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ILLINOIS POLLUTION CONTROL BOARD
May 8, 2003

CITY OF CHICAGO DEPARTMENT)	
OF ENVIRONMENT,)	
)	
Complainant,)	
)	
vs)	No. AC 03-11
)	
CITY WIDE DISPOSAL, INC.,)	
)	
Respondent.)	

Transcript of proceedings

called by the Illinois Pollution Control Board
before Hearing Officer Bradley P. Halloran pursuant
to notice, taken before LORI ANN ASAUSKAS, CSR, RPR,
a notary public within and for the County of Cook
and State of Illinois, at Room 11-512, James
Thompson Center, 100 West Randolph Street, Chicago,
Illinois, on the 3rd day of June, A.D., 2003,
scheduled to commence at 1:00 o'clock p.m.,
commencing at 1:30 p.m.

L.A. REPORTING (312) 419-9292

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

2

3 CITY OF CHICAGO,
4 Assistant Corporation Counsel
5 30 North LaSalle Street
6 Suite 2500
7 Chicago, Illinois 60602-2575
8 (312) 742-0330
9 BY: MR. CHARLES KING,

10 Appeared on behalf of the Claimant;

11 FRANK & ASSOCIATES,
12 734 North Wells Street
13 Chicago, Illinois 60610
14 (312) 654-9020
15 BY: MR. EDWARD W. PIROK,

16 Appeared on behalf of the Respondent.

17 ALSO PRESENT:

18

19 Mr. Lafayette Robertson

20 Mr. Anthony Barbara

21 Mr. Orhelio Garcia

22

23

24

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1 HEARING OFFICER HALLORAN: Hi.
2 Good morning -- excuse me -- good afternoon.
3 My name is Brad Halloran. I'm a hearing
4 officer with the Illinois Pollution Control
5 Board and I'm also assigned to this matter,
6 which is entitled City of Chicago Department
7 of Environment, Complainant, versus City Wide
8 Disposal, Inc., Respondent, Administrative
9 Citation 03-11.

10 I also want to note for the
11 record that today is June 3, 2003. It's
12 approximately 1:15 p.m. This administrative
13 citation that was filed by the city alleges
14 that during an inspection of August 28, 2002,
15 it was determined that respondent violated
16 Sections 21(p)(1) and 21(p)(7) of the Act.

17 As a result of the August 28,
18 2002, inspection and subsequent administrative
19 citation, respondent filed a petition for
20 review disputing the violations and that's
21 why we are here today. This matter has been
22 noticed pursuant to the Board's regulations
23 and will be conducted in accordance with
24 Subsection 108, Subpart (b) and Subsection 101,

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1 Subpart (f).

2 Also, note for the record I will
3 not be making the ultimate decision in the case.
4 That decision is left up to the board members.
5 My job is to ensure an orderly hearing, a clear
6 record, and rule on any evidentiary matters.

7 With that said, Mr. King, would
8 you like to introduce yourself, please?

9 MR. KING: I'm Charles King, Assistant
10 Corporation Counsel with the Chicago Department
11 of Law, representing the City of Chicago
12 Department of Environment.

13 HEARING OFFICER HALLORAN: Thank you.
14 Mr. Pirok?

15 MR. PIROK: My name is Ed Pirok and
16 I represent the respondent in this case, City
17 Wide.

18 HEARING OFFICER HALLORAN: Any
19 preliminary issues before we go on to opening
20 arguments or statements?

21 MR. KING: I don't believe so.

22 HEARING OFFICER HALLORAN: Okay.

23 MR. KING: Will we have an opportunity
24 to file briefs after the hearing?

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1 HEARING OFFICER HALLORAN: Oh, yes,
2 you will.

3 MR. KING: Okay. Then I'll waive.

4 HEARING OFFICER HALLORAN: You'll
5 waive your opening?

6 MR. KING: Yes, yes.

7 HEARING OFFICER HALLORAN: Mr. Pirok?

8 MR. PIROK: I'll waive my opening as
9 well.

10 HEARING OFFICER HALLORAN: Okay.
11 Terrific.

12 Mr. King, call your first witness
13 and I think we're going to have him seated --
14 off the record.

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

17 HEARING OFFICER HALLORAN: Lori, can
18 you swear in the witness, please?

19 THE COURT REPORTER: Would you raise
20 your right hand, please?

21 Do you swear the testimony you
22 are about to give is the truth, the whole truth
23 and nothing but the truth, so help you God?

24 MR. ROBERTSON: I do.

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1 (Witness sworn.)

2 MR. KING: I have one thing before we
3 start. Can we go off the record?

4 HEARING OFFICER HALLORAN: Off the
5 record.

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

8 HEARING OFFICER HALLORAN: All right.
9 We're back on the record.

10 WHEREUPON:

11 L A F A Y E T T E R O B E R T S O N
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. King

16 Q. All right. Would you please state
17 your name?

18 A. Lafayette Theo Robertson.

19 Q. Mr. Robertson, what is your
20 occupation?

21 A. Supervisor with the Department
22 of Environment, City of Chicago.

23 Q. How long have you been a supervisor
24 with the Department of Environment?

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1 A. Approximately two and a half years.

2 Q. What are your duties in that position?

3 A. My duties are to enforce environmental
4 codes for the city and the state of Illinois.

5 Q. What sorts of activities does your job
6 entail?

7 A. Inspections, surveillance, monitoring
8 businesses for illegal dumping and also pollution.

9 Q. What sorts of training have you had to
10 prepare you to undertake this job?

11 A. I was certified by the U.S. EPA in
12 site inspections back in 1995. I'm also certified
13 by the state of Illinois back in 1997 for site
14 assessments and open dumping.

15 Q. Approximately how many inspections do
16 you perform in a typical week?

17 A. Ten to 12.

18 Q. So in two and a half years that you
19 have been doing your job, would it be safe to say
20 that you have been performing hundreds of
21 inspections?

22 A. That's correct.

23 Q. And were you working on August 28th of
24 last year?

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1 A. Yes.

2 Q. Do you recall what you did on that of
3 afternoon?

4 A. Yes.

5 Q. What was that?

6 A. At approximately 2:55 p.m., I arrived
7 at 3910 South Loomis, which was the business site of
8 City Wide Disposal. I drove my vehicle to the rear
9 of the property, which is located on the southwest
10 side of the property. I observed some dumping of
11 construction debris on the grounds of the site.

12 Q. What brought you to that site on that
13 day?

14 A. That was a routine inspection.

15 Q. Now, when you say "routine
16 inspection," what do you mean?

17 A. We go out on routine inspections from
18 previous complaints and inspection sites for cleanup
19 or prior dumping.

20 Q. So had there been some prior
21 involvement with City Wide that brought you there
22 on that date?

23 A. Yes.

24 Q. How often did you inspect them?

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1 A. Numerous times.

