the complainant just to find out what
20 the complaint was all about. Once he told
21 me, then I started to check into it, and I
22 think I received the complaint August 6th,
23 and then I went out in the field, I believe,
24 it was August 7th, and I talked to a

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1 contractor out there, and I asked him when
2 the sanitary sewers had been installed, and
3 he said that they had completed it sometime
4 in March. They had put in the main portion

5 of the sanitary sewer in March.

6 So after that, I went back
7 and I called up Brad Cowell --

8 HEARING OFFICER HALLORAN: We'll
9 go off the record for a minute.

10 (Discussion had
11 off the record.)

12 HEARING OFFICER HALLORAN: We're
13 back on the record.

14 BY THE WITNESS:

15 A. Anyway, I talked to Brad Cowell,
16 and I informed him that he was out of
17 compliance, that he had put in the sanitary
18 sewers without a permit, and he said what
19 difference does it make because you aren't
20 going to do anything about it anyway, and he
21 didn't seem to want to explain why he didn't,
22 you know, do it, and then he also informed me
23 that the, you know, village of Bartlett had
24 told him that he could put them in without a

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1 permit and that they had gotten that from our
2 permit section engineer.

3 So I called up our permit

4 section engineer, Kevin Meyers, and I also
5 called up the person from the village of
6 Bartlett, and I don't know his name offhand,
7 it's in my paperwork there, and I -- and I
8 had talked to them and questioned them, and I
9 was told that it just wasn't true. They had
10 not given him permission to do that.

11 HEARING OFFICER HALLORAN: Ms. Brehmer,
12 you may look at that to refresh your memory.

13 THE WITNESS: Oh, can I? Okay.
14 Thanks. I had counted on this, but okay.
15 Let's see.

16 The man that's with the
17 village of Bartlett is George Wentworth, and
18 he's their field engineer.

19 HEARING OFFICER HALLORAN: Thank
20 you.

21 BY MR. BEREKET-AB:

22 Q. What did you ask Mr. Wentworth?

23 A. What it was is Mr. Cowell on the
24 phone had informed me that he had received

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1 permission from George Wentworth --

2 Q. From the village?

3 A. From the village and that the
4 village had spoken to the state of Illinois
5 EPA permit section, Kevin Meyers, and that
6 they had said just go, and, you know, put in
7 the sanitary sewer.

8 So I called up the two
9 parties. I called up George Wentworth and I
10 called up Kevin Meyers, and they informed me
11 that it wasn't true.

12 HEARING OFFICER HALLORAN: Mr. Bereket-Ab,
13 if her memory is refreshed, she can set that
14 aside. Thank you very much.

15 MR. BEREKET-AB: Thank you.

16 BY MR. BEREKET-AB:

17 Q. And so when was the permit issued
18 by the Illinois EPA?

19 A. The permit was issued August 3rd
20 of 1993 by the Illinois EPA.

21 Q. But when you went out on the
22 site, the contractor --

23 A. The contractor had informed me
24 that the sanitary sewers -- that he had

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1 completed installation in March of 1993.

2 Q. That would be before the permit
3 was issued?

4 A. Before the permit was issued,
5 yes.

6 MR. BEREKET-AB: Thank you very
7 much. I've got no further questions.

8 HEARING OFFICER HALLORAN: Thank
9 you. May step down, Ms. Brehmer.

10 MR. BEREKET-AB: I have completed
11 my presentation of the evidence. I can go
12 into the closing argument.

13 HEARING OFFICER HALLORAN: So
14 you're done with your case-in-chief and
15 you're just doing closings.

16 May the record note that,
17 again, the respondents are not present. You
18 may go ahead and do your closing argument.
19 We'll go off the record briefly to discuss
20 posthearing briefs and we'll go back on the
21 record. Thank you.

22 MR. BEREKET-AB: The
23 posthearing --

24 HEARING OFFICER HALLORAN: We're

1 on the record. I thought you were going to
2 give your closing argument.

3 Would you like to do your
4 closing argument?

5 MR. BEREKET-AB: I thought you
6 said --

7 HEARING OFFICER HALLORAN: No.
8 I'm sorry.

9 MR. BEREKET-AB: Sorry.

10 Thank you very much,
11 Mr. Hearing Officer. Section 42(a) of the
12 Act authorizes the Board to impose civil
13 penalties up to \$50,000 for the violation of
14 the Act and \$10,000 per day for each day the
15 violation continues.

16 In determining the
17 appropriate civil penalty, the Board
18 considers Section 33 and 32(h) as factors
19 which include duration and gravity of the
20 violation, the diligence of the violator,
21 economic benefit gained from noncompliance,
22 and the deterrence effect of the penalty and
23 any -- and if there are any previously
24 adjudicated violations with the respondent.

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1 Considering these factors in
2 this case in light of the evidence that was
3 just presented, the testimony of both
4 Mr. Gorham and Ms. Brehmer has established
5 that the sanitary sewer construction was
6 completed in late February or early March.

7 That is probably five or six
8 months prior to the actual permit being
9 issued in August -- August 3, 1993. The
10 respondent, Mr. Bradley Cowell, knew that he
11 had to get a construction permit.

12 He contacted an engineering
13 firm. He hired Mr. Gorham's company, and
14 they entered into a contract where Mr. Gorham
15 testified that one of the line items was that
16 permits would be prepared by them and would
17 be submitted to the Illinois EPA.

