

ILLINOIS POLLUTION CONTROL BOARD
 May 9, 2007

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CITY OF CHICAGO DEPARTMENT OF)	
ENVIRONMENT,)	
)	
Complainant,)	
)	
vs.)	AC 06-39
)	(CDOE No. 06-02-AC)
SPEEDY GONZALEZ LANDSCAPING,)	(Administrative
INC.,)	Citation)
)	
Respondent.)	

Transcript of proceedings held in the
 above-entitled cause before Hearing Officer Bradley P.
 Halloran, called by the Illinois Pollution Control
 Board, pursuant to notice, taken before Martina Manzo,
 CSR, a notary public within and for the County of Cook
 and State of Illinois, at the James R. Thompson Center,
 100 West Randolph Street, Room 11-512, Chicago,
 Illinois, on the 9th day of May, A.D., 2007, commencing
 at 8:15 a.m.

1 APPEARANCES:

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17 On behalf of the Complainant;

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24 On behalf of the Respondent.

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1 THE HEARING OFFICER: Good morning,
2 everybody. My name is Bradley Halloran. I'm a hearing
3 officer here at the Illinois Pollution Control Board.
4 I'm also assigned to this matter entitled City of
5 Chicago, the complainant, vs. Speedy Gonzalez
6 Landscaping, Inc. It is docketed at the Board as
7 AC 06-39. This matter is also related to 6-40, 6-41,
8 and 7-25.

9 I also note for the record that
10 today is May 9th, 2007. It's approximately 8:15 a.m.
11 I want to thank counsels for being here so early.

12 In any event, this administrative
13 citation alleges that respondent violated Section
14 21(p)(1), Section 21(p)(1) -- excuse me -- (1), (2),
15 (3), (4), and (7) of the Act. As a result, the
16 respondent has filed a petition for review, and that's
17 why we're here today. This matter will be conducted in
18 accordance with Section 108 and Section 101,
19 subpart (f) of the Board's procedural rules.

20 I also note, for the record, I do
21 not make the ultimate decision in the case. That is
22 left to the five esteemed Board members.

23 With that said, the City, would you
24 like to introduce yourself, please.

1 MS. BURKE: Jennifer Burke for the City
2 of Chicago and --

3 MR. McCAHAN: Graham McCahan for the
4 City of Chicago.

5 MR. LEVINE: And Jeff Levine for Speedy
6 Gonzalez Landscaping, Incorporated. Also present is
7 Mr. Gonzalez outside of the room.

8 THE HEARING OFFICER: Okay. Terrific.
9 Thanks.

10 Jennifer, Ms. Burke, would you like
11 to give an opening?

12 MS. BURKE: Just briefly.

13 OPENING STATEMENT ON BEHALF OF THE COMPLAINANT

14 MS. BURKE: The evidence will show in
15 this hearing that on March 22nd, 2006, Speedy Gonzalez
16 Landscaping, Inc., violated Section 21(p) of the
17 Illinois Environmental Protection Act by causing or
18 allowing open dumping at 1601 East 130th Street in
19 Chicago, which resulted in litter, scavenging, open
20 burning, deposition of waste standing in water and
21 deposition of general construction and demolition
22 debris.

23 We believe the Board will find that
24 the statutory penalty is appropriate here.

1 THE HEARING OFFICER: Thanks you,
2 Ms. Burke.

3 Mr. Levine.

4 OPENING STATEMENT ON BEHALF OF THE RESPONDENT

5 MR. LEVINE: It's our contention that
6 after the evidence is demonstrated, that Speedy
7 Gonzalez Landscaping neither caused nor allowed the
8 allegations on the property and that the origination of
9 the waste was, in fact, the City of Chicago itself.

10 THE HEARING OFFICER: Terrific. Thank
11 you, Mr. Levine.

12 The City, do you want to call your
13 first witness, please?

14 MS. BURKE: Yes. It will be Rafael
15 Maciel. I'll ask him to come in.

16 (Witness sworn.)

17 WHEREUPON:

18 RAFAEL MACIEL,
19 called as a witness herein, having been first duly
20 sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. BURKE:

23 Q. Mr. Maciel, can you state your name again for
24 the record, please, and spell your last name?

1 A. Rafael Maciel, M-A-C-I-E-L.

2 Q. And what's your occupation?

3 A. I'm a senior environmental inspector.

4 Q. And who's your employer?

5 A. City of Chicago.

6 Q. What particular department?

7 A. Department of Environment.

8 Q. And have you had any special training to be

9 an inspector?

10 A. Yes.

11 Q. And what was that?

12 A. I've been State-certified. Pretty much, it's

13 like you being deputized by the State to do State work.

14 Q. And what agency is that?

15 A. That would be the IEPA.

16 Q. And briefly explain for us what you do in

17 your job as an investigator.

18 A. As an investigator, what we end up doing is

19 we investigate claims of -- well, complaints that we

20 receive from the City's hotline number, which is a 311

21 service. We do inspections of chemical plants,

22 landfills, transfer stations, open dumps, fly dumping,

23 odor complaints, I mean, just a numerous amount of

24 things, hazmat response too.

1 Q. How many inspections would you say you do in
2 a week?

3 A. Probably -- I would say about close to 20
4 inspections a week, 25.

5 Q. And how long have you worked for the City as
6 an inspector?

7 A. 7 years.

8 Q. So roughly, you've conducted thousands of
9 these outside inspections for the City?

10 A. Yes.

11 Q. Are you familiar with the property at
12 1601 East 130th street in Chicago?

13 A. Yes, I am.

14 Q. Did you visit that property on March 22nd,
15 2006?

16 A. Yes.

17 Q. How did you come to be at the property on
18 that day?

19 A. That specific day, I was traveling with one
20 of our City of Chicago legal counsel, Chuck King, Jana
21 Padov (phonetic), which is also a liaison to the
22 department, and Edward -- I can't remember his last
23 name now. There was another inspector in the vehicle
24 with us.

1 We proceeded to pull into the --

2 MR. LEVINE: I'm sorry. The smoke and
3 the fire?

4 THE WITNESS: Yeah.

5 BY THE WITNESS:

6 A. So as we started to pull into the area, we
7 noticed a bunch of activity on the property there. The
8 gate was open. So we just decided to drive in. And as
9 I drove in, I saw a front-end loader there. I saw a
10 dump truck there, and I immediately saw a big mound of
11 dirt there on the side, some porta-potties off to the
12 west side of the property too.

13 BY MS. BURKE:

14 Q. Describe the entrance when you pulled off the
15 street, off of 130th Street.

16 A. Sure. The entrance is pretty much roughly
17 surrounded by a berm of C and D debris around the
18 property. You're talking about maybe a good 4 to
19 5 feet high.

20 Q. That's running along 130th Street?

21 A. Yes, running along 130th Street.

22 And the only entrance point would
23 be through the gated area, which is -- It had a chain
24 on there and a lock, so it -- but it wasn't chained or

1 locked at that time. So the gate was wide open.

2 That's how we ended up going inside.

3 Q. So it was like a driveway that you pulled in?

4 What was the surface of the --

5 A. Yeah. It was like a driveway, pretty much.

6 It's gravel. You could tell there's a lot of traffic
7 in and out of there just from the rutting in that area.

8 Q. I'm going to show you a document that's
9 marked as Exhibit A for identification. Do you
10 recognize this document?

11 A. Yes, I do.

12 Q. And what is it?

13 A. Pretty much what this is is a form that we
14 fill out as far as when we do an illegal dumping, no
15 open dump. It's a State document that we have to fill
16 out. And what it is is it does kind of like a title
17 search to the property or gives the specifics on the
18 property owner and what have you.

19 Q. Can you page through that Document A and just
20 tell me -- list for me the components of the report.

21 A. The components in the report are -- Usually
22 we have to issue -- we have to call the State up and
23 get issued an LPC number --

24 Q. Let me you stop there. I don't mean to go

1 through each line. I mean the pages --

2 A. The pages itself? Okay. I'm sorry.

3 Q. -- generally.

4 A. Like I said, the first page is a
5 State-required sheet for -- which we get an LPC number
6 from.

7 THE HEARING OFFICER: Is there a date on
8 that, sir?

9 THE WITNESS: Yes, there is. It's
10 stamped on top, May 2nd, '06.

11 THE HEARING OFFICER: Thank you.

12 BY THE WITNESS:

13 A. The following page is an open dump inspection
14 checklist. This is pretty much what we do for any
15 open-dumping, fly-dumping incidents in the City of
16 Chicago, which is also required by the State for us to
17 do.

18 BY MS. BURKE:

19 Q. And are there additional documents that
20 comprise your report after that?

21 A. Yes.

22 And then there's a list of the
23 apparent State violations, which is also required by
24 the State. We have to list the LPC number and the date

1 and the number of the violations that occurred on the
2 property itself. We have to put the State violations
3 on there.

4 And then following that, we also
5 have an additional municipal violation sheet where we
6 list all the violations and the terminology behind it.

7 And after that would be our
8 narrative, and pretty much the narrative tells -- it's
9 a summary of what we encountered while we were at the
10 property. It tells you who was at the property, the
11 site name, the LPC number, site address, Cook County,
12 Chicago, the time, and the date.

13 The following page is also a
14 combination report of the narrative too. It's part of
15 the narrative. It tells you the conditions, pretty
16 much, how many cubic yards of material that we found on
17 that property, what type of material.

18 The following page is a site
19 sketch. The site sketch is pretty much a rough layout
20 of the property. We also have indicators of where the
21 photos that we took, the number of the photos which
22 would follow right after the site sketch. It tells you
23 specifically where we took the photo at, and it's
24 pretty much -- it's just a rough drawing of an

1 inspector doing this.

2 Q. And then you don't need to go through each of
3 these, but collectively what's the next group of
4 documents?

5 A. Well, the next group of documents would be
6 the photographs. The photographs themselves are of
7 what we encounter on the property.

8 Q. And after the photographs?

9 A. And after the photographs, I believe, is any
10 additional information that we -- that would be
11 important to the case itself. In this case, the
12 material that I have here is from Waste Management's
13 CID landfill which is where the material that was being
14 dumped there was supposed to end up at, at CID. So
15 being that I have -- I'm the inspector there, I can't
16 just go walk over there to the landfill and request the
17 information for the material that was supposed to be
18 dumped over there.

19 MR. LEVINE: What page is that?

20 THE WITNESS: It's the final page.

21 MS. BURKE: It's page 23, if you look at
22 the bottom middle.

23 BY MS. BURKE:

24 Q. And then after that fax, there's -- what's

1 the final document at the end of your report?

2 A. So pretty much this material here would be
3 analytical material.

4 And then you have -- what we have
5 here is the title search --

6 Q. I'm sorry. On page 32 to 35?

7 A. 32 to 35 would be the title search
8 information of the property itself.

9 Q. And when -- Is this a complete copy, then, of
10 the report that you prepared after your visit on
11 March 22nd?

12 A. Yes.

13 Q. When did you prepare this report?

14 A. To the best of my knowledge, I believe it was
15 around March 22nd maybe to the 24th or so. It did take
16 us a while to do this.

17 Q. So a couple of -- within a few days after
18 your inspection?

19 A. That's correct.

20 Q. And does the Department of Environment keep
21 these reports in the ordinary course of business?

22 A. Yes.

23 Q. And does this report fairly and accurately
24 describe what you saw at the property --

1 A. Yes, it does.

2 Q. -- and your follow-up investigation?

3 A. Yes, it does.

4 MS. BURKE: I'd note that the report is
5 also attached to the administrative citation that was
6 filed and served in this matter.

7 BY MS. BURKE:

8 Q. So going back to when you pulled onto the
9 property on March 22nd, explain what you saw when you
10 first entered the property.

11 A. As I pulled into the property itself, I
12 immediately noticed that there was a front end loader.
13 Whether or not he was dumping at the time or loading up
14 wasn't determined because he was at a standstill
15 position.

16 So at that time then, I did notice
17 the dump truck lining up right next to it. So I
18 immediately went over to the front end loader operator,
19 accompanied by Edward, the other inspector, and I
20 started questioning the operator himself. The
21 questions pretty much were, you know, typical questions
22 that I would ask on any scenario, especially in a
23 fly-dumping scenario if I thought there was some kind
24 of situation there.

1 plywood or wood material maybe deriving from a -- it
2 looked like a fence or something.