2 Q. In regard to the routine inspection,
3 like the one that you said you did on the 28th,
4 what was the routine that involved that?

5 A. Going out there, checking the site
6 grounds and making sure that there was no illegal
7 transfer station operations on that site.

8 HEARING OFFICER HALLORAN: Mr. King,
9 excuse me.

10 Lori, let's go off the record.

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

13 HEARING OFFICER HALLORAN: We're
14 back on. Sorry, Mr. King.

15 BY MR. KING:

16 Q. What is City Wide's business, to your
17 understanding?

18 A. They are a dumpster company. They
19 pick up waste from different businesses or
20 construction sites and load the material -- have
21 the material loaded in their dumpsters by their
22 clients and literally take the waste to a transfer
23 station.

24 Q. All right. Now, on the date that you

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1 went out there on August 28th, what did you do after
2 you arrived at the site?

3 A. I took photos of what I saw. I made
4 my notes. Then I went to the business office of
5 City Wide Disposal.

6 Q. What did you see and what did you take
7 pictures of?

8 A. I took photos of construction debris
9 that was on the grounds of the site not stored in
10 roll-off boxes. They were at a tipping location or
11 floor on the grounds of the site.

12 (Document marked as
13 City Exhibit A
14 for identification, 6/3/03.)

15 BY MR. KING:

16 Q. All right. I'm going to hand you
17 something that I have marked as City Exhibit A for
18 identification.

19 MR. PIROK: Thank you.

20 BY MR. KING:

21 Q. Can you identify this document?

22 (Document tendered
23 to the witness.)

24

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1 BY THE WITNESS:

2 A. Yes. This is an Illinois
3 Environmental Protection Agency Open Dump Inspection
4 Checklist that I prepared.

5 BY MR. KING:

6 Q. How many pages is that?

7 A. Approximately ten pages.

8 Q. Turning your attention to the last
9 four pages, which appears to be a series of
10 photographs, are those photographs that you took --

11 A. Correct. These are my photographs.

12 Q. -- that you mentioned just recently on
13 August 28th at the site?

14 A. Correct.

15 Q. I would like to state just for the
16 record that this -- this document was attached to
17 the administrative citation filed with the Board
18 and that these original color photographs are a
19 part of that document. So they are in the Board's
20 file.

21 HEARING OFFICER HALLORAN: So noted.

22 Thank you.

23 BY MR. KING:

24 Q. After you did your inspection and took

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1 the photographs, what did you do then?

2 A. I went to the office of City Wide
3 Disposal.

4 Q. What did you do there?

5 A. I asked for the owner/operator where I
6 meant Anthony Barbara.

7 Q. And did you have a conversation with
8 Mr. Barbara?

9 A. Yes, I did.

10 Q. And what was the substance of that
11 conversation?

12 A. One, about the waste being on the
13 grounds, which was an illegal act; and two, did
14 they have a permit for a transfer station operation.

15 Q. And what did he say to you?

16 A. He didn't have one at that time.

17 Q. Did he say anything about the waste on
18 the ground?

19 A. Yes. He stated that his -- it was
20 unknown to him that his employees put the waste
21 back there, dumped the waste back there.

22 Q. Did you investigate whether or not
23 City Wide had a permit?

24 A. Yes.

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1 Q. Were you able to determine whether
2 they did or not?

3 A. Yes, they did not.

4 Q. They did not have a permit?

5 A. They did not.

6 Q. Did you have occasion to discuss
7 City Wide's responsibility for that piece of
8 property?

9 A. Yes.

10 Q. Who did you discuss that with?

11 A. With the owner/operator, Anthony
12 Barbara.

13 Q. What did he have to say on that
14 subject?

15 A. That he didn't own the property, he
16 just leased the property.

17 Q. Could you describe for us the layout
18 of the site of the facility and if it would help
19 you, please feel free to refer to -- to City Exhibit

20 A.

21 A. All right. I have in the report two
22 site sketches. One is showing a pictorial of the
23 streets and where the site is located. The site
24 is located on South Loomis Street.

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1 I have an overhead aerial diagram,
2 which is provided off of the internet. This is
3 showing you the photos of the aerial of the site,
4 the street, and how to get into the site. This is
5 also showing the dump area of the -- of basically
6 you take 39th Street or Pershing Road and you go to
7 Loomis Street, which is southwest, you drive in on
8 South Loomis Street southbound. You drive all the
9 way to the end of the site where there is a gate.
10 There is an open gate on the site. You drive back
11 through that area or lot and you will see City Wide
12 storage boxes, trucks and also the tipping area or
13 tipping floor.

14 Q. Now, when you refer to an aerial
15 photograph, are you referring to the one that's
16 on -- I believe it's on the seventh page of City
17 Exhibit A?

18 A. Yes.

19 Q. Is that an accurate depiction of the
20 site?

21 A. Yes.

22 Q. I would like for you to take this pen
23 and on your copy there, I would like for you to draw
24 an arrow to where the entrance of the site is.

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1 A. It's right here (indicating). The
2 entrance to 39th Street is right here (indicating).

3 Q. Okay. Draw an arrow there and if you
4 could, write entrance out there in the margin and
5 put a little arrow.

6 A. Okay. That would be the entrance
7 (indicating).

8 Q. All right. Now, could you also please
9 indicate on there the location of their office?

10 A. No. This is, like, two -- their
11 offices are right here, approximately right here
12 (indicating). I will put an X here (indicating)
13 and office here (indicating).

14 Q. All right. Mr. Robertson has put an X
15 on the photograph.

16 Finally, would you indicate where
17 you observed the material in that particular
18 photograph?

19 A. The materials are located here and
20 here (indicating). I will just put material dump
21 waste here (indicating).

22 HEARING OFFICER HALLORAN: Could we
23 have Mr. Pirok take a look at that, please?

24 MR. KING: Certainly.

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1 MR. PIROK: Thank you. Thank you very
2 much.

3 BY MR. KING:

4 Q. All right. You mentioned -- strike
5 that.

6 Is there any accessway to the
7 area where you saw the materials dumped besides
8 the entrance that you indicated on the exhibit?

9 A. The only entrance, to my knowledge,
10 is off of 38th Street on Pershing Road southbound
11 on Loomis Street directly back to the site. The
12 site is boundaried by railroad tracks and fences.