18 In spite of all that,
19 Mr. Bradley Cowell simply went ahead and did
20 the construction without waiting for the
21 permit to be issued. The permit was issued
22 after the fact in August of 1993.

23 The permit process is a very
24 important process for the Illinois EPA. It

1 is not just a paper violation. The Illinois
2 EPA gets all the information through the
3 permitting process, and that is the only way
4 to be able to monitor compliance with the law
5 and to ensure the quality of the waters of
6 the state through the permitting process.

7 When a person subverts that
8 process, then the Illinois EPA is deprived of
9 a very important monitoring mechanism and
10 especially in the construction of a sanitary
11 sewer.

12 In the permit application,
13 the Illinois EPA reviews the load and whether
14 that's capable of taking additional load, and
15 so if a person simply goes ahead and
16 constructs or connects to an existing sewer
17 line, all kinds of problems, health problems
18 can ensue.

19 So Mr. Cowell, even though
20 he knew that he was required to do it, and
21 when he spoke to the inspector, too, he said
22 what different does it make because you are
23 not going to do anything about it.

24 He's clearly and openly in

1 defiance of the law and of the processes that
2 are put into effect. So we consider this to
3 be a very serious violation. We give a lot
4 of weight to this kind of behavior, and as to
5 diligence, he showed no -- no diligence to
6 have complied with the law.

7 Even though he went through
8 the processes of trying to comply, when the
9 time came, he chose not to by not going
10 through what the -- his engineers he hired
11 have prepared, and his own engineers have a
12 complaint against him because he was not in
13 compliance with the regulations.

14 So his whole attitude is a
15 complete disregard and contempt for the law,
16 and economic benefit he may have gained by
17 not paying these fees and for a moment
18 probably by not paying the initial stage, the
19 Illinois EPA's permit application, but the
20 main economic benefit is the payment he got
21 from the people for whom he constructed the
22 sewer line also by not paying his own
23 engineer.

24 We believe that the Board

1 should impose a hefty penalty in this case
2 because it should be a lesson for future --
3 for people who intend to do any kind of
4 construction without the sewer, that they
5 just cannot habitually and knowingly defy the
6 law and say you can do nothing to me, and
7 I'll go ahead and do it.

8 I think if the Board simply
9 looks at this as a simple violation, this
10 will encourage future violators. If a hefty
11 penalty is imposed in this case, I believe
12 that it should be a good warning for future
13 potential violators, and I would ask that the
14 Board impose the maximum statutory penalty in
15 this case and that breaking the law should --
16 it should send a message that breaking the
17 law is not a profitable enterprise.

18 We do not have any previous
19 violation history -- history of violations
20 with this respondent. Therefore, for the
21 reasons I have stated above, we would
22 respectfully request that the Board consider
23 all these factors and impose this maximum
24 statutory amount in this case. Thank you

1 very much.

2 HEARING OFFICER HALLORAN: Thank
3 you, sir.

4 Before I forget, one of my
5 obligations is to make a credibility
6 determination. Based on my legal judgment
7 and experience, I find that there are no
8 credibility issues with either of the two
9 witnesses that testified here today.

10 With that said, I think
11 we're going to go off the record for a moment
12 to discuss posthearing briefs. Thank you.

13 (Discussion had
14 off the record.)

15 HEARING OFFICER HALLORAN: We're
16 back on the record. It's approximately
17 10:45, and we've been discussing the
18 posthearing briefing schedule. We've
19 determined the record will be ready by
20 April 24th. With that said, the
21 complainant's posthearing brief is due on or
22 before May 31st.

23 The respondents posthearing
24 brief, if any, if they decide to file any is

1 due on or before June 28th, due to be filed,
2 and complainant's reply, if any, is due to be
3 filed on or before July 5th, and the mailbox
4 rule will apply.

5 I've set public comment due
6 date to be filed by May 16th. The mailbox
7 rule will apply.

8 With that said, we're going
9 to take an early lunch and meet back here at
10 11:30, 11:35 to see if any members of the
11 public show up and/or any of the respondents
12 show up. Thank you very much.

13 (Break taken.)

14 HEARING OFFICER HALLORAN: We're
15 back on the record. It's approximately 11:35
16 on April 11th, 2002. There is no members of
17 the public here nor are the respondents
18 here. They have yet to appear for this
19 hearing.

20 With that said, I wish you
21 all adio and have a nice trip home, and this
22 will conclude the hearing. Thank you very
23 much.

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1 (Whereupon, these were all
2 the proceedings held in
3 the above-entitled matter.)
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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3

4 I, GEANNA M. IAQUINTA, CSR, do
5 hereby state that I am a court reporter doing
6 business in the City of Chicago, County of
7 Cook, and State of Illinois; that I reported
8 by means of machine shorthand the proceedings
9 held in the foregoing cause, and that the
10 foregoing is a true and correct transcript of
11 my shorthand notes so taken as aforesaid.

12

13

14 _____
GEANNA M. IAQUINTA, CSR
15 Notary Public, Cook County, IL
Illinois License No. 084-004096

16

17 SUBSCRIBED AND SWORN TO
before me on _____, A.D.,
18 2002.

19

Notary Public

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