3 Q. And did you see a flame or --

4 A. Yes, I did, but it was already being
5 extinguished when I was getting closer to the area.

6 Q. Was there a person --

7 A. Yes, there was.

8 Q. -- in that area?

9 And what was he doing?

10 A. He had -- At first, when we were coming into
11 the property, I seen him carrying the wood debris,
12 putting it into the little pile of berm.

13 Q. And --

14 A. And as I started going down to that area and
15 he noticed that it was a City of Chicago vehicle, he
16 started dying it out; and as soon as he was dying it
17 out by throwing some dirt on it, he started walking
18 away from it.

19 Q. And you mentioned -- You used the phrase C
20 and D. Could you explain to us what that is?

21 A. C and D debris is just an abbreviated term.
22 It's for construction and demolition debris.

23 Q. And what did you see specifically that was
24 construction and demolition debris?

1 A. Construction and demolition --

2 MR. LEVINE: I'm going to object to
3 foundation as to where we're talking about.

4 BY MS. BURKE:

5 Q. Which area of the site did you say that you
6 saw the C and D debris?

7 A. It would be on the west-end side of the
8 property.

9 Q. And what did you see there?

10 A. I saw some concrete -- broken concrete,
11 asphalt, some brick material. There was a mixture of
12 some -- a little bit of piping, a little bit of PVC.
13 PVC is the polyvinyl corrugated piping, which is the
14 plastic piping. There was also -- I think there was
15 some rebar in there.

16 Q. And what other -- What other materials, then,
17 did you see on the site?

18 You mentioned that you saw masonry.
19 What do you mean by that?

20 A. Masonry materials, mostly concrete, let's see
21 if I -- the concrete that they are use -- like, cinder
22 block or something like that of such nature, and pretty
23 much there was some areas where the material was
24 overlapping into the water area, which was a little --

1 There were little pockets of standing water, too, which
2 is another issue on the property in itself too.

3 Q. Where did you see standing water on the site?

4 A. On the west side of the property.

5 Q. And what -- Describe what you saw in the
6 water.

7 A. In the water, we did see some of the C and D
8 debris, waste -- well, some of the waste material there
9 that was overlapping into the water. So I mean, it
10 was -- the material from wherever it was coming from
11 was probably contaminating the water itself too.

12 MR. LEVINE: I'm sorry. Probably
13 contaminating?

14 THE WITNESS: I would assume so if it's
15 sitting on top of the water, yes.

16 BY MS. BURKE:

17 Q. Are there any other materials that you saw
18 sitting in the water?

19 A. I believe there was -- I think there was some
20 timber -- I'm sorry, not timber -- some railroad ties,
21 it looked like, sitting in the water too.

22 Q. How deep would you say the water was?

23 A. Probably about 3 to 4 inches.

24 Q. Were there any additional materials that you

1 saw on the site?

2 A. Any additional materials, yes, I did. I did
3 see -- Right by the porta-potty area where the
4 porta-potties were, there was a strong odor of urine
5 around them. I was checking that area to see if there
6 was any discharge or any type of solution material that
7 would have indicated they were cleaning them out on the
8 property. And as I was walking around, I didn't notice
9 any of the detergent that they use or any type of
10 detergent. But, like I said, there was a strong odor
11 probably just from the porta-potties itself.

12 Further along to the north end of
13 the property, I started walking around and did notice
14 some frayed wire on the ground. It looked like maybe
15 they might have been, you know, burning some of the
16 wire maybe for the copper, the value of the product.

17 Q. And what did the wire look like?

18 A. It looked frayed. I mean, it was -- It
19 looked -- There was some burning-mark indicators on it.

20 Q. What did the ground look like in that area
21 around the frayed wire?

22 A. There was a bunch of debris around there,
23 litter.

24 MR. LEVINE: I'm going to ask for

1 foundation on that.

2 THE HEARING OFFICER: Ms. Burke.

3 MS. BURKE: In terms of a location?

4 MR. LEVINE: Yeah, where it was.

5 BY MS. BURKE:

6 Q. Referring back to Exhibit A --

7 A. Sure.

8 Q. -- can you identify for us on the site map
9 where the frayed wire was located?

10 A. Let's see.

11 Q. Take your time, if you want to look through
12 it.

13 A. I believe the material was around where
14 Picture No. 4 was at, around there or close to it. It
15 would be on the south end of the property which would
16 be Photograph No. 8.

17 Q. And then there's an 8 marked on the site
18 sketch on page 8 of Exhibit A?

19 A. That's correct.

20 MR. LEVINE: And, again, foundation as
21 to where on the wire it was burned.

22 THE WITNESS: The indicated area for
23 where it was burned was on the end, which would be on
24 the bottom of the photograph. There was some frayed

1 markings when we got pretty close to it. You could
2 tell some of the material there was kind of melted
3 together. And then also by the box area, you could see
4 some burn marks on the box too.

5 BY THE WITNESS:

6 A. In any regard, it's considered scrap
7 material.

8 BY MS. BURKE:

9 Q. Was there any buildings on the site?

10 A. Yes, there was.

11 Q. Where was the -- What buildings were on the
12 site?

13 A. The building that was on the property was
14 kind of like a warehouse building -- type of building.
15 It looked like a warehouse from the outside, but I
16 think it was more like a washing area for the vehicles.

17 Q. And is the building identified on the site
18 sketch?

19 A. Yes, it is.

20 Q. And where is the building?

21 A. It would be by the -- close to the photograph
22 of No. 15.

23 Q. Did you go inside the building?

24 A. No. I think it was locked at the time.

1 Q. Were there any -- What vehicles were on the
2 property when you entered the property?

3 A. When we entered the property, there was a
4 front end loader, which is a heavy piece of equipment.
5 And then there was also a dump truck with a trailer.
6 And there was a white truck on the property too. It
7 looked maybe, like, to be a newer version of a
8 Ford F-150 or something of the such.

9 Q. And what was the -- Was the dump truck full
10 or empty?

11 A. We didn't take a look inside of the dump
12 truck at the time.

13 Q. Was there a driver in the dump truck?

14 A. Yes, there was.

15 Q. And what was the front loader doing when you
16 were on the property?

17 A. The front end loader looked like he was going
18 to start -- he was moving material --

19 MR. LEVINE: Objection as to what it
20 looked like he was going to do.

21 BY MS. BURKE:

22 Q. Just describe what you saw.

23 A. Sure. What I did see was the front end
24 loader pushing the material closer to one mound --

1 area, I guess, just trying to keep the material in one
2 area.

3 Q. What material was he pushing?

4 A. This was a suspect material at the time,
5 which was -- after we found out, it was CTA material
6 supposedly.

7 Q. What did the material look like?

8 A. It was dirt, clay. There was a little bit of
9 concrete in there which would indicate C and D debris.
10 There was also some discoloration IN some of the
11 material too which would indicate that IT was
12 contaminated with some type of product.

13 Q. What area -- Referring to the site sketch,
14 where was the front loader working?

15 A. It would be, from the Photographs, 27, 17, 9,
16 and 10. It would indicate on the site sketch as the
17 suspect CTA material.

18 Q. Were there any other vehicles in addition to
19 the dump truck and the front loader and the white
20 truck?

21 A. Yes. There was also a big tanker truck, just
22 the body itself, a water tanker.

23 Q. What did the water tanker look like?

24 A. It was like a brownish red, and it had

1 spray-painted on there "Speedy Gonzalez," I believe, on
2 there. Maybe -- I think it was -- Was it reddish
3 brown, or -- I think it was maybe even silver. I
4 really can't recall right now. Let me look at the
5 photograph.

6 It was a silver tanker.

7 Q. Which photograph are you referring to?

8 A. Referring to Photograph No. 5 and 6.

9 Q. Can you describe what -- the area around the
10 tanker, what you saw that day?

11 A. The area around the tanker itself had a bunch
12 of debris. It had wood debris, again, the railroad
13 ties, which is used in landscaping a lot. There was
14 some mesh netting that they use on the ground to stop
15 the weeds from coming up in landscaping.

16 In Photograph --

17 MR. LEVINE: Again, I'm asking for
18 foundation here with regard to --

19 THE HEARING OFFICER: Ms. Burke.

20 MR. LEVINE: -- where he's talking about
21 these things.

22 BY MS. BURKE:

23 Q. Mr. Maciel, which pictures are you referring
24 to?

1 A. Photograph No. 5 and Photograph No. 6.

2 Q. And referring back to the site diagram on
3 page 8, which area of the site are you referring to?

4 A. It would be -- That would be close up to the
5 north- -- northwest side of the property which would be
6 right next to the tanker trailer which would be No. 5
7 and 6 on the site sketch.

8 Q. And, again, you were describing, then, the
9 area around the tanker truck?

10 A. Yes.

11 Q. What did you see there?

12 A. What I did -- Like I said, I noticed the
13 timber there, which would be the railroad ties.
14 Sometimes the railroad ties, too, have creosol, which
15 is an arsonic material. There's also -- There was some
16 mesh netting. There was tarp material there.

17 MR. LEVINE: I'm going to ask for
18 foundation on the mesh netting. Where approximately is
19 that -- Or where is that?

20 THE WITNESS: The mesh netting was --
21 recalling my memory, it was near the railroad ties
22 there. There was a little piece of the mesh netting
23 along there right behind it.

24 MR. LEVINE: 5 or 6?

1 THE WITNESS: Number 6.

2 MR. LEVINE: The red and the blue stuff?

3 THE WITNESS: No behind there. It was a
4 black mesh netting almost.

5 BY THE WITNESS:

6 A. And then, the blue tarp, that's a tarp
7 material right there probably from a roll-off box or
8 something as such.

9 And the stones that you see there,
10 those are pretty much like -- those are used for
11 landscaping a lot to dress up as an accessory to yard
12 work --

13 MR. LEVINE: I'm going to the object to
14 the unsolicited statements to what the stones --

15 THE HEARING OFFICER: I'm sorry.
16 Mr. Levine?

17 MR. LEVINE: I'm going to object to the
18 unsolicited statements. It's a narrative.

19 THE HEARING OFFICER: Overruled.

20 BY MS. BURKE:

21 Q. Were there -- Were there any people on the
22 property other than the people you arrived with?

23 A. Yes, there was.

24 Q. Who -- What people did you see on the

1 property that day?

2 A. There was an operator for the heavy
3 equipment. There was a driver for the dump truck.
4 There was two gentlemen, one that was working near
5 the -- near the stone area right here by the tanker on
6 Photograph No. 6 -- I'm sorry -- Photograph No. 5, and
7 then there was another individual in a white truck.

8 Q. Can you describe for me what you saw the man
9 near the tanker doing?

10 A. He was segregating some of the material
11 there, putting wood debris into the wood debris pile,
12 the concrete -- separating the concrete and putting it
13 in the concrete pile. So he was pretty much
14 segregating material on the property.

15 Q. And did you speak with the person who was
16 operating the dump truck?

17 A. I spoke with him. He didn't really want to
18 talk to me, but I did speak with the operator of the
19 heavy equipment.

20 Q. How soon after you arrived on the property
21 did you attempt to speak with the dump truck driver?

22 A. After I interviewed the heavy equipment
23 operator, I went right up to talk to the dump truck
24 driver.

1 Q. Did you identify yourself as an employee of
2 the City?

3 A. Yes. I showed him my ID and my badge.

4 Q. And were you wearing any clothing that --

5 A. Yes. I was wearing City of Chicago clothing.

6 Q. And then did you say something to him?

7 A. I told him that I did not want him to move
8 out of the property being that we might have to impound
9 the vehicle. We find that there's evidence that he was
10 dumping material there without the proper permitting or
11 expressed permission.

12 Q. Did he show you any documents?

13 A. At that time he gave me a stack of manifests.
14 I asked him for load tickets, and he told me flat out,
15 "This is all I have," which was a manifest. And on the
16 manifest itself -- The heavy equipment operator gave me
17 some of the manifests too. So I collected pretty much
18 about a good -- close to an inch stack of manifests.

19 Q. Do you know this man's name?

20 A. I don't recall his name.

21 Q. Do you know who he was employed by?

22 A. At the time I asked him not to move any of
23 the material. And he's like, "Well, I have to listen
24 to my boss, you know, whatever my boss man says," and

1 he pointed to the white truck. And he says, "That's
2 what I have to do." So he was pretty much telling me
3 that he was going to operate no matter what we were
4 going to tell him.