13 Q. Is -- does the road that gives access
14 to the site go by the office?

15 A. Yes.

16 Q. Would someone in the office be able to
17 see any traffic going into or out of the site?

18 A. Yes. They have a very large picture
19 window where they could view through the window of
20 trucks entering or exiting the site area or the
21 yard.

22 Q. Do you know City Wide's hours of
23 operation at that site?

24 A. To my knowledge, it was pretty much 24

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1 hours.

2 Q. Now, I would like to direct your
3 attention again back to the four photographs that
4 are at the end of Exhibit A. Referring to each of
5 the photographs, could you please describe in more
6 detail when they depict?

7 A. All right. Photograph one showing
8 construction debris of concrete blocks and wooden
9 pallets on the grounds of the site at the rear of
10 the tipping area.

11 Photo number two shows the same
12 site at a different angle, more construction
13 material, which is wood, brick, concrete blocks.
14 That's what's in photo two.

15 Q. All right.

16 A. Photo three is showing a closer view
17 of the back area of the tipping floor. It's showing
18 concrete blocks, dirt and concrete and brick, which
19 is solid waste debris.

20 Photo four is showing a more solid
21 or larger concrete debris mixed with scrap metal
22 that is dumped on the site at that time.

23 Q. Now, this picture depicts some
24 ribbon-like material.

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1 A. That's metal. That's scrap metal.

2 Q. All right. All total, approximately
3 how much material did you observe?

4 A. Approximately 100 cubic yards of waste
5 debris was dumped on the grounds of the site.

6 Q. City Exhibit A, did you prepare this
7 document?

8 A. Yes.

9 Q. When did you prepare it?

10 A. The following day with my notes.

11 Q. Okay. Thanks.

12 MR. KING: I have no further questions
13 for Mr. Robertson.

14 HEARING OFFICER HALLORAN: Thank you.
15 Mr. Pirok?

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

17 by Mr. Pirok

18 Q. Mr. Robertson, City Wide does not own
19 the property, does it?

20 A. That's correct.

21 Q. You were referring to the area as a
22 use of an open pit in your report. What do you mean
23 by -- how did you determine the use of the open pit
24 or what do you mean by the open pit?

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1 A. What I mean by the open pit is it's
2 like a tipping floor back there. It's an area that
3 is smoothed out. They have a pit where material can
4 go down into it and then they have a pit area that's
5 above grade a little bit.

6 I will give you an example, sir.
7 If we go back to photo one, sir, the pit area that
8 I'm referring to is above grade right here,
9 (indicating) which is photo one. These are photos
10 one through four. To the south of it, there is a
11 little trench area also there.

12 Q. How much of a depression is the pit
13 area?

14 How far down does it go from the
15 grade area?

16 A. Approximately one to two feet
17 depending upon how it's dug -- dug into.

18 Q. In your report, you indicated that the
19 investigator will speak with the supervisors about
20 the above business operations.

21 What did you mean by that
22 notation?

23 A. Well, counsel, I have a -- my
24 supervisor that I have to report to, I had to

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1 give him my insight of what I saw and I'm supervised
2 by my superiors on how to best direct my next steps.

3 Q. Okay. Did you, in fact, consult with
4 supervisors with respect to this?

5 A. Yes.

6 Q. Who did you consult?

7 A. Johnna Potthoff.

8 Q. What were his instructions to you, if
9 any?

10 A. Her instructions were --

11 Q. I'm sorry. Her.

12 A. -- if there were violations, to ticket
13 as warranted.

14 Q. Had you been on this site the day
15 before August 27th, 2002?

16 A. I don't believe so, counsel. I was
17 there numerous times earlier.

18 Q. Were you there on the 26th?

19 A. I don't have any records to that note
20 that I was there on the 26th.

21 Q. To the best of your recollection, as
22 you sit here today, sir, before the 28th, when was
23 the last time you were there?

24 A. The last time I was there was on

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1 March the 6th of '02, which is indicated on the
2 top right-hand corner of my inspection report.

3 Q. The last time you were there was
4 March 6, 2002, and then you were there on August
5 28, 2002. When did you next return?

6 A. I returned several times, I think. I
7 don't have the dates in front of me.

8 Q. Do you know if it was the next day?

9 A. I don't believe it was the next day.

10 Q. Was it the day after?

11 A. I don't recall, counsel.

12 Q. Is it indicated anywhere in your
13 report? I see that on the bottom of the page, it
14 says, "Note, Investigator L. Robertson, returned
15 on 9/5/02 and issued," et cetera.

16 Q. Would that be the next date that
17 you returned?

18 A. What date do you have, sir?

19 Q. On your report there, on the part that
20 says narrative, it says, see attachments.

21 Underneath there, it says, "Note, Investigator L.
22 Robertson, returned on 9/5/02 and issued a ticket."

23 A. Okay. That's correct. That's
24 September.

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1 Q. Okay. Would that be the next time you
2 were there, about a week later?

3 A. Yes.

4 Q. About a week later?

5 A. Yes.

6 Q. When you were there a week later,
7 was any of this debris or anything that you
8 described present as shown in these photographs?

9 A. I don't recall if the debris was
10 still there on 9/5. My job was to issue the NOV's.

11 Q. Did you look on 9/5, if you recall?

12 A. I don't recall.

13 Q. Is there any reason it took seven days
14 to issue the citation?

15 A. Normally, once again, I report to my
16 supervisors. They have the right to overrule me or
17 sit down with other counsel and talk about it and
18 see what they want to do. I just want to hear what
19 they have to say.

20 Q. But when you reported it to this lady,
21 you reported it on the 28th, didn't you?

22 A. Yes.

23 Q. 2002?

24 A. Yes.

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1 Q. She gave you the permission to issue
2 the ticket on that date, didn't she?

3 A. I don't think we issued a ticket on
4 that date. I returned because we needed to talk
5 about this.

6 Q. But what I was asking you earlier,
7 she authorized you on that date on the 28th to issue
8 the ticket, didn't she? That's what I understood as
9 your prior testimony.

10 A. Okay. Well, even if they authorize us
11 to issue a ticket, sometimes you have to go back in
12 and talk about a situation.

13 Q. Did she, in fact, authorize you to
14 issue a citation when you spoke with her on the
15 28th?

16 A. I think so.

17 Q. Normally, in the normal course of
18 operations, don't you either issue the citation
19 right on the spot there as soon as you get
20 permission or not at all?

21 A. Say it again, counsel.

22 Q. Sure. Under the normal operating
23 procedures, wouldn't you normally issue the citation
24 as soon as you got the authorization right on the

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1 spot or not at all?

2 A. This was a different situation,
3 counsel, seeing that we had this problem with City
4 Wide before. I wanted to go in and see if we could
5 talk about this and sometimes a ticket -- you can
6 do other things other than a ticket. You can bring
7 people in, have meetings with them, that type of
8 thing.