5 Q. And what did the dump truck look like?

6 A. The dump truck itself was -- jeez, it said
7 E. King on there, which is a transportation company.

8 Q. And where was the dump truck located on the
9 property?

10 A. It would be right next to the suspect CTA
11 material.

12 Q. And you're referring to words that are on the
13 site sketch on page 8?

14 A. Yes, that's correct.

15 Q. The operator of the front loader, what was he
16 doing when you entered the property? Was he in the
17 truck?

18 A. He was inside of the cab of the heavy
19 equipment, and he was pushing the material closer to
20 one -- you know, to one segregated area.

21 Q. And did you go to speak with him?

22 A. Yes, I did.

23 Q. How long after you entered the site was that?

24 A. Pretty much, after I took a rough look around

1 the property, I went right to him because he was the
2 one that was active as far as moving things around.
3 So ...

4 Q. Did you show your badge to that person?

5 A. Yes, I did.

6 Q. Did you identify yourself as a City employee?

7 A. Yes, I did.

8 Q. And what did you say to him?

9 A. I asked him, "What's going on here? What is
10 it you're doing here exactly?"

11 He says, "Well, we're moving this
12 material here."

13 I said, "Well, is this material
14 coming in? Is it coming out? What is it doing?"

15 And he goes, "Well, we're working
16 for the City of Chicago. We're doing it for you guys."

17 I said, "Oh, really." I said,
18 "Okay. Do you have" -- I asked him if he had any load
19 tickets or any type of paperwork that suggests it, and
20 that's when he gave me the manifests.

21 Q. The front loader also had manifests or the
22 dump truck --

23 A. Yes, he did.

24 Q. And do you know the name of the front loader

1 operator?

2 A. No. I don't recall it at this time.

3 Q. Do you know that person's employer?

4 A. He pointed out to the white truck.

5 Q. What was the man in the white truck doing
6 when you were at the site?

7 A. The man in the white truck was -- I don't
8 know -- I guess on the phone -- or a Nextel. I believe
9 it was a Nextel.

10 Q. Was he inside of the truck or outside of the
11 truck?

12 A. He was inside the truck.

13 Q. And you went to speak with the man inside the
14 truck?

15 A. Actually, he drove up to us, and that's when
16 I pretty much -- I found out who he was. I mean, I
17 knew who he was from the distance; but as he got
18 closer, I was pretty much more confident that it was
19 the same individual I thought it was.

20 Q. And how long after you entered the site did
21 you speak with the man in the white truck?

22 A. Probably about 15 minutes after we started
23 driving around -- or walking around and after my
24 interview with the heavy equipment operator and also

1 the dump truck drive.

2 Q. And where was the white truck first located
3 while you were talking with the dump truck driver?

4 A. He was close to the entrance area which would
5 be on the west side of the property -- I'm sorry -- the
6 east side of the property on the site sketch, and he
7 was all the way by -- I would say, close to the suspect
8 CTA material, more, like, by the stone pile area, I
9 guess. If anything, that's where he was parked by.

10 Q. And you're referring to the site sketch on
11 page 8?

12 A. That's correct.

13 Q. And did you identify yourself to the man in
14 the truck?

15 A. Yes. After he came and he questioned, he
16 goes, "Sir, what are you guys doing here? This is
17 private property."

18 I told him -- I said, "What's going
19 on here? What type of operation do you have?"

20 And he started telling me. He
21 goes, "I'm not doing anything wrong here," and
22 blah-blah-blah.

23 He started kind of back-talking
24 towards me, and I told him -- I said, "Look, what are

1 you doing" -- "I want to know why is this material in
2 here. Why do you have these manifests here?"

3 And he started telling me that
4 "This is private property." We don't have any business
5 being here, for one, and then he says that we were
6 trespassing.

7 And when I started asking him more
8 questions as far as the property, I told him -- I said,
9 you know, "This pretty much is a transfer station, an
10 illegal transfer station." I said, "You can fall into
11 that category. You can fall under just being
12 landfill" -- "an illegal landfill, too."

13 And he started -- Once I started
14 telling him that, he started telling me -- he started
15 telling me, "I don't know what you're talking about."

16 And I said, "Okay. Well, what
17 about these manifests? Where did these come from?"

18 And he goes, "I don't know. I
19 didn't give them to you." And he just rolled up his
20 window, and he drove away.

21 Q. Do you know the name of man you were speaking
22 to?

23 A. Yes, I do.

24 Q. And what's his name?

1 A. It's Jose Speedy Gonzalez.

2 Q. And how did you know his name?

3 A. Actually I know him on a personal level from
4 a few years back. We used to work as kids together in
5 the same little grocery store.

6 Q. Did you recognize Mr. -- At what point did
7 you recognize the man in the white truck to be
8 Mr. Gonzalez?

9 A. At first, I was doing a double-take from a
10 distance when he was sitting close to the stone pile
11 when he was away from -- when I was interviewing the
12 truckdriver and the operator.

13 Q. And then when he drove to you ...

14 A. That's when I confirmed that it was him.

15 MS. BURKE: At this point, I'd like to
16 move to admit into evidence Exhibit A, the report from
17 March 22nd.

18 THE HEARING OFFICER: Mr. Levine.

19 MR. LEVINE: Two objections. One, I
20 would note that the report investigation is marked
21 "incomplete," but I'm sure they'll take care of that.

22 But, secondly, I'd object to the --
23 pages 23 through -- anything to do with the chemical
24 reports. That's a testimonial matter, and I don't

1 think he can move in testimonial -- I don't think they
2 can move in testimonial matter as business records.

3 THE HEARING OFFICER: Unfortunately, I
4 just have a photocopy, so I don't have a good version.
5 But, Ms. Burke, would you like to respond?

6 MR. LEVINE: This is from the First
7 Environmental Laboratories information. This is
8 information that the City is seeking to admit which is
9 information that came from a third party, not from the
10 Department of Environment and not from this witness.

11 MS. BURKE: It was part of the
12 investigation, and it's part of the report in this
13 matter. And I consider it to be a part of a report
14 that's kept in the ordinary course of business.

15 THE HEARING OFFICER: You know, I'm
16 going to overrule, Mr. Levine's objections. The
17 Board -- I will accept it. The Board will weigh it
18 accordingly.

19 What page is that?

20 MS. BURKE: On the exhibit that we
21 prepared for today --

22 MR. LEVINE: It's the bound exhibit.

23 MS. BURKE: -- it's page 23 to --

24 MR. LEVINE: The bound exhibit.

1 MS. BURKE: -- 31.

2 THE HEARING OFFICER: Oh, this. I'm
3 sorry.

4 MS. BURKE: Pages 23 to 31 under A --
5 behind A, if you look in the bottom middle.

6 MR. LEVINE: It's the information from
7 First Environmental Laboratories, their testing
8 information. It's my contention they have to bring in
9 someone from First Environmental and testify that this
10 is what -- what this is and that it's correct and --

11 THE HEARING OFFICER: Yeah. I'm going
12 to allow it in, and I would ask the Board to weigh it
13 accordingly.

14 That's pages 24 to --

15 MR. LEVINE: 31.

16 THE HEARING OFFICER: -- 31.

17 Is that Group Exhibit A?

18 MS. BURKE: Yes.

19 MR. LEVINE: It's in Group Exhibit A.

20 THE HEARING OFFICER: It's admitted over
21 objection.

22 (Group Exhibit A was admitted
23 into evidence.)

24 THE HEARING OFFICER: You may proceed,

1 Ms. Burke.

2 MS. BURKE: I have nothing further of
3 Mr. Maciel.

4 THE HEARING OFFICER: Mr. Levine, cross.

5 CROSS-EXAMINATION

6 BY MR. LEVINE:

7 Q. Mr. Maciel, I didn't hear anything about the
8 entity which is the caption of this matter which is
9 Speedy Gonzalez Landscaping.

10 Do you have any information today
11 with regard to the entity Speedy Gonzalez Landscaping?

12 A. Do I have any information today as far as --

13 Q. Do you have any information with regard to
14 these allegations that Speedy Gonzalez Landscaping
15 caused or allowed any of these alleged violations?

16 A. Speedy Gonzalez was the individual that was
17 there, which was the people who -- the drivers were
18 indicating that that gentleman was the supervisor of
19 the property --

20 Q. And he's charged, correct, as the respondent
21 in this matter?

22 A. I would believe so. Yes, he is.

23 MS. BURKE: I would clarify. He's
24 charged in a separate citation. The citation that

1 we're dealing with right now is against Speedy Gonzalez
2 Landscaping.

3 BY MR. LEVINE:

4 Q. Are you aware of that?

5 A. Yes, I am.

6 Q. Okay. My question is how the landscaping
7 entity has any connection to what you saw that day or
8 what was at the property that you just mentioned.

9 A. How I know that it was connected to this was
10 the fact that "Speedy Gonzalez" was written on the
11 tanker there. There was also the Oui Oui porta-potties
12 which is also his business. I know that, in fact --
13 Actually, in the past, we have written tickets to
14 Mr. Speedy Gonzalez in previous incidents. So we have
15 a history with Mr. Speedy Gonzalez as far as illegal
16 activities.

17 Q. Okay. Now, you just mentioned that you have
18 a background with Mr. Gonzalez, correct?

19 A. Yes, I do.

20 Q. Okay. And Mr. Gonzalez is not the respondent
21 in this instance. Are you aware of that?

22 A. He indicated that he was part of the property
23 owner when he was told us -- when we went on the
24 property --

1 Q. Do you know who the respondent is in this
2 case before the Court?

3 A. The respondent in this case would be Speedy
4 Gonzalez, the company; am I correct?

5 Q. No, you're incorrect.

6 The respondent in this case is
7 Speedy Gonzalez Landscaping, Incorporated.

8 A. Okay.

9 Q. Okay. Now -- And you mentioned Speedy
10 Gonzalez's name -- there was a name on the tanker,
11 correct?

12 A. Correct.

13 Q. And that's what Mr. Jose [sic] goes by,
14 Speedy Gonzalez, correct?

15 A. That's correct.

16 Q. And Oui Oui, that's a separate company,
17 you're aware, correct?

18 A. That's correct.

19 Q. And you didn't ticket Oui Oui, did you?

20 A. No.

21 Q. Okay. Now, my question is whether or not you
22 have any information that Speedy Gonzalez Landscaping,
23 Incorporated, caused or allowed any of these alleged
24 violations.

1 A. To the best of my knowledge, I have no idea
2 if he did or not. The only thing I said was he is --

3 Q. Not he; Speedy Gonzalez Landscaping,
4 Incorporated.

5 A. Landscaping, Incorporated, I have no
6 knowledge of that.

7 Q. Okay. I have a couple more questions for
8 you.

9 A. Sure.

10 Q. You indicated that the front end loader was
11 pushing around material, correct?

12 A. That's correct.

13 Q. Was it not, in fact, loading material?

14 A. I believe it wasn't.

15 Q. You believe it wasn't?

16 A. That's correct.

17 Q. Can I direct your attention to the narrative?

18 A. Sure.

19 Q. And that's in Exhibit A, page 6. I know you
20 testified that -- whether it was loading or unloading,
21 it was not determined, correct? Do you remember
22 testifying that?

23 A. It was not determined at that time, yes.

24 Q. Okay. Was it ever determined?

1 A. Yes, it was.

2 Q. What was determined?

3 A. What was determined, that they were dumping

4 there because the manifest material -- The manifest

5 suggests that they were off-loading material when he --

6 Q. Who was dumping there?

7 A. Who was dumping was E. King.

8 Q. Okay. E. King was dumping there, correct?

9 A. That's correct.

10 Q. Okay. Now -- Now, the day you saw it, you

11 said that the front end loader, when you pulled up, you

12 couldn't determine whether it was loading or unloading,

13 correct?

14 A. Correct, only because it wasn't moving.

15 Q. Okay. Now, your summary says that the

16 E. King trucks were receiving loads of C and D debris

17 in the first paragraph. Do you see that, sir?

18 A. Yes.

19 Q. Did you sign that report, sir?

20 A. Yes, I did.

21 Q. Okay. That's your report of the narrative of

22 what happened on March 22nd, correct?

23 A. Uh-huh.

24 Q. Yes?

1 A. Yes.

2 Q. Okay. Now, what is it that a front end
3 loader does?

4 A. It loads or unloads.

5 Q. Well, it's called a loader, is it not?

6 A. Still, it's used for both purposes, loading
7 and unloading.

8 Q. Well won't a dump truck just dump the
9 material to get rid of it?

10 A. The dump truck would dump material to get rid
11 of it. That's correct.

12 Q. Okay. And this was dump truck, was it not?

13 A. That's correct.

14 Q. Okay. So the front end loader wouldn't
15 unload, would it, if there was a dump truck?

16 A. No.

17 Q. Okay --

18 A. It would definitely -- It goes either way.
19 That's why it was hard to determine whether it was
20 loading or unloading. At the time it looked like it
21 was -- like they were starting to take material off the
22 property, but when I got closer, it started -- it was
23 getting wishy-washy as far as where I could make a
24 determination. Not on a physical level, I couldn't

1 determine it, so I had to do the interview to determine
2 that.

3 Q. And what did you determine?

4 A. I determined, after the fact, that once I
5 received the manifests that they were dumping the
6 material there.

7 Q. Who was dumping the material?

8 A. E. King.

9 Q. And were they doing it when you were there?

10 A. No, they weren't.

11 Q. Okay. Now, what were they doing when you
12 were there?

13 A. They were just stalled.

14 Q. Okay. Didn't you stop them from removing
15 material from the site?

16 A. Yes, I did, because --

17 Q. Okay --

18 A. Actually, they wanted to remove the material.

19 Q. And weren't they, in fact, in the process of
20 removing the material by taking the front end loader,
21 picking the material up, dumping it in the E. King
22 truck, and driving away with it?

23 A. No.

24 Q. Well, doesn't it say you told them not to

1 remove the material from the site?

2 A. I told them because we were in the process of
3 impounding the vehicles, which is are -- Our
4 investigation tells us that if they're doing an illegal
5 dumping, then we have to stop all activity and proceed
6 with an impounding.

7 Q. But in this case, your report says you
8 stopped them from removing material from the site,
9 which would indicate this was cleaning, correct?

10 A. No, which would indicate that they were going
11 to run because the manifest wasn't correct on there as
12 far as the address. There was a signature on it, but
13 then there wasn't specific dates on the manifest
14 itself.

15 Q. Does it say at paragraph 3 you told them not
16 to remove material from the site?

17 A. I told them not to move --

18 Q. Yes or not [sic]; does it say that?

19 A. I said not to remove any material and not to
20 move any of the trucks specifically.

21 Q. Okay. And what happened at the end of --
22 What does the narrative say at the end of paragraph 3?
23 Didn't they continue the loading of trucks and driving
24 off with the material in question?

1 A. Paragraph 3, you said?

2 Q. Yes, sir.

3 (Witness viewing document.)

4 BY THE WITNESS:

5 A. That wasn't -- That specific paragraph is
6 when the second truck came in the property. The second
7 truck was coming into the property, and I couldn't
8 determine it because I didn't climb into the back of
9 the vehicle -- or the bed of truck to see if there was
10 waste material in there, but what they were doing then
11 was they were just going to -- Actually, that truck was
12 leaving the property, the second truck.

13 BY MR. LEVINE:

14 Q. And was it full when it was leaving the
15 property?

16 A. I couldn't determine that at the time.

17 Q. Did you look in the truck?

18 A. No, I did not.

19 Q. Are you an investigator? Isn't that what an
20 investigator does, he investigates?

21 A. That's correct, but I was more tied up with
22 the rest of the of investigation which was tying in the
23 individuals that were there on the property already.

24 Q. Okay. So your report does state that

1 Mr. Gonzalez wanted to let his -- it says, let his
2 employees continue the loading of the trucks, correct?

3 A. According to his employees, yes.

4 Q. Okay. Now, do you know those were his
5 employees?

6 A. They told me that was their supervisor. They
7 pointed out to his truck, and he was in it.

8 Q. They were E. King trucks, were they not?

9 A. E. King and also --

10 Q. Didn't they tell you --

11 A. -- the operator of the heavy equipment.

12 Q. Didn't they tell you they worked for E. King
13 when you asked them?

14 A. No, they did not.

15 Q. And didn't you repeatedly try to make them
16 appear to work for Mr. Gonzalez?

17 A. No, I did not. No, I didn't.

18 Q. Okay. Now, with regard to impounding the
19 trucks you talked about, you would impound a truck if
20 it were dumping, would you not?

21 A. That is correct.

22 Q. And you didn't impound E. King's trucks, did
23 you, sir?

24 A. No.

1 Q. Okay. Because they were not dumping,
2 correct?

3 A. I was told not to do so at the time.

4 Q. Who told you that, sir?

5 A. My supervisor, Stanley Kaehler.

6 Q. Okay. Now, there was concern about where
7 this material came from, and I'm talking about the
8 suspect CTA material. Correct?

9 A. Sure.

10 Q. Okay. And it was later learned that there
11 was an agreement that Paschen Construction was
12 taking -- was a contractor on the CTA Brown Line, that
13 E. King was a subcontractor to Paschen, and that
14 E. King was supposed to keep all the loads and
15 roll-offs on the site until CID opened; is that
16 correct, sir?

17 A. It was a verbal agreement that we had --
18 There was no documentation to prove otherwise, so it
19 was hearsay for me.

20 Q. Okay. Well, that's what your investigation
21 demonstrated, correct?

22 A. Demonstrated that what?

23 Q. What I just stated.

24 A. Pretty much.

1 Q. Okay. And that's in your narrative
2 evaluation, correct?

3 A. That is correct.

4 Q. And you signed that narrative, correct?

5 A. That's correct.

6 Q. Okay. So in that case, would it not be --
7 the CTA would not -- would the CTA be the originator of
8 the material?

9 A. That is correct.

10 Q. Okay. And that Paschen Construction would be
11 the contractor responsible for the material?

12 A. That is correct.

13 Q. And that E. King would be the person who
14 caused or allowed the dumping of the material?

15 A. That would be partially, yes.

16 Q. Okay. Do you have any information that that
17 was not the case?

18 A. As far as from the interview process, that
19 was the case at the time.

20 Q. Okay. Has the case at the time changed now?

21 A. Has the case at the time changed? Basically
22 it's still the same thing.

23 Q. Okay. The investigation is complete?

24 A. The investigation is still complete, yes.

- 1 Q. Okay. Was CTA ever ticketed?
- 2 A. No, they weren't.
- 3 Q. Okay. Was the -- It was their material, and
4 they could have been ticketed, correct?
- 5 A. I would have certainly ticketed them, yes.
- 6 Q. And they're a City agency, are they not?
- 7 A. I wouldn't say they're a City agency. I
8 would say they're more of a --
- 9 Q. Municipal agency?
- 10 A. Not even that case because they don't -- How
11 can I say? They're a private contractor, but they do
12 City service work, too.
- 13 Q. I'm sorry. CTA is a private contractor?
- 14 A. I would believe that they are a private
15 entity.
- 16 Q. All right. And Paschen -- Was Paschen ever
17 ticketed?
- 18 A. No, they weren't.
- 19 Q. Was any investigation done by you or anyone
20 that you're aware of regarding Paschen?
- 21 A. No.
- 22 Q. Was E. King ever ticketed?
- 23 A. No.
- 24 Q. Did you know that the people driving the

1 truck operating the front loader and on the yard that
2 day were E. King employees?

3 A. No, I don't.

4 Q. Did you take their pictures?

5 A. No, I didn't.

6 Q. Do we have any identification of them?

7 A. They refused to give me any identification.

8 Q. All right. Did you use your badge and call
9 the police and demand identification from the
10 individuals?

11 A. Usually when we call the police, we do that
12 when we do the impound. Even so, when we call in for
13 an impound, they're not going to get there right away.
14 So then basically it's up to that person's individual
15 respect for an authority figure to give up that
16 information. But yes, I can't force them to give me
17 that information.

18 Q. Okay. But you could have taken -- You were
19 out there taking photographs, were you not?

20 A. Yes, I was.

21 Q. Are there any photographs of an E. King truck
22 in any of your documents?

23 A. I believe not.

24 Q. Okay. Why?

1 A. Like I said, I was busy doing the interview
2 process, so I was doing more writing than taking
3 pictures of anything.

4 Q. Weren't you the investigator supervising the
5 situation?

6 A. I'm not a supervisor, but I was the lead
7 investigator at that time.

8 Q. Okay. And the lead investigator's
9 responsibilities is to obtain information, correct?

10 A. That's correct.

11 Q. Okay. When Paschen -- When a representative
12 of Paschen came to the site, did you ask for his
13 identification?

14 A. When they first got there, we did receive a
15 bunch of business cards from these gentlemen from
16 Paschen, E. King. Mr. Chuck Webber there was from the
17 CTA.

18 Q. Well, I didn't see any business cards in your
19 investigation. Can you point them out where they are
20 in Exhibit A?

21 A. It's not our normal procedure to attach any
22 business cards to the narrative. Actually we're not
23 supposed to, so ...

24 Q. What was the individual's name from Paschen?

1 A. I don't recall at this time.

2 Q. Okay. And if we had his name, we could have
3 interviewed him for this hearing, correct?

4 A. That's correct.

5 Q. And since we don't have it, we couldn't,
6 correct?

7 A. Correct.

8 Q. And that was your decision as senior
9 investigator?

10 A. That wasn't my decision.

11 Q. Well, who was making decisions as senior
12 investigator?

13 A. At that time there, a senior investigator
14 doesn't determine as far as -- I can't -- When I'm at
15 the site, I'm pretty much -- what I'm trying to do is
16 secure the area, make sure that there isn't any
17 existing situation where the environment and/or human
18 contact can come into some kind of danger. So that's
19 the first and foremost part of my job at the property.

20 Like I said, it was a big site. I
21 was there with an investigator who was fresh, and
22 actually he was in training, which was Edward. And
23 basically I was trying to do, to the best of my
24 capability, my job. I mean, it's getting the

1 A. Four at one time when we first got there,
2 which would -- It would be legal counsel. We would
3 have also a liaison to our department, which was Jana
4 Padov, myself, and Edward Collins, Edward Collins. And
5 on the second part of when we came back to the
6 property --

7 Q. I'm just talking about the 22nd.

8 A. Yeah, this is the same day.

9 Q. Okay.

10 A. When we came back later on during that day,
11 there was the four that was first -- originally there;
12 and then we also had John Kryl, Stanley Kaehler, I
13 believe, and also Chris Antonopolous.

14 Q. As the senior environmental inspector, did
15 you delegate the individuals who were there from your
16 office to do specific jobs with regard to the
17 investigation?

18 A. No.

19 Q. Okay. And if you had, would you have
20 obtained photographs of the drivers and the workers
21 there?

22 A. Yes, I would have.

23 Q. Okay. And would you have obtained the
24 information -- the identity of the individual from

1 Paschen who was there?

2 A. Yes, I would have.

3 Q. Now, is there a reason you concentrated on
4 Mr. Gonzalez and his companies as opposed to E. King,
5 Paschen, and the CTA in this investigation?

6 MS. BURKE: Objection, relevance.

7 THE HEARING OFFICER: Mr. Levine.

8 MR. LEVINE: Well, it is relevant
9 because apparently E. King was out there. The
10 investigation report at page 6 indicates that this was
11 CTA waste contracted by Paschen and being unloaded
12 by -- dumped by E. King, and none of these other
13 individuals received any citations. And I'm wondering
14 if the witness has a bias.

15 THE HEARING OFFICER: Objection
16 overruled. The witness may answer if he's able.

17 BY THE WITNESS:

18 A. Personally, I would have given everybody
19 there a citation because State law says if there's --
20 if there's a situation where there is a dumping, it's
21 cradle to the grave, which is by -- It's even the
22 EPA -- federal EPA rule books where everybody should be
23 disciplined at that point.

24 So I would have given the CTA a

1 ticket. I would have given Paschen a ticket. I would
2 have given E. King a ticket. But at that time, I was
3 only told to give -- just to write up the owner of the
4 property, which would be Mr. Gonzalez.

5 BY MR. LEVINE:

6 Q. And you also wrote up Speedy Gonzalez
7 Landscaping which is the respondent in this case,
8 correct?

9 A. I believe so. Yes, we did.

10 Q. Okay. Now, as senior investigator, how would
11 these -- how would E. King and Paschen have been
12 written up at a later point if there was no
13 identification of the individuals at the scene?