9 Q. Okay. Now, you haven't observed
10 yourself any problems with City Wide from March 6,
11 2002, prior to your inspection on August 28th, 2002,
12 had you?

13 A. I can't recall. I can't recall except
14 for March 6th.

15 Q. Okay. So you were there on March 6th
16 and you were never back until August 28th?

17 A. I believe that's correct.

18 Q. Until that time, you were not aware
19 of any problems with dumping or transfer stations
20 or anything with City Wide, were you?

21 A. That's correct.

22 Q. Okay. Did you actually observe
23 anything being placed on the ground when you were
24 there on the 28th?

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1 A. Did I see a person putting waste on
2 the ground?

3 Q. Yes.

4 A. No.

5 Q. Or a truck?

6 A. No.

7 Q. You did not?

8 A. No.

9 Q. Directing your attention to your first
10 picture there, sir.

11 A. Okay.

12 Q. That's a relatively small pile of
13 C and D, isn't it, in terms of transfer station?

14 A. I wouldn't say so.

15 Q. Well, in your experience on transfer
16 stations, don't they have, like, huge mountains of
17 C and D?

18 A. On a permitted transfer station,
19 you expect to see that because they are operating
20 on a daily basis under a permit.

21 Q. Those are just like huge mountains,
22 aren't they?

23 A. It depends on operations for that
24 date. It could be huge one day and it could be

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1 low the next day. It depends on what is going on.

2 Q. What would the lowest one be, like,
3 how many cubic yards?

4 A. Oh, I couldn't tell you. I don't
5 know.

6 Q. Well, it could be thousands and
7 thousands of cubic yards even on a small day,
8 couldn't it?

9 A. Well, that depends on the size of the
10 site, the area, if they've got a lot that may be
11 ten acres in size. It depends.

12 Q. What's the smallest you have ever
13 observed?

14 A. The smallest?

15 Q. On a really off day or a low day at a
16 transfer station, how many cubic yards or how many
17 thousands of cubic yards would you say?

18 A. On a low day, I would say maybe about
19 20.

20 Q. About 20,000 cubic yards, right?

21 A. Yes.

22 Q. What about on a big day?

23 A. Well, they have mountains, like you
24 said.

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1 Q. Okay. Did you see any other waste
2 storage in addition to what is shown in these
3 photographs on that date?

4 A. No.

5 Q. Okay. Would it be fair to
6 characterize this as about a truckload of C and D?

7 A. No. Counsel, due to the fact -- I
8 mean, I don't know what you mean by truckload.

9 What do you call a truckload?

10 Q. A truck.

11 A. What's a truckload. I don't
12 understand, counsel.

13 Q. A big truck that they use for these
14 transfer stations.

15 A. Getting back to City Wide, counsel,
16 they use 48-cubic-yard boxes.

17 Is that what you mean, counsel?

18 Q. No. What I'm asking is the mountain
19 that you see here in this photo, is that dumped by
20 one vehicle?

21 A. I don't believe so.

22 Q. How many vehicles do you think it
23 would take?

24 A. I think two or three.

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1 Q. Now, you didn't see any disposal of
2 waste at this site, did you?

3 A. Yes. Once you put it on the ground,
4 that's disposal.

5 Q. I'm sorry. Other than what you saw
6 on the ground here these two or three truckloads, in
7 your view, did you see any other waste disposal on
8 this site?

9 A. No.

10 Q. Now, other than observing what's in
11 these photographs with the truckloads of waste in
12 what you described as the pit area that's a couple
13 of feet down, did you see any other violation of the
14 act or the regulations?

15 A. No.

16 Q. How would you define litter?

17 MR. KING: Objection. He is asking
18 for a legal conclusion.

19 HEARING OFFICER HALLORAN: Mr. Pirok?

20 MR. PIROK: I think he cites in his
21 report litter and I think his characterization
22 his understanding of what litter is is relevant.

23 HEARING OFFICER HALLORAN: I'll
24 overrule that. The Board is more than capable

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1 of knowing what litter is. He can answer if
2 he is able.

3 BY THE WITNESS:

4 A. Litter could be paper or it could be
5 cans or it could be residual waste.

6 BY MR. PIROK:

7 Q. Is there any other litter other than
8 this C and D that's shown on the photograph?

9 A. Yes. You have wood, you have scrap
10 metal, and that's in the piles.

11 Q. Okay. But is there any other litter
12 other than what is shown here in the pile?

13 A. No.

14 Q. If a driver put down this load that's
15 pictured here by mistake instead of sending it to a
16 transfer station three blocks away, in your view,
17 would it be fair to say that City Wide did not cause
18 or allow the disposal of solid waste?

19 MR. KING: Objection. He is calling
20 for a legal conclusion.

21 HEARING OFFICER HALLORAN: Mr. Pirok?

22 MR. PIROK: In his experience, he is
23 experienced in enforcing the regulations. He
24 is experienced in citing it, using common sense,

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1 the interpretations that are made in his daily
2 work, he issues citations to determine whether
3 there is a violation or not. If this
4 circumstance were true, would this constitute
5 a violation?

6 HEARING OFFICER HALLORAN: I will
7 sustain the objection.

8 MR. PIROK: Okay.

9 BY MR. PIROK:

10 Q. If this load that's pictured here were
11 put down by mistake, would it be fair to say that
12 City Wide was not causing or allowing the operation
13 of a waste handling facility?

14 MR. KING: Objection. Again,
15 whatever the legal definition of these
16 things are, either the facts fit or they
17 don't.

18 HEARING OFFICER HALLORAN: Well,
19 that's not quite the same. Mr. Pirok?

20 MR. PIROK: Essentially, I'm asking
21 him, you know, under certain circumstances,
22 if there are certain changes would that
23 constitute a violation, in your view, is that
24 something you would issue a citation for or

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1 would you request an opinion from your
2 supervisor whether you could issue a
3 citation?

4 HEARING OFFICER HALLORAN: Here's
5 what I'm going to do. We're going to wrap
6 this line of questioning up. I'll allow
7 the witness to answer.

8 I'll overrule the objection,
9 but again, I think the Board is more than
10 capable of knowing the definition of causing
11 or allowing litter. I will allow the
12 complainant to answer that and we can move
13 on.