14 A. E. King, we've had previous incidents with as
15 far as I've given them citations before in the past.
16 So we could have easily found out that information.

17 We did take notes as far as the
18 driver of the truck, the license plates on the
19 vehicles. We did take that information down. Though
20 it wasn't noted in there; it was noted in our notes.

21 Q. What notes?

22 A. Just our field notes.

23 Q. And you have field notes in addition to the
24 summary?

1 A. I don't have them. Actually I believe it was
2 Edward Collins who took the information down.

3 MR. LEVINE: Did I receive those,
4 Counsel?

5 MS. BURKE: I'm not aware that there
6 were any.

7 BY MR. LEVINE:

8 Q. These were field notes -- These are in
9 addition to what's included in Exhibit A?

10 A. That's correct.

11 Q. Are these in Exhibit A, the field notes?

12 A. No, they're not.

13 Q. Now, one of the reasons E. King and Paschen
14 wasn't charge is because there's no investigator
15 material with regard to those, including no
16 photographs, correct?

17 A. No. I have no idea why they weren't charged.
18 Like I said, I was witness to them being on property,
19 and from the information, they did give me the
20 manifests which would suggest that they were working
21 for Paschen and working for the CTA and according to
22 their verbal agreement, that they were allowed to dump
23 on the property.

24 Q. I'm sorry. The verbal agreement that you

1 determined was E. King was that was supposed to keep
2 the material in roll-offs on the site, correct?

3 A. According to Paschen Construction, that was
4 the case.

5 Q. Okay. And they weren't in roll-offs,
6 correct?

7 A. They were not.

8 Q. Okay. So in fact, E. King, when they came in
9 the trucks and they should have left them in roll-offs
10 and instead dumped them were, in fact, the entity that
11 caused or allowed the dumping of the suspect CTA
12 material?

13 A. So what you're saying is that they were
14 dumping --

15 Q. Yes or no, sir?

16 A. Could you repeat that question?

17 Q. In fact, when the agreement was that E. King
18 was supposed to keep the loads in roll-offs on the
19 property until the CID site opened and they did not --
20 they, in fact, dumped it on the site -- it would be
21 E. King who caused and allowed the dumping on the
22 property of the suspected CTA material, correct?

23 A. Not necessarily only E. King. If there's a
24 supervisor on the property and they're the owner of the

1 property, I mean, they have -- by law, they're supposed
2 to stop that from happening or call the proper
3 authorities as far as letting them know that this these
4 people are illegally dumping the material on their
5 property.

6 Q. So Paschen, as the supervisor of the
7 subcontractor E. King, would also be responsible for
8 causing or allowing the dumping of the suspect CTA
9 material on that property, correct?

10 A. That's correct.

11 Q. Okay. Now, you're familiar with the
12 property, are you not?

13 A. Yes.

14 Q. Okay. You used to work for CID?

15 A. Yes, I am [sic].

16 Q. And CID was right next-door, correct?

17 A. Correct.

18 Q. And next-door to this property are CID
19 landfills, and you would work on top of the landfills
20 working on the methane, correct?

21 A. That's correct.

22 Q. And when you're on top -- How high are those
23 landfills?

24 A. They're pretty high.

1 Q. Hundreds of feet?

2 A. Pretty close to, yeah. I would say --

3 Q. It's like you're in an airplane, isn't it?

4 A. Pretty much, if you're up there.

5 Q. It gives you a good view of the area?

6 A. Pretty good.

7 Q. Okay. So you would have seen this property

8 for years when you worked there, correct?

9 A. Depending, if they're working on that area --

10 Actually, they've been working on that area on that --

11 They were working in that area for a while already

12 doing berm work. They were also doing what we would

13 call --

14 Q. Let me rephrase.

15 You've seen the property for years

16 working on top of the CID landfill and the methane,

17 correct?

18 A. I think I might have seen it a few times,

19 yes.

20 Q. Okay. And the berm has been there for years,

21 correct?

22 A. Which berm are you talking about?

23 Q. Well, you just talked about there was a berm

24 around the 130th Street property.

1 A. That's correct.

2 Q. Okay. And that's been there for years, has
3 it not?

4 A. Probably so.

5 Q. And you've driven past that property for
6 years, correct?

7 A. Probably so, yes.

8 Q. And that berm has been there every time
9 you've driven past it, correct?

10 A. It's always been there.

11 Q. Okay. Now, have you ever ticketed the owner
12 of the property for the berm before?

13 A. I never noticed any activity other than that
14 one day.

15 Q. Now, the berm itself -- Are you contending
16 that the berm itself is waste?

17 A. I would say it was. Yes, it is.

18 Q. Okay. Why is it waste now when it was not
19 waste for the last 6 years when you've seen the berm?

20 A. I think because the way the -- the reason it
21 was waste now was because of the fact that when I got
22 to the property -- Any other given day, it looks more
23 so -- from the outside, it looks just like landscape.
24 I mean just like regular landscape, just like -- I

1 would say more like dirt material, and then you have
2 your vegetation that would grow outright. So I mean,
3 the vegetation itself would grow wild, which is a
4 natural inhabitant of that area. But when we went
5 inside of the property and we started looking on the
6 inside of the property, you can tell there was
7 commingled C and D debris and a little bit of compose
8 material mixed in with the berm.

9 Q. Well, there had been plants going on it,
10 correct?

11 A. Oh, yes, definitely.

12 Q. It's been there for years, right?

13 A. It would indicate that it has been.

14 Q. And what has changed in the years that you've
15 seen it and March 22nd to change your mind about the
16 berm there now being waste?

17 A. Like I said, when I walked up inside and I
18 got a closer look at the material, that's when I
19 realized it.

20 Q. Well, as you drove by every day, couldn't --
21 didn't you realize that's what the material was before?

22 A. No, not driving by there like that, no.

23 Q. Okay. Was it after Mr. Gonzalez bought the
24 property that you determined that the berm became

1 waste?

2 A. No. It was after the incident on 3-22.

3 Q. Do you know when Mr. Gonzalez acquired the
4 property?

5 A. No, I don't.

6 Q. How many days prior to March 22nd were you at
7 the site looking down at the property?

8 A. My last inspection at the CID landfill,
9 probably so.

10 Q. And when was that, sir?

11 A. I don't recall.

12 Q. Didn't you testify previously that it was 2
13 to 3 weeks prior to the March 22nd investigation that
14 you were -- this is page 22 of his deposition -- that
15 you were on the CID property and you looked down --

16 MS. BURKE: You don't have it.

17 Excuse me. He's looking for it,
18 and he doesn't have it. I'm sorry to interrupt.

19 BY MR. LEVINE:

20 Q. Do you remember testifying to that, sir?

21 A. I don't recall if I did or not.

22 Q. Sir, on December 6th, 2006, did you give a
23 deposition in this matter?

24 A. I don't recall if I did or not.

1 Q. Do you remember giving a deposition in my
2 office?

3 A. Yes, I do.

4 Q. Okay. Was it recently?

5 A. Yes, it was.

6 Q. Okay. On that day, were you asked the
7 following question and did you give the following
8 answer: "QUESTION: How long before March 22nd did you
9 notice -- did you have an interest
10 in the property?

11 "ANSWER: Maybe, like, 2 to 3
12 weeks, probably, or so."

13 Were you asked that question and
14 did you give that answer?

15 A. I probably did, yes.

16 Q. Okay. Would that refresh your recollection
17 as to when you were previously at CID looking down at
18 this property?

19 A. Probably so, yes, 2 weeks.

20 Q. Okay. And you saw the trailer marked "Speedy
21 Gonzalez"?

22 A. No, not from the top. I really don't think I
23 could see it from there.

24 Q. Didn't you say you saw the truck?

1 A. Maybe I've seen it driving by.

2 Q. Okay. Sir, on that date, were you asked --
3 did you testify you could see the truck but you can't
4 see any of the lettering on the side of the truck
5 there?

6 A. Probably, yes.

7 Q. Okay. Does that refresh your recollection as
8 your testimony?

9 A. Yes, it does.

10 Q. Okay. Do you tell the truth under oath?

11 A. Yes, I do.

12 Q. Okay. So it's your contention that the berm
13 around the property is waste, correct?

14 A. According to the terminology of the EPA, yes,
15 it is.

16 Q. When did it become waste, sir?

17 A. It's waste as soon as I seen it, right when I
18 seen it close up and I did my investigation.

19 Q. Now, you previously -- You've driven past
20 that site for years, correct?

21 A. Correct.

22 Q. And you've seen it for years -- for 6 years
23 when you worked at CID, correct?

24 A. Probably so, but it never gathered my

1 attention at all.

2 Q. Okay. And it did on March 22nd when you
3 happen to be driving by?

4 A. When I drove into the property, yes.

5 Q. Okay. Is it your contention that the
6 property was not secured?

7 A. I would say that it was secured.

8 Q. Okay. And was there a ticket issued for not
9 securing the property?

10 A. I don't recall if there was or not.

11 Q. Okay. You didn't testify with regard to any
12 grease, did you? Did you see any grease or oil flowing
13 into the sewer?

14 A. I don't recall if I did or not.

15 Q. Okay. What is ACM, sir?

16 A. ACM is asbestos material.

17 Q. Okay. You didn't testify regarding any
18 asbestos, did you?

19 A. No.

20 Q. How about salt unloading operations?

21 A. No.

22 Q. Okay. You didn't see any of that either?

23 A. I didn't see that.

24 Q. Okay. Now, you said that you could tell

1 there was a lot of traffic on the gravel drive,
2 correct?

3 A. Correct.

4 Q. What does that indicate to you, a lot of
5 traffic?

6 A. A lot of traffic indicates that there's been
7 a lot of activity in the property itself with the ruts
8 that were going through back and forth on there. I
9 mean, you could tell there were tire tracks -- Or the
10 tire tracks were from -- either from haulers or from
11 heavy equipment.

12 Q. Now, in the 6 years you've been looking down
13 at the property from on top of CID, there's been a lot
14 of junk on that property, has there not?

15 A. I really don't recall other than that one
16 time.

17 Q. You've seen it for 6 years, and you've never
18 seen waste on that property?

19 A. Actually, when I'm on the property of CID, my
20 whole investigation is on the landfill itself. So I
21 mean, if I were to take a gander and look over there,
22 it would be just for a brief moment. It wouldn't have
23 my direct attention.

24 Q. Well, you're aware that that's an area where

1 a lot of fly dumping goes on, correct?

2 A. Where? On what property?

3 Q. The property under investigation.

4 A. I'm not aware that it's a
5 fly-dumping-activity area.

6 Q. You're not. Now, the activity could
7 demonstrate traffic that could be the cleaning up of
8 the property, correct?

9 A. It could indicate that, yes.

10 Q. And there was clean stone on the property,
11 correct?

12 A. There was stone that was typical for
13 landscaping, yeah. The stone was used pretty much for
14 landscaping. That's what it indicated to me, clean
15 white stone.

16 Q. Well, wasn't the clean white stone being
17 spread?

18 A. On the property?

19 Q. Yes.

20 A. I didn't --

21 Q. You didn't see that?

22 A. No.

23 Q. Well, directing your attention to
24 Photograph 5, Photograph 11, do you see Photograph 5,

1 page 11?

2 A. Yes.

3 Q. Up on the left side there --

4 A. Yeah.

5 Q. -- isn't that stone being spread?

6 A. That's not the stone that was in the pile
7 which I saw as landscape stone, actually.

8 Q. How about Photograph 11?

9 A. That's not landscaping stone. That's not the
10 stone that's used for landscaping. I believe the stone
11 that I was referring to --

12 Q. How about Photograph 7?

13 A. Yeah.

14 Q. Now, that is an example, Photograph 7, of
15 deliberate dumping. It's all clean. It's all -- The
16 piles are next to each other, correct?

17 A. That would indicate -- For me, the material
18 that you see there is used for landscaping.

19 Q. Okay. That wasn't my question, though, sir,
20 was it?

21 A. No.

22 Q. Okay. It indicates that this was deliberate
23 dumping, that it's the same clean material, it's all
24 dumped in one place?