14 BY THE WITNESS:

15 A. Okay. Can you restate your question,
16 counsel?

17 HEARING OFFICER HALLORAN: Lori, could
18 you read the question back, please?

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

22 BY THE WITNESS:

23 A. Okay. My understanding is that
24 City Wide Disposal is responsible for their

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1 business operations and their employees. They
2 are responsible. If you go to photo two and look
3 at the elongated shot, if it was put down by
4 mistake, then, several piles were put down by
5 mistake, which I don't believe it was a mistake.
6 This was planned, caused and allowed.

7 BY MR. PIROK:

8 Q. Okay.

9 A. So if you go to photo two and look at
10 the elongated photo, you will see -- in the darkened
11 area, you will see more waste and debris.

12 Q. Would it be fair to characterize
13 the amount of debris that's shown in these photos
14 as a minor amount of debris with respect to a
15 transfer station?

16 MR. KING: Now, as to this, I'm
17 going to object on the grounds of relevance.
18 There is no amount requirement for any of
19 the violations that we have alleged here.
20 There is no diminimus exception.

21 HEARING OFFICER HALLORAN: I think
22 we have gone over this, Mr. Pirok, earlier.

23 MR. PIROK: I will withdraw the
24 question.

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1 HEARING OFFICER HALLORAN: Thank
2 you very much.

3 BY MR. PIROK:

4 Q. To your knowledge does City Wide
5 use Shred-All on 43rd Street as its transfer
6 station?

7 A. What do you mean, counsel? Can you --

8 Q. To your knowledge, does City Wide use
9 Shred-All Disposal on 43rd Street as its transfer
10 station?

11 A. Not to my knowledge.

12 Q. Does Shred-All have a transfer station
13 on 43rd Street?

14 A. Yes.

15 Q. And, in fact, Shred-All has two
16 stations there, do they not?

17 A. I just know it as Shred-All.

18 Q. Do they have a front and back that
19 they separately designate?

20 A. Probably.

21 Q. You've been there, right?

22 A. Yeah. I've been there.

23 Q. Many times?

24 A. Not lately, though.

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1 Q. But they have a front and back?

2 A. Yes.

3 Q. They have a front and back area to
4 dump?

5 A. They have a front and back, if that's
6 what you mean. The overall site, is that what you
7 are talking about, counsel?

8 Q. What I'm saying is when you go into
9 that site, they've got two spots and they call one
10 the front and one the back.

11 A. Okay.

12 Q. And they direct you to go to one of
13 these.

14 A. Sometimes they change their sites.

15 Q. All right. As you sit here today,
16 from your recollection of the Shred-All facility
17 at 43rd, do they have a back and front site for
18 dumping, if you know?

19 A. Like I said, I haven't been there in
20 quite a while, counsel.

21 MR. PIROK: Okay. I have nothing
22 further.

23 HEARING OFFICER HALLORAN: Thank
24 you, Mr. Pirok.

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1 HEARING OFFICER HALLORAN: All right.

2 Mr. Pirok?

3 MR. PIROK: I would like to call

4 Mr. Anthony Barbara first.

5 HEARING OFFICER HALLORAN: Okay.

6 Sir, raise your right hand and Lori will swear

7 you in, please.

8 THE COURT REPORTER: Would you raise

9 your right hand, please?

10 Do you swear the testimony you

11 are about to give is the truth, the whole truth

12 and nothing but the truth, so help you God?

13 MR. BARBARA: Yes.

14 (Witness sworn.)

15 WHEREUPON:

16 A N T H O N Y B A R B A R A

17 called as a witness herein, having been first duly

18 sworn, deposeth and saith as follows:

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

20 by Mr. Pirok

21 Q. Would you state your name, sir?

22 A. Anthony Barbara.

23 Q. And what is your address?

24 A. 3910 South Loomis.

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1 Q. And what is your position with City
2 Wide?

3 A. Owner.

4 Q. Do you own the property at 3910 South
5 Loomis in Chicago?

6 A. No, I don't, sir. I lease it along
7 with four other companies that lease inside that
8 property also.

9 Q. Who are the other companies?

10 A. Vanick Brothers, White Express, Fakaro
11 Trucking and RTP Leasing.

12 Q. Do they have access to the grounds?

13 A. Correct.

14 Q. Who is, in fact, the owner of the
15 property, if you know?

16 A. Mike Vanick.

17 Q. Did you speak with Investigator
18 Robertson on August 28, 2002, at any time?

19 A. Correct.

20 Q. Did you at any point advise
21 Investigator Robertson that you did not know that
22 the driver had dumped the construction debris
23 that's shown in these photographs in Exhibit A?

24 A. Correct. For the short time that

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1 he was there, I informed him that I did not know
2 about it.

3 Q. Do you recall what the sum and
4 substance of the conversation with him was?

5 What did he say he was there for?

6 A. What I recall is when I met him in the
7 front office, he stated there was a load dumped in
8 the back. I stated back to him that I knew nothing
9 about it. That's pretty much my recollection. He
10 then got in his car and left after that.

11 Q. Okay. Did you have any further
12 discussion with him about it?

13 A. No.

14 Q. What did you do then?

15 A. I, myself, went to the back to observe
16 what Mr. Robertson was referring to and had a
17 laborer and some equipment and a box and loaded it
18 up and cleaned it up as best as we could and took
19 it to Shred-All Recycling.

20 Q. On April 28, 2002, did you have a
21 contract with Shred-All Recycling?

22 A. Yes.

23 Q. And what did they provide for you by
24 that contract?

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1 A. A transfer station on the back parcel
2 of their land to dump.

3 Q. Where is that located?

4 A. 43rd and Racine.

5 Q. Do they have two areas designated in
6 that dump on 43rd, the transfer station on 43rd?

7 A. Correct. They have two separate
8 transfer stations.

9 Q. How are they designated, if you know?

10 A. One is right in the front as you pull
11 into the right. If you continue straight off the
12 scales and go towards the back, there is another
13 additional building. It's a permanent transfer
14 station.

15 Q. Is it referred to as the front and the
16 back when given instructions?

17 A. Correct. You go in there and they
18 tell you what direction to go, the front or the
19 back.

20 Q. Okay. How many vehicles did it take
21 you to remove this debris?

22 A. One.

23 Q. You removed all of the debris shown in
24 these photographs with one truckload?

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1 A. Correct, one truck.

2 Q. What was the size of that truck?

3 A. I'd say it was a 20-yard dumpster that
4 we loaded it on.

5 Q. Did you do any further investigation
6 of how that material got there?

7 A. Correct.

8 Q. What did you do?

9 A. After I talked to the dispatcher and a
10 couple of drivers, I found out it was a fill-in
11 driver that works for us part-time. There was a
12 miscommunication between him and the dispatcher.
13 When he was done with his load pick, picking the
14 load up, the dispatcher told him to dump it in the
15 back meaning the back of Shred-All Recycling on 43rd
16 and Racine.

17 Because of the miscommunication
18 and since he doesn't work for us all of the time,
19 he took it upon himself to dump it in the back at
20 39th Street.

21 Q. Which is your property -- which is the
22 property that you lease?

23 A. Correct. And I also asked them -- you
24 know, I asked dispatch did you see him and due to

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1 the heavy traffic in the yard and four additional
2 companies using the yard, there were trucks blocking
3 the window, and he did not observe the gentleman
4 come in and dump the load.

5 Q. What is your dispatcher's name?

6 A. Dominick.

7 Q. Last name?

8 A. Falano.

9 Q. How long has he worked as your
10 dispatcher?

11 A. Probably two years.

12 Q. In the normal custom and practice of
13 your business, does Dominick direct people bringing
14 truckloads of C and D to any particular transfer
15 station?

16 A. Yes.

17 Q. What transfer entrance does he direct
18 people to?

19 A. Shred-All.

20 Q. How long prior to August 28 of 2002
21 did he do that?

22 A. I would say four months approximately.

23 Q. As a matter of custom and practice,
24 would Dominick tell them which transfer station at

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1 Shred-All he should send it to, the front or the
2 back, or didn't he care?

3 A. He would refer to them to go to the
4 back.

5 Q. What was the reason for that, for
6 going to the back?

7 A. That's the one we are contracted to
8 dump at.

9 Q. So you were not able to dump in the
10 front one?

11 A. No.

12 Q. You had to go to the back?

13 A. We had to go in the back.

14 Q. Did you speak with anyone else
15 concerning what had happened?

16 Well, let me ask you this; what
17 did you find out from Dominick?

18 A. I found out he told him to -- he
19 dispatched the driver to dump in the back. Once
20 I talked to the driver and found out his story,
21 I asked Dominick if he told him in the back at
22 43rd Street or did you just tell him in the back.
23 He said he just told him in the back. He did not
24 specifically tell him 43rd Street.

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1 Q. Who was the driver?

2 A. Orhelio Garcia.

3 Q. What was sum and substance of your
4 conversation with Mr. Garcia?

5 A. It was why did you dump it in the
6 back? He said the dispatcher, Dominick, told him to
7 dump it in the back. I told him we're not supposed
8 to dump it in the back. He took it upon himself,
9 because he is part-time worker, he doesn't work for
10 us all the time, that we meant in the back by us.

11 Q. As owner of City Wide on August 28th
12 of 2002, did you cause or allow the dumping of
13 C and D to occur on your property?

14 A. No.

15 Q. Would it be fair to say that your
16 business operation was such that any such C and D
17 that came onto the property would be sent to the
18 transfer station that you had a contract with,
19 Shred-All Recycling?

20 A. Correct.

21 Q. Were other trucks that came in with
22 construction debris, let us say, on that day or four
23 months before and subsequent up to the present time
24 sent to Shred-All?

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1 A. Correct.

2 Q. All of them?

3 A. Oh, yes. All of them are. We dump
4 at some other transfer stations that are at Melrose
5 Park, but everything in the city goes to Shred-All
6 Recycling.

7 Q. In your opinion, was it an
8 uncontrollable circumstance that there was a
9 miscommunication between your dispatcher and
10 Mr. Garcia?

11 A. Yes. There was definitely a
12 miscommunication.

13 Q. What measures, if any, did you take to
14 stop any future miscommunications or occurrences of
15 this nature?

16 A. I explained to all of the part-time
17 drivers what we mean by back and explained to the
18 dispatcher when you say the back, say 43rd Street
19 and also posted it on a sheet of paper stating
20 what I just said in the dispatch room.

21 Q. Do you recall the next time -- strike
22 that.

23 Do you recall any other
24 conversation on August 28th that you had with

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1 Investigator Robertson?

2 A. I'm sorry. On August?

3 Q. 28th. The day that he first came to
4 you and said, hey, I found the C and D in the back?

5 A. No other conversation.

6 Q. Did Mr. Robertson give you any
7 instructions?

8 A. No.

9 Q. Did he seem to be in a hurry, or did
10 he stick around to discuss things with you?

11 A. No. He was pretty much in a hurry to
12 leave.

13 Q. When was the next time that you spoke
14 with him about this instance?

15 A. I believe it was the following day
16 when he came back and wrote the tickets.

17 Q. The following day that he came back
18 and wrote the tickets?

19 A. Either the following day or a couple
20 of days later, to the best of my recollection.

21 Q. Do you recall what the sum and
22 substance of your conversation was at that time?

23 A. Pretty much that he seen a load of
24 debris in the back and said it was our

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1 responsibility and he was citing us a ticket for it.

2 Q. Did you explain the circumstances to
3 him at the time he gave you the citation?

4 A. Correct.

5 Q. What, if any, reply did you make to
6 you?

7 A. That he has to do his job and write
8 the citation.

9 MR. PIROK: I have nothing further.

10 Thank you very much.

11 HEARING OFFICER HALLORAN: Thank you.

12 Mr. King, do you have any cross?

13 MR. KING: Yes.

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

15 by Mr. King

16 Q. Did anyone besides -- to your
17 knowledge, did anyone besides Mr. Garcia dump any
18 material back there?

19 A. No.

20 Q. Did Mr. Garcia dump more than one load
21 back there, to your knowledge?

22 A. No, only one load.

23 Q. What are the terms of your contract
24 with Shred-All?

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1 swear you in, please.

2 THE COURT REPORTER: Would you raise
3 your right hand, please?

4 Do you swear the testimony you
5 are about to give is the truth, the whole truth
6 and nothing but the truth, so help you God?

7 MR. GARCIA: Yes.

8 (Witness sworn.)

9 WHEREUPON:

10 O R H E L I O G A R C I A
11 called as a witness herein, having been first duly
12 sworn, deposeth and saith as follows:

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

14 by Mr. Pirok

15 Q. Would you state your name, sir?

16 A. Orhelio Garcia.

17 Q. What is your address?

18 A. 4925 Somolda.

19 Q. What was your employer on August 28,
20 2002?

21 A. City Wide Disposal.

22 Q. Did you place anything on the ground
23 at 3910 South Loomis in Chicago on that day?

24 A. Pardon?

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1 Q. Did you place anything on the ground
2 from your truck at the City Wide facility in Chicago
3 on August 28, 2002?