1 A. Yes.

2 Q. Okay. And it's all the same material,
3 correct?

4 A. Correct. That would indicate that even more
5 because of the ruts that you see there. You can see
6 the tire tracks from the trucks back --

7 Q. Is it your contention -- I'm sorry.

8 Is it your contention that the
9 stone piles in paragraph [sic] 7 is waste?

10 A. I wouldn't say it was waste, no.

11 Q. Okay. So you said the lot was secured,
12 correct?

13 A. Correct.

14 Q. And you've also agreed that the trucks in the
15 lot were loading up and not dumping, correct?

16 A. That was my first observation when I got
17 there at first, my assumption.

18 Q. And wasn't that your testimony all throughout
19 the deposition that you gave?

20 A. That was probably my assumption at that time,
21 yes.

22 Q. Is that your conclusion now?

23 A. My conclusion is that they were not loading
24 up. They were dumping there.

1 Q. Okay. Who was dumping?

2 A. E. King.

3 Q. Okay. And if E. King was dumping, how would
4 Speedy Gonzalez Landscaping, Incorporated, the
5 respondent, cause or allow the dumping?

6 A. He was on the property, and he said he was
7 the property owner. So basically if you're there and
8 you're not doing anything to stop the activity by
9 calling an authoritative figure, either DOE or CPD at
10 the time, which would be the Chicago Police Department or
11 the Department of Environment, you're pretty much just
12 letting them do what they want, yes.

13 Q. And what they were doing was loading up the
14 trucks and cleaning the material off the yard, correct?

15 A. That's not what they told me, no.

16 Q. Who --

17 A. That's not what the manifest indicated.

18 Q. Okay. What did the manifest indicate?

19 A. The manifest indicated and also which -- also
20 with their verbal agreement, indicated that they were
21 dumping on the property.

22 Q. Who was dumping?

23 A. E. King.

24 Q. Outside of the agreement, correct?

1 A. Per their verbal agreement.

2 Q. Outside of the agreement, correct?

3 A. Per their verbal agreement, yes.

4 Q. What does "per" mean?

5 A. Like I said, it's all hearsay to me until I
6 see documentation otherwise. The documentation to me
7 was the manifests, which suggested that they were
8 dumping there, and per the operator telling me pretty
9 much that they're not going to move or do anything or
10 load up or do anything until their supervisor tells
11 them to do so.

12 Q. Well, you stopped them from loading, correct?

13 A. I stopped them outright, loading or moving
14 any of the vehicles, period.

15 Q. So you contend now that the material was
16 being dumped by E. King on the day you were there,
17 correct?

18 A. Correct.

19 Q. Okay. Page 34, were you asked the following
20 question and did you give the following answer:

21 "QUESTION: Okay. And you noticed
22 trucks were hauling debris out of
23 that property, correct?

24 "ANSWER: Yes. Once I got to the

1 property, I noticed there was some
2 trailers, maybe two truck
3 trailers, and there was a front
4 end loader and they were loading
5 up the material into these
6 trucks."

7 Did you give that testimony, sir?

8 A. I probably did.

9 Q. Yes or no, sir?

10 A. Yes, I did.

11 THE HEARING OFFICER: Was that the
12 testimony of December 6, 2006?

13 MR. LEVINE: Yes, this all from the same
14 deposition.

15 THE HEARING OFFICER: Thank you.

16 BY MR. LEVINE:

17 Q. Okay. Page 35, "QUESTION: And the big
18 shovel was loading the truck?

19 "ANSWER: It looked like they were
20 about to load, yes."

21 Were you asked that question and
22 did you give that answer?

23 A. Yes, I did.

24 Q. Page 37, "QUESTION: Well, why did you figure

1 they were removing the material,
2 because they had a front end
3 loader and they were putting it in
4 the truck?
5 "ANSWER: No, because I saw the
6 front end loader there.
7 "Okay" -- "QUESTION: Okay. So you
8 assumed they were removing the
9 material from the site, correct?
10 "ANSWER: That's correct."
11 Page 38, "QUESTION: Did you talk
12 to anyone later of whether or not
13 they saw any dumping?
14 "ANSWER: No.
15 "QUESTION: And, in fact, the
16 people at the site sought to
17 continue loading the truck as you
18 were there, correct?
19 "ANSWER: Actually, when I was --
20 as my interview started going
21 through a little further, I
22 started to find out that they were
23 going to load the trucks up with
24 that material."

1 Sir, were you asked those following
2 questions and did -- those questions and did you give
3 those answers?

4 A. Yes, and I think I was referring to the
5 material as far as the other C and D debris that they
6 have there.

7 Q. Okay. Page 41 --

8 THE HEARING OFFICER: Mr. Levine, can
9 you slow it down when you're reading the dep? Poor
10 Martina is smoking over here.

11 BY MR. LEVINE:

12 Q. Did you testify that the material was to be
13 taken to the CID landfill?

14 A. The material there, yes. It was supposed to
15 be sent there, but it was there illegally to begin
16 with.

17 Q. I'm not asking you that. I'm asking if you
18 testified that the material was going to the CID
19 landfill.

20 A. What the manifest stated --

21 Q. Yes or no, sir?

22 A. I'm answering your question. What the
23 manifest stated -- And this is how I derived my answer.
24 The manifest stated that the material was supposed to

1 end up at the CID landfill.

2 Q. Okay. And did you also testify that you saw
3 the front end loader being operated with the beds down?

4 A. Correct.

5 Q. And what would the beds indicate to you, sir?

6 A. It indicates, really, nothing, that there's
7 no activity. I mean, at the time they weren't moving,
8 so it was -- Like I said, I was assuming that they were
9 going to load up; but then again, after I finished my
10 investigation, it was made clear that they were dumping
11 there.

12 Q. When?

13 A. After the interview with Paschen, E. King --

14 Q. When were they dumping there?

15 A. Prior to us getting there.

16 Q. When?

17 A. Prior to the 22nd, on the date of this, or --

18 Q. Okay. And was Mr. Gonzalez there at the time
19 they were dumping?

20 A. I have no idea if he was there or not.

21 Q. Well, if he wasn't there, how could he have
22 caused or allowed the dumping, sir?

23 A. He was there on the 22nd which is when they
24 were showing me the manifests that they had dumped the

1 material there.

2 Q. He was there on the 22nd, and they were
3 loading up the material and cleaning it up, correct?

4 A. That's not what they were telling me, no.
5 That's not what the manifest indicated, no.

6 Q. What did the manifest indicate, sir?

7 A. The manifest indicated that there was
8 material that was there -- through the interview, too,
9 also with the operator and the driver --

10 Q. I didn't see that in your report. Is that
11 somewhere in your narrative?

12 A. I believe in paragraph No. 4, after gathering
13 information and meeting with Chuck Webber, CTA, and
14 Paschen Construction, it was found that the CTA,
15 Paschen, E. King, and Mr. Gonzalez were under an
16 agreement to store fuel-contaminated soil from the CTA
17 Brown Line project at 1601 East 130th Street until the
18 CID landfill resumed business on Monday. Further, all
19 information also was given that the material was
20 questionable on a generation point, the Brown Line, and
21 that there would be an ongoing investigation on behalf
22 of the CTA.

23 Q. But doesn't your report also state that
24 E. King was to keep the load in roll-offs on-site until

1 CID opened?

2 A. According to their agreement, their verbal
3 agreement.

4 Q. Okay. And do you know that to be not the
5 case?

6 A. It was not the case, but then Paschen
7 Construction was rebutting that that was their material
8 also.

9 Q. Well, if the plan was -- and everyone agreed
10 to the plan -- that it would be kept in roll-offs and
11 then it wasn't kept in roll-offs, my question to you
12 is: How did Speedy Gonzalez Landscaping, respondent
13 herein, cause or allow the breach of that agreement?

14 A. It was his property.

15 Q. Other than that?

16 A. He was there observing it, and as of the
17 people -- when they pointed right at him and said,
18 "That's my supervisor. That's my boss" --

19 Q. Did they say that?

20 A. They said --

21 Q. Is that in your report, sir?

22 A. I believe it is, third --

23 Q. Because that was the first time I heard that.

24 A. -- third paragraph. It says the driver and

1 heavy equipment operator then stated he would continue
2 his work until the gentleman in the white pickup truck
3 told him not to do so.

4 Q. Does that say who they were working for?

5 A. That would indicate it to me.

6 Q. And the work they were doing was loading the
7 trucks, correct, on the 22nd?

8 A. I assumed that at first, yes.

9 Q. Okay. And you now know they weren't loading
10 the trucks?

11 A. They were dumping it according to the
12 manifests and to their agreement --

13 Q. Let me ask you something.

14 A. Sure.

15 Q. You're contending that the E. King trucks
16 were dumping?

17 A. Yes.

18 Q. Okay. Did you see them dumping?

19 A. No, I didn't.

20 Q. Did anyone see them dumping?

21 A. Not to my knowledge, no.

22 Q. Okay. What did the manifests say? Did the
23 manifests say they dumped them?

24 A. The manifests indicate -- When they gave me

1 the -- When I asked the individual for any load tickets
2 for the material, any manifests for the material, that
3 pretty much -- it's an indicator for me that the
4 material is arriving to that property.

5 Q. Why don't you show me a copy of the manifest
6 and see what we're talking about.

7 A. I don't think we have a copy in here at all.

8 MS. BURKE: I did not put a copy in
9 there, but we produced a copy to you.

10 BY MR. LEVINE:

11 Q. The manifests were blank, were they not?

12 A. Pretty much so, with the exception of a
13 signature and AN address, the original address, where
14 the material -- the generation point and then also the
15 last point which would be CID landfill.

16 Q. Let me ask you something. Is Exhibit A
17 complete with regard to your investigation?

18 A. I would say it is.

19 Q. Are the manifests part of your investigation?

20 A. I would believe so.

21 Q. Are the manifests in Exhibit A?

22 A. Not to my knowledge.

23 Q. So it's your contention -- your testimony
24 that Exhibit A does not include the complete

1 investigation file, correct?

2 A. I would say that it isn't.

3 Q. What else is left out of your investigation
4 file that is not in Exhibit A, sir?

5 A. I believe that's it, to the best of my
6 knowledge.

7 Q. How about your field notes? Are your field
8 notes in there?

9 A. Typically they're never in there.

10 Q. And why is that, sir?

11 A. Basically it's a bunch of scribble, and the
12 information would only be determined by the
13 investigator or inspector himself. And he would have
14 to sort out the material and then --

15 Q. Were you instructed by -- I'm sorry. Were
16 you done?

17 A. Yes.

18 Q. Were you instructed by Counsel to provide all
19 materials to them regarding the investigation of the
20 property?

21 A. To the best --

22 MS. BURKE: Objection to the extent that
23 it's calling for my conversations with my client.

24 THE HEARING OFFICER: Mr. Levine.

1 BY MR. LEVINE:

2 Q. Without stating conversations with your
3 client [sic], is it your practice to hold back
4 materials from Counsel with regard to matters in your
5 investigation?

6 THE HEARING OFFICER: Overruled. He may
7 answer.

8 BY THE WITNESS:

9 A. Not to the best -- I mean, to the best of my
10 capability, whatever I can give her, that's what I can
11 give her.

12 BY MR. LEVINE:

13 Q. Were the field notes available, to the best
14 of your capability?

15 A. The field notes would be in my book, which --
16 I mean, like I said, they would be -- Depending on --
17 In this matter itself, it was written with another
18 inspector.

19 Q. Did you have them, or didn't you?

20 A. I had them with me, yes.

21 Q. Okay. Did you provide them to your attorney?

22 A. I didn't provide all of it, no.

23 Q. Okay. And you held that stuff back. Did you
24 hold back anything else?

1 A. That would be it.

2 MR. LEVINE: I move to strike Exhibit A
3 from the record.

4 THE HEARING OFFICER: Ms. Burke.

5 MR. LEVINE: It's not complete.

6 MS. BURKE: On what basis?

7 MR. LEVINE: Completeness.

8 MS. BURKE: Exhibit A is the report
9 that's kept in the ordinary course of business which
10 was attached to the administrative citation, and that's
11 what we consider to be our report. The fact that there
12 are other materials that you think should have been
13 included in the report is irrelevant.