4 A. I don't understand.

5 Q. Did you unload a truck on May 28,
6 2002?

7 A. Yes, yes.

8 Q. Where?

9 A. They say dump in the back.

10 Q. That is the back of the property of
11 City Wide?

12 A. I don't -- no communication. When you
13 say dump in the back, me no understand. We go in
14 the back and dump it.

15 Q. Okay. When you dumped it, was it on
16 the site at City Wide?

17 A. Yes.

18 Q. Okay. Are you a part-time or
19 full-time driver?

20 A. Part-time.

21 Q. How many times do you work per month
22 for City Wide?

23 A. Maybe five days.

24 Q. Did you talk to the dispatcher about

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1 where to put -- where to dump the material?

2 A. I don't understand.

3 Q. Did you talk to the dispatcher to find
4 out where to dump the material?

5 A. Yes.

6 Q. And what did he tell you, if anything?

7 A. He say dump it in back.

8 Q. And then you took it to the back at
9 39th Street at City Wide?

10 A. Yes.

11 Q. Did you at any time find out you had
12 made a mistake?

13 A. Yes.

14 Q. When?

15 A. (No response.)

16 Q. Do you know when, sir, you found out
17 you made a mistake or how you found out you made a
18 mistake?

19 A. I don't understand.

20 Q. After you dumped the material at City
21 Wide --

22 A. Yes.

23 Q. -- did you find out you were supposed
24 to dump it at Shred-All at 43rd street at the back?

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1 A. Yes, yes.

2 MR. KING: I'm going to object
3 to the leading nature of these questions.
4 I'm not sure with the -- with all respect
5 to Mr. Garcia, I don't know that he understands
6 what's being asked.

7 HEARING OFFICER HALLORAN: We could
8 continue this, but -- I'm going to close the
9 door, but I agree, Mr. Pirok. I know there is
10 a communication problem, but half the questions
11 you have been asking have been leading and I
12 understand what's going on. So we're going
13 to have to -- I sustain Mr. King's objection.
14 If you could, ask questions that are -- have a
15 little more open endedness, please.

16 MR. PIROK: I have no further
17 questions.

18 HEARING OFFICER HALLORAN: Thank
19 you. Mr. King?

20 MR. KING: I would like to re-call
21 Mr. Robertson to offer some rebuttal testimony.

22 HEARING OFFICER HALLORAN: Okay.
23 Well, let's finish with Mr. Garcia.

24 MR. KING: Okay. No, I have no

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1 further questions of Mr. Garcia.

2 HEARING OFFICER HALLORAN: Okay.

3 You may step down. Thank you.

4 (Witness excused.)

5 HEARING OFFICER HALLORAN: Mr. Pirok,

6 do you rest?

7 MR. PIROK: Yes.

8 (Respondent rests.)

9 HEARING OFFICER HALLORAN: Okay.

10 Mr. King, do you want to re-call your rebuttal?

11 MR. KING: Yes, Mr. Robertson.

12 HEARING OFFICER HALLORAN: I will

13 remind you that you are still under oath.

14 THE WITNESS: Yes, sir.

15 HEARING OFFICER HALLORAN: Thank you.

16 R E B U T T A L E X A M I N A T I O N

17 by Mr. King

18 Q. Mr. Robertson, I refer you to

19 Exhibit A?

20 (Document tendered

21 to the witness.)

22 BY THE WITNESS:

23 A. Okay.

24

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1 BY MR. KING:

2 Q. Do you have a copy of that?

3 A. I gave it to the hearing officer.

4 Q. There should be enough copies for
5 everybody. This is City Exhibit A, photo number
6 two.

7 (Document tendered
8 to the witness.)

9 BY THE WITNESS:

10 A. Okay.

11 BY MR. KING:

12 Q. We discussed this photo earlier.
13 That's a photo of a pile of debris that you observed
14 on the 28th, correct?

15 A. Correct.

16 Q. What is that in the photo behind to
17 the left of the pile in the photograph?

18 A. It's the same type of material across
19 from the pit area that I spoke of earlier. This is
20 an elongated shot looking to the west of this
21 northwest -- that's what I have as northwest here.
22 It's showing the first pile and the back piles
23 there. In between, there's a little pit area that's
24 below grade here. That's why I took that shot.

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1 Q. How many piles of debris were on the
2 site when you were out there?

3 A. Three, approximately three piles were
4 there.

5 Q. Do you know about how far the piles
6 in the background are from the pile in the
7 foreground?

8 A. Well, they're just across the pit
9 area. I would say maybe five to ten feet.

10 Q. Would one truck have dumped all of
11 those piles of debris?

12 A. One truck making numerous trips,
13 correct.

14 Q. But at one time?

15 A. Not at one time. No, there would have
16 to be other trucks.

17 Q. All right. Mr. Barbara, when he
18 was on the stand, testified that subsequent to
19 August 28th, City Wide sent all of their trucks
20 to Shred-All.

21 Do you know whether that is
22 accurate or not?

23 A. I do not know.

24 Q. Have you on any subsequent occasion

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1 caused -- have you found on any subsequent occasion
2 dumping at the site at 3119 South Loomis?

3 A. Say that again, counsel.

4 Q. On an occasion subsequent to the
5 August 28th incident, have you observed dumping at
6 3910 South Loomis?

7 A. Do you mean prior?

8 Q. Since?

9 A. Since, yes, sir.

10 Q. On how many occasions?

11 A. I think two later occasions.

12 Q. What types of materials did you
13 observe?

14 A. The same material, construction
15 debris, C and D waste, approximately two weeks
16 ago, I was at the site and the same thing had
17 occurred.

18 Q. In the same approximate occasion?

19 A. Same, yes.

20 Q. With the same types of material?

21 A. Yes.

22 MR. KING: All right. Thank you.

23 I have no further questions.

24 HEARING OFFICER HALLORAN: Mr. Pirok?

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1 MR. PIROK: Yes.

2 R E C R O S S - R E B U T T A L

3 by Mr. Pirok

4 Q. Subsequent times after August 28,
5 2002, did you issue a citation?

6 A. Yes.

7 Q. And when did you issue a citation, if
8 you recall?

9 A. The last citation was issued
10 approximately two weeks ago.

11 Q. Was this for C and D?

12 A. Correct.

13 Q. Okay. And the other times?

14 A. Mostly C and D waste again, same
15 thing.

16 Q. Okay. Did you issue any other
17 citations?

18 A. Yes.

19 Q. Okay. How many if you know?

20 A. I believe two. It was two weeks prior
21 and then I think sometime back in a couple months,
22 maybe October or November. I'm not sure. I would
23 have to go back to the records. I know two weeks
24 ago, Mr. Barbara and I talked about the same

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1 incident as we are here about today. Prior to other
2 occasions, the same stuff.

3 Q. The load of August 28, 2002, that you
4 saw would that be a continuing violation if kept
5 there after the citation was issued?

6 A. Yes. The department has a right to
7 issue citations every day.

8 Q. In the normal operations of the
9 department, how often would you follow-up after a
10 particular incident?

11 A. We have to take into account -- excuse
12 me. The waste on-site, the time that you give the
13 companies or the individuals to clean up may be 30
14 days, 35 to 45 days.

15 Q. Okay. Did you then conduct another
16 inspection 30 or 45 days after August 28, 2002?

17 A. I believe I did.

18 Q. Okay. Had the construction debris and
19 material pictured in the photographs on Exhibit A
20 been removed?

21 A. Yes.

22 Q. Was there any other at that time?

23 A. Any other incidents at that time?

24 Q. At that time, at the inspection 30 to

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1 45 days later.

2 A. None that occasion.

3 MR. PIROK: I have nothing further.

4 Thank you.

5 HEARING OFFICER HALLORAN: Mr. King?

6 MR. KING: Just very briefly, I would
7 like to clarify something.

8 HEARING OFFICER HALLORAN: Okay. Go
9 ahead.

10 R E D I R E C T R E B U T T A L

11 by Mr. King

12 Q. You spoke about citations that you
13 issued. Those were citations were under the city's
14 ordinances and not administrative citations?

15 A. That's correct.

16 MR. KING: That's all.

17 HEARING OFFICER HALLORAN: Mr. Pirok?

18 MR. PIROK: Nothing.

19 HEARING OFFICER HALLORAN: All right.

20 You may step down.

21 (Witness excused.)

22 HEARING OFFICER HALLORAN: We're going
23 to go off the record for a second.

24 (Whereupon, a discussion

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1 C L O S I N G A R G U M E N T

2 by Mr. Pirok

3 Very, very briefly, it's the position
4 of the respondent that any alleged violation
5 was the result of uncontrollable circumstances.

6 At the time of the incident, the procedure in
7 place was that the dispatcher would send any
8 load of C and D out to 43rd Street where they
9 had a contract with Shred-All to take it to
10 the back transfer station at Shred-All over
11 at 43rd Street. The dispatcher would instruct
12 anybody that came in with C and D to the
13 facility on Loomis Street to do so and they
14 would do so.

15 On this particular instance,
16 one individual who was a part-time driver,
17 Orhelio Garcia, admittedly did not understand
18 or speak English too fluently, apparently
19 misunderstood that instruction and he dumped
20 in the back of the facility of City Wide at
21 39th Street.

22 When the owner was advised
23 by Investigator Robertson on that day, the
24 same day it had been dumped, he caused it

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1 to be cleaned up and sent it over to
2 Shred-All. It was put in one truck and
3 taken to the back.

4 From his investigation, he
5 found out what happened and he took steps
6 to see that it wouldn't happen again. I
7 suggest -- I submit that if they come in
8 and they use the facility as a transfer
9 station and put it on the ground, that's
10 one thing. If it's on the ground for ten
11 seconds, too bad.

12 On the other hand, if the
13 policy is if you take it out there and
14 by mistake a driver puts it on the ground
15 and then as soon as it's discovered, it's
16 taken and put up, that that is not a
17 violation in the way the statutes and
18 the regulations have been promulgated.

19 I would simply refer to
20 one case, which is Rochelle Disposal Service,
21 Inc. against Illinois Pollution Control Board.
22 It's a district case from 1994. The citation
23 is 266 Il App 3d 192 and that's 639 Northeastern
24 2nd 988 and 203 Illinois Decision 429. There,

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1 the court, with respect to uncovered refuge in
2 sanitary landfills, found that there was
3 evidence sufficient to support a finding
4 that the landfill operator violated the
5 Environmental Protection Act by putting
6 refuge to remain uncovered overnight.

7 I would submit that when you
8 have a decision saying that it had to be there
9 overnight it, in essence, shows the spirit of
10 the statute and the regulations that it has
11 to be, in fact, an act, not an inadvertent
12 act, and the fact that it's down there for
13 an hour or two hours or something until it's
14 discovered and immediately taken to the
15 standard Shred-All facility, which is
16 the transferred station, which had been
17 the transferred station four months prior
18 and was subsequent, that that is not something
19 that is covered or, in fact, a violation and
20 I would cite to the reasoning in that case
21 as a basis for the similar finding in this
22 for a similar finding due to the circumstances.
23 That essentially is our case.

24 HEARING OFFICER HALLORAN: Thank you,

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1 Mr. Pirok.

2 Before I -- Mr. Robertson, did
3 you take off with my exhibit?

4 MR. ROBERTSON: No. I left it there
5 with you.

6 HEARING OFFICER HALLORAN: Oh, yes,
7 you did.

8 Before I forget, I was supposed
9 to make a credibility determination and based
10 on my legal observations, judgment, et cetera,
11 experience, I find that there are no credibility
12 issues with the three witnesses that testified
13 here today.

14 I also want to thank both
15 counsel for their utmost professionalism
16 throughout this proceeding, including the
17 telephone conversations.

18 I thank you very much. Have
19 a safe trip home. Thanks.

20 MR. PIROK: Thank you.

21 MR. KING: Thank you very much.

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1 (Whereupon, no further
2 proceedings were had
3 in the above-entitled
4 cause.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3

4 I, LORI ANN ASAUSKAS, a notary public
5 within and for the County of Cook and State of
6 Illinois, do hereby certify that heretofore,
7 to-wit, on the 3rd day of June, A.D., 2003,
8 personally appeared before me at Room 2-025 of
9 the James R. Thompson Center, in the City of
10 Chicago, County of Cook and State of Illinois,
11 a certain cause now pending and undetermined
12 before the Illinois Pollution Control Board in
13 the above-entitled cause.

14 I further certify that any said
15 witnesses were by me first duly sworn to testify
16 the truth, the whole truth and nothing but the truth
17 in the cause aforesaid; that the testimony then
18 given by them were by me reduced to writing by means
19 of shorthand in the presence of said witness and
20 afterwards transcribed upon a computer, and the
21 foregoing is a true and correct transcript of the
22 testimony so given by them as aforesaid.

23 I further certify that the taking of
24 this hearing was pursuant to notice, and that there

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1 were present at the taking of the hearing of the
2 aforementioned parties.

3 I further certify that I am not
4 counsel for nor in any way related to any of the
5 parties to this hearing, nor am I in any way
6 interested in the outcome thereof.

7 In testimony whereof I have hereunto
8 set my hand and affixed my notarial seal this
9 13th day of June, A.D., 2003.

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LORI ANN ASAUSKAS, CSR, RPR.
Notary Public, Cook County, IL
Illinois License No. 084-002890

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