14 THE HEARING OFFICER: Any response,
15 Mr. Levine?

16 MR. LEVINE: No, sir.

17 THE HEARING OFFICER: I'll overrule it.
18 Exhibit A will be admitted.

19 BY MR. LEVINE:

20 Q. You've got a background with Mr. Gonzalez?

21 A. A background, as a personal background?

22 Q. Yeah.

23 A. Yeah.

24 Q. Do you have an opinion about him?

1 A. He's a hard-working guy, always has been.
2 That's how we termed him -- Actually we gave him the
3 nickname Speedy.

4 Q. You knew him since you were a young kid,
5 correct?

6 A. Correct.

7 Q. Okay. And is it your contention that he does
8 not operate his business in a professional manner?

9 A. There has been a few times where we've run
10 into it through working in the field, that he has run
11 into a few problems with the City of Chicago, yes.

12 Q. Is it your opinion that he can't be trusted?

13 A. That he can't be trusted?

14 Q. Is that your opinion?

15 A. I wouldn't say that. I don't know him that
16 personally anymore, so ...

17 Q. Did you tell Chris that, that he couldn't be
18 trusted?

19 A. Did I tell Chris that? I don't recall if I
20 did or not.

21 Q. Okay. Would that be something you'd say
22 about him?

23 A. No.

24 Q. Okay. And if Chris were testify that you

1 told him he couldn't be trusted, would Chris be telling
2 the truth?

3 A. I would not know if he would have. Like I
4 said, I don't recall me saying that to him, but no.

5 Q. Okay. Is it your contention that Jose is
6 always hustling, trying to make a quick buck?

7 A. He's a hustler, yes.

8 Q. Okay. And did you tell that to John Kryl?

9 A. I don't know if I did or not, but I probably
10 did.

11 Q. Did you tell the drivers that they couldn't
12 be working for the City?

13 A. Did I tell the drivers that?

14 Q. Of the trucks, that they couldn't be working
15 for the City.

16 A. That's correct.

17 Q. In fact, they had CTA manifests, correct?

18 A. They had CTA manifests, yes.

19 Q. Okay. And what did CTA manifests demonstrate
20 to you with regard who caused and allowed the dumping
21 on March 22nd?

22 A. The CTA manifests, to me, would indicate that
23 everybody from the generator point to the end -- to the
24 grave point would be involved, which would be CTA,

1 Paschen, which is the subcontractor, E. King, which is
2 the hauler, and then the property owner of -- would
3 also be held liable for any wrongdoings on the
4 property --

5 Q. But there was no --

6 A. -- according to the manifests.

7 Q. But there was no further investigation done
8 with regard to Paschen --

9 A. No, there --

10 Q. -- with regard to the CTA --

11 A. No, there wasn't.

12 Q. -- with regard to E. King?

13 A. No, there wasn't.

14 Q. And you were the senior environmental
15 inspector on the job, were you not?

16 A. I was the inspector for this job.

17 Q. And that would have come under your purview,
18 correct?

19 A. That is incorrect.

20 Q. Okay. Why would it not have come under your
21 purview?

22 A. I was pulled off of the case probably right
23 after I did the narrative. That's it. I was --

24 Q. Why?

- 1 A. I have no idea.
- 2 Q. Who pulled you off the case?
- 3 A. Stanley Kaehler, my supervisor.
- 4 Q. Okay. Did he tell you not to ticket E. King?
- 5 A. He didn't tell me that. He just said ticket
- 6 only Speedy Gonzalez. That's it.
- 7 Q. Okay. Was that based on your recommendation?
- 8 A. No.
- 9 Q. Okay.
- 10 A. Like I said, for me, it's cradle to the
- 11 grave. I would have ticketed everybody there.
- 12 Q. And you would have done further
- 13 investigation?
- 14 A. I sure would have.
- 15 Q. And who would you have investigated?
- 16 A. I would have investigated the CTA. I would
- 17 have investigated Paschen --
- 18 Q. As the originator of the material, the CTA is
- 19 ultimately responsible for the waste, correct?
- 20 A. Like I said, everybody from the cradle to the
- 21 grave is responsible to some degree.
- 22 Q. And all deserved tickets, correct?
- 23 A. I would assume, yes, they would have.
- 24 Q. Okay. How much cubic waste did you see

1 burning?

2 A. Jeez, I don't remember. I don't recall
3 exactly how much, but it was in -- I would say maybe
4 20 cubic yards, if anything, maybe, 20 to -- maybe less
5 than that, 15.

6 Q. How big is -- 20 cubic yards wouldn't be as
7 big as the room?

8 A. It was probably a lot less than that.
9 20 cubic yards is way bigger -- I mean, it's a lot less
10 than this.

11 Q. Well, you testified there were 15 to 20 cubic
12 yards burning, correct?

13 A. Correct.

14 Q. But it wasn't 15 to 20 cubic yards?

15 A. It was probably about closer to 15.

16 Q. 15 cubic yards is how many cubic feet?

17 Wouldn't that be 90 cubic feet?

18 A. It would probably be from --

19 Q. 45 cubic feet --

20 A. -- where you're sitting at to the end of the
21 wall, probably or so.

22 Q. 45 --

23 THE COURT REPORTER: You guys are
24 talking over each other.

1 MR. LEVINE: I'm sorry. I'm sorry. I'm
2 getting excited.

3 THE COURT REPORTER: Go ahead.

4 BY MR. LEVINE:

5 Q. Go ahead.

6 A. 15 cubic feet would be about, at most, where
7 you're sitting at to the end of the wall there.

8 Q. I'm sorry. Didn't you say 15 cubic yards?

9 A. Cubic yards. I'm sorry.

10 Q. Okay. And that would be 45 cubic feet?

11 A. No.

12 Q. How many cubic feet is 15 cubic yards?

13 A. I wouldn't know.

14 Q. Okay. 15 cubic yards, that would be 15 yards
15 deep, 15 yards tall, and 15 yards width, correct?

16 A. Correct.

17 Q. It would be bigger than a container, would it
18 not?

19 A. Not necessarily so, no.

20 Q. Okay. Would it be bigger than you?

21 A. Would it be bigger than me?

22 Q. Yes.

23 A. No.

24 Q. 15 cubic yards would not be bigger than you?

1 A. Well, it depends --

2 Q. How many cubic yards are you, sir?

3 A. I couldn't tell you that.

4 Q. Do you think you're more than 2 cubic yards?

5 A. Do I think I'm more than 2 cubic yards? Oh,

6 yeah, definitely.

7 Q. You are?

8 A. I would say so.

9 Q. You don't know what cubic yards means, do

10 you, sir?

11 A. Cubic yards, yes.

12 Q. Okay. What does it mean?

13 A. Cubic yards -- Let's see. I'm trying to get

14 the specific terminology for this. I can't recall the

15 correct -- I'm sorry -- terminology for it right now.

16 Q. Okay. Is a cubic yard -- 1 cubic yard is a

17 yard high, width, and length --

18 A. Correct.

19 Q. -- in material?

20 A. Correct.

21 Q. And 15 cubic yards would be 15 yards height

22 15 yards width, and 15 yards length?

23 A. Correct.

24 Q. Okay. And you're saying that by the time you

1 pulled up, the -- that amount of waste was being died
2 out?

3 A. Where was this at?

4 Q. Well, didn't you testify that they were
5 putting dirt on it? There was a little pile to burn,
6 and they were putting dirt on it, dying it out; didn't
7 you testify to that today?

8 A. It doesn't say so in my narrative.

9 Q. You don't remember, do you?

10 A. I don't recall if I did or not.

11 Q. In fact, by the time you pulled up to where
12 the flame was, it was covered with dirt, was it not?

13 A. No. Actually, they were dying it out while I
14 was there.

15 Q. Okay. Who was dying it out?

16 A. An individual.

17 Q. He was dying it out, 15 cubic yards of
18 burning material?

19 A. Photograph 18.

20 Q. Okay. Was it cold that day, sir? Would
21 somebody have been burning some branches to keep his
22 hands warm while he was working?

23 A. I wouldn't say it was that cold, no.

24 Q. Do you know how cold it was?

1 A. I believe it was, like, maybe 40 degrees or
2 something of the such.

3 Q. You don't really remember how cold it was
4 that day, do you, sir?

5 A. I really don't recall it.

6 Q. Okay. Would anything refresh your
7 recollection as to how cold it was that day?

8 A. Probably in my --

9 Q. Why don't you look at page 2.

10 A. -- report.

11 35 degrees.

12 Q. Okay. That's just above freezing, is it not?

13 A. Just above it.

14 Q. It would have been chilly?

15 A. If you're open burning -- You can't open burn
16 in the City of Chicago, so -- period.

17 Q. I understand that, sir. Did Speedy Gonzalez
18 Landscaping, incorporated, cause or allow the open
19 burning sir?

20 A. He -- I believe he was an employee of Speedy
21 Gonzalez.

22 Q. You don't know, though, do you?

23 A. I couldn't tell you that, no.

24 Q. You don't have his picture, do you?

1 A. No, I don't.

2 Q. Did you do any further investigation to
3 determine whether or not he was an employee of Speedy
4 Gonzalez?

5 A. I asked for identification. He walked away
6 from me.

7 Q. And did you take his picture?

8 A. No, I didn't.

9 Q. Did you direct anyone else to take his
10 picture?

11 A. No, I did not.

12 Q. That would have helped, wouldn't it?

13 A. It sure would have.

14 Q. Okay. Who was driving E. King's trucks that
15 day?

16 A. The driver of E. King.

17 Q. So it was an E. King employee, correct?

18 A. I believe so.

19 Q. Do you think Speedy Gonzalez Landscaping
20 would be allowed to drive an E. King truck?

21 A. I have no knowledge of that.

22 Q. How about the loader? Did you know the
23 loader was rented by Paschen for that period?

24 A. I had no idea of that either.

1 Q. Okay. Did you know E. King was operating the
2 loader as well?

3 A. I have no idea if they were or not.

4 Q. You didn't take any pictures of that person
5 either, did you?

6 A. No.

7 Q. You didn't have anyone else take those
8 pictures?

9 A. No.

10 Q. So we don't know who that was, correct?

11 A. Basically just -- Based on my interview with
12 them --

13 Q. And your interview didn't result in anything,
14 correct?

15 A. My interview resulted in them pointing out
16 that the gentleman in the white truck was the owner of
17 the property and also that he was the supervisor of the
18 property --

19 Q. They told you to talk to him, didn't they?
20 They just pointed to him and said, "Talk to him"?

21 A. No. They said, "That's my boss man.
22 Whatever he says and does, that's what I do."

23 Q. Really? Is that what -- the statement that
24 they told you?

1 A. That's not the direct statement that I put --

2 Q. Okay --

3 A. -- on my narrative, but --

4 Q. -- what was the direct statement?

5 A. The direct statement was, "That individual

6 there," while they were pointing at him, "is my boss.

7 Whatever he says is what I'm going to do."

8 Q. And that's in your narrative?

9 A. No.

10 Q. Okay. You didn't put that in your narrative

11 because you didn't think it was important?

12 A. I didn't put in there because I didn't think

13 it would fit the terminology that I had going on with

14 the narrative itself.

15 Q. What?

16 A. It didn't sound professional.

17 Q. Well, did you make any reference to that in

18 your narrative?

19 A. Yes, I did, the second paragraph. The

20 operator of the loader then stated he had a manifest

21 from IEPA -- I'm sorry. It's not that one. It would

22 be the third paragraph. The driver and heavy equipment

23 operator then stated he would continue his work until

24 the gentleman in the white pickup truck told him not to

1 do so.

2 Q. Okay. Any other evidence that you have in
3 your report that these individuals were employees of
4 the respondent, Speedy Gonzalez Landscaping,
5 Incorporated?

6 A. Other than Mr. Gonzalez indicating that it
7 was his property and that we had no right to be on his
8 property.

9 Q. I'm talking about the employees themselves,
10 who they worked for. Any references to the term "boss
11 man"?

12 A. No.

13 Q. Okay. The only basis that you have that
14 Mr. Gonzalez caused or allowed it was that he was
15 there, correct?

16 A. That he was there and that he questioned our
17 authority when we were there.

18 Q. Were you asked the following questions and
19 did you give the following answer: "QUESTION: Okay.

20 And it's your contention that
21 because Mr. Gonzalez was present
22 that he caused or allowed all the
23 conditions that you observed?

24 "ANSWER: Correct."

1 Mr. Gonzalez, correct?

2 A. I understand that now.

3 Q. As was Oui Oui porta-potties?

4 A. Mm-hmm.

5 Q. Okay. Yes?

6 A. I would understand that now, yes.

7 Q. Okay. You didn't understand that on the
8 22nd?

9 A. I assumed that him being there and him owning
10 both of those companies that he was held responsible
11 for those materials that were on that property, yes.

12 Q. Now, if you could direct your attention to
13 the wires that we talked about.

14 A. Sure.

15 Q. That's Photo 8. You testified you saw
16 evidence of burning on those wires, correct?

17 A. That's correct.

18 Q. Did you testify contrary to that on the date
19 of your deposition, which was December 6th, 2006?

20 A. I may have. The only way that I could
21 indicate that there was open burning was through the
22 photograph itself.

23 Q. And do you remember me asking you if you saw
24 any burn marks on the wire and you said, "No, I did not

1 see any burn marks on the wire"?

2 A. I don't believe [sic] if I did say that or
3 not. I don't remember if I did.

4 Q. Were you asked the following -- This is
5 page 105. Were you asked the following question and
6 did you give the following answer: "QUESTION: And did
7 you see any burn marks on the wire
8 itself?

9 "ANSWER: Not on the wire itself."

10 Do you remember --

11 A. Yes, I did.

12 Q. -- giving that testimony and that response?

13 A. I probably did say that, yes.

14 Q. Okay. Now -- But today, interestingly,
15 you're testifying that there were burn marks on the
16 wire.

17 Did you remember them from the time
18 you gave your deposition to now?

19 A. I probably did not.

20 Q. Okay. So is it mistake, what you testified
21 today, that there were burn marks on the wire?

22 A. It's not a mistake because the photo suggests
23 otherwise, that there was burn marks on there.

24 Q. Well, wouldn't the wires at the bottom where

1 they're frayed be black if there were burn marks on
2 them?

3 A. If you look above -- right above where the
4 exposed color --

5 Q. I see red and yellow wires by a rock.

6 A. Do you see black there in the middle? That
7 was all tarred from burning.

8 Q. Wasn't that insulation from the inside of the
9 wire?

10 A. No.

11 Q. Okay.

12 A. And if you look closer in the box area there,
13 you see some burn mark indicated too --

14 Q. Okay. And out of this whole lot, this is
15 your evidence of scrapping?

16 A. That was the only evidence -- Actually, the
17 photo that was taken here was taken by Mr. Chris
18 Antonopolous and Mr. John Kryl.

19 Q. Right. But you're the investigator who's
20 testifying today, and I'm asking that you, that one
21 wire was all the evidence that you saw that day of
22 scrapping?

23 A. Actually, no.

24 Q. Okay. What other evidence did you see of

1 scrapping?

2 A. If you look at Photo 14, there's a bunch of
3 junk debris there. Actually, there's some City of
4 Chicago property [sic] signs.

5 Q. And that's scrapping, sir?

6 A. That would be following -- That would be
7 scrapping.

8 Q. Okay. And is that taking material out for
9 value?

10 A. It could be.

11 Q. Those are old, rusted signs, sir, are they
12 not?

13 A. Those are old City of Chicago property signs,
14 yes. And also, if you look on page 16, Photo 16,
15 there's also some scavenged material there. There's
16 plastic there. There's tires. There's wood debris.

17 Q. What's the difference between scavenged and
18 fly-dumped material, sir?

19 A. Scavenged material holds some type of value.

20 Q. And in Photograph 16, what is the value of
21 the material in 16? Would the wire have value?

22 A. Yes, it does.

23 Q. And the rusted wheel?

24 A. Yes, it does.

1 Q. And was that being segregated out for
2 scrapping purposes?

3 A. I couldn't tell you. It was held there for a
4 reason.

5 Q. It was held there?

6 A. It was on the property for a reason.

7 Q. Do you know how it got to the property?

8 A. I have no idea.

9 Q. Do you know whether the respondent in this
10 case caused or allowed it to be put on the property?

11 A. It's on his property. I would assume it's
12 his, yes.

13 Q. Do you know when he acquired the property?

14 A. No, I don't.

15 Q. Do you know what the property looked like
16 when he acquired it?

17 A. No, I don't.

18 Q. Do you know whether or not the property had
19 been fly dumped?

20 A. There as no police reports or anything to
21 indicate such, that it did happen.

22 Q. Okay. Let's go back. We talked about fly
23 dumping quite a bit at your deposition, did we not?

24 A. I believe we did.

1 Q. Okay. I pretty much didn't shut up about it,
2 did I?

3 A. I don't recall if you did or not.

4 Q. Okay. We discussed your background and your
5 knowledge of fly dumping, correct?

6 A. Correct.

7 Q. Okay. And I asked you if this is -- I showed
8 you some photographs. I think I started with No. 1,
9 and I asked you if that's what fly dumping looked like.
10 And you agreed that that's what it looked like, which
11 is Photograph No. 1.

12 A. Correct.

13 Q. Okay. And for the judge here -- I know all
14 about it now, but for the Court, could you describe
15 briefly the difference between what fly dumping looks
16 like as opposed to Photograph 7 which you agreed is not
17 fly dumping?

18 A. Fly dumping usually is a bunch of garbage.
19 It could be, really, anything. It could be barrels.
20 It could be brick. It could be stone.

21 The only reason why I indicated
22 that this might have been fly-dumped material and why
23 Picture No. 7 wouldn't be fly-dumped material is
24 because the stone there is used for beautification

1 processes. And I assumed that only for the reason
2 being that there was compose material there. There was
3 railroad ties there. There was stone that was -- I
4 mean, the stone here --

5 Q. I'm just asking about fly dumping, what fly
6 dumping is.

7 A. Well, I'm giving you the reason why I would
8 say that this would be fly dumping and --

9 Q. What would be fly dumping?

10 A. Photograph No. 1. And then Photograph
11 No. 7 --

12 Q. Comparatively is not fly dumping, correct?

13 A. I would say it wasn't.

14 Q. Okay. And you agreed with me that fly
15 dumping is usually different types of materials in
16 small loads, correct?

17 A. Not necessarily, all the time, small loads,
18 but yes.

19 Q. Were you asked the following question,
20 page 94, and did you give the following answer on
21 December 6, 2006: "QUESTION: And it's usually made up
22 of different types of material in
23 small loads, correct?
24 "ANSWER: Right."

1 Do you remember that, sir?

2 A. Yes.

3 Q. Okay. So you would agree with me that fly
4 dumping is usually made up of different types of
5 material in small loads, correct?

6 A. Usually.

7 Q. Okay. And the photographs, 1 through 6,
8 involve different types of material dumped in small
9 loads, correct?

10 A. I would assume so.

11 Q. Yes? Is that a yes, sir?

12 A. Yes.

13 Q. Okay. Now, you tried to indicate that this
14 type of material was used for landscaping; is that
15 correct?

16 A. It can be used, yes.

17 Q. Okay. Directing your attention to Photo 6,
18 Photo 5, Photo 4, do people want old broken bricks for
19 their landscaping or do they usually want new,
20 attractive bricks for their landscaping work?

21 A. Some of the integrity of the stone there or
22 the bricks that you see there may have been cracked, I
23 would assume, but the majority of it was intact. So I
24 mean --

1 Q. Did you hear my question, sir?

2 A. What was your question again?

3 Q. My question was: Do people -- when they want
4 landscaping done to the their property, do they want
5 old, broken construction bricks or new, attractive
6 bricks for their landscaping?

7 A. It's based on the person's individual taste.
8 I have no idea what they would want.

9 Q. Have you ever seen anyone using old, broken
10 construction bricks in landscaping, sir?

11 A. Oh, yes, I have. It's called recycling.
12 Actually, the City of Chicago does it too.

13 Q. Now, Photograph 6, it's your contention that
14 this is landscaping material?

15 A. I would say so.

16 Q. Okay. Which parts of the material would be
17 used in landscaping, sir? Would it be the bricks, the
18 red felt, the blue tarp, or the railroad ties?

19 A. Railroad ties are normally used sometimes in
20 landscaping, so are the brick.

21 Q. And if they were used in landscaping, where
22 would they be?

23 A. People's lawns.

24 Q. And these aren't on people's lawns, are they?

1 A. No, they're not.

2 Q. So we can assume these weren't used in
3 landscaping, correct?

4 A. I would say it was more of a storage area for
5 the material, what it looks like to me.

6 Q. Does that look how material is stored, or
7 does look how material is fly dumped, sir?

8 A. It looks both, actually.

9 Q. Okay. With regard to Photograph 4, didn't
10 you agree on December 6th that that's not landscaping
11 waste; it's bricks?

12 A. That's correct. That is brick.

13 Q. Okay. But now you're contending it's
14 landscaping waste?

15 A. Not waste. I would say it would be
16 landscaping material, but under State -- I would say,
17 State abbreviations, it would be considered waste
18 materials because it's sitting on the property without
19 a permit from the Department of Environment suggesting
20 that this is -- or can be landscaping materials as far
21 as utilities that the company would use for their job.

22 Q. Now, with regard to Photograph 6, in fact,
23 there's plants growing up behind the bricks, correct?

24 A. Correct.

1 Q. So it indicates that the material is dumped
2 on top of growing plants, correct?

3 A. No. Actually the vegetation that you see
4 right behind it is landscape waste material, shrubs,
5 trees. That's usually stripped out from old sites or
6 what have you.

7 Q. Didn't you say that the branches -- or plants
8 growing behind it commingled on December 6th?

9 A. Yeah, they're commingled, yes.

10 Q. And they're growing?

11 A. Right behind the branches, actually, is where
12 you see the compose -- some of the compose. So that's
13 commingled with it too. Actually where you see some of
14 the vegetation growing, it was commingled with that.

15 Q. Do you know whether or not that material was
16 fly dumped on Mr. Gonzalez's property?

17 A. I have no knowledge of that.

18 Q. Okay. Now, I also discussed railroad ties,
19 correct?

20 A. Correct.

21 Q. And the railroad ties are listed in
22 Photographs 11 and 12?

23 A. Okay.

24 Q. Do you have any idea whether or not that is

1 property owned by Mr. Gonzalez?

2 A. I have no idea.

3 Q. It's by the railroad tracks, is it not?

4 A. In Picture No. 12, I believe it is.

5 Q. You can see it's the same thing, is it not?

6 A. 11 and 12, no.

7 Q. Picture 12, isn't it common for railroads to
8 own land on the side of their tracks?

9 A. I'm not a real estate agent, but I would
10 believe so.

11 Q. Well, you know that as a senior investigator,
12 correct --

13 A. No --

14 Q. -- an environmental investigator?

15

16 A. It is common -- See where they have the slag
17 material there?

18 Q. On what picture, sir?

19 A. I believe, in Picture No. 12.

20 That would be railroad property,
21 but as far as how far intact their property goes, I
22 really don't know.

23 Q. So you don't even know if that's
24 Mr. Gonzalez's property?

1 A. I haven't looked at the title search
2 recently, so I couldn't tell you --

3 Q. Have you ever looked at it?

4 A. Did I look at the title search? I didn't do
5 the title search, actually, so -- Stanley Kaehler did,
6 my supervisor at the time.

7 Q. You don't know as the senior environmental
8 inspector whether or not that is even Mr. Gonzalez's
9 property let alone has any relationship to Speedy
10 Gonzalez Landscaping, correct?

11 A. For Picture No. 12, yes. Picture No. 11,
12 that's part of their property.

13 Q. How do you know that?

14 Oh, that's on a different area,
15 correct?

16 A. That's correct.

17 Q. Okay. Who told you that the material came
18 from the CTA Brown Line?

19 A. I believe it was Paschen and Chuck Webber.

20 Q. And Mr. Webber was a CTA employee, was he
21 not?

22 A. Yes, he was.

23 Q. Okay. Did you trust his assertion that the
24 material came from the Brown Line?

1 A. Personally, no, I didn't.

2 Q. You didn't? Why not, sir?

3 A. Because of the way the whole situation was
4 handled with the manifests.

5 Q. He's a fellow municipal employee like
6 yourself, correct?

7 A. Not my fellow municipal employee.

8 Q. Well, did you have any prior indication that
9 Mr. Webber was not telling you the truth or his
10 veracity, for instance?

11 A. Basically I was telling him he made a big
12 mistake here by signing off on manifests without a date
13 on there and then just handing over a blank -- you
14 know, just a stack of manifests to individuals where
15 there's no correct method of checking on where the
16 material is ending up at.

17 Q. Give me all the reasons that you think
18 Mr. Webber was not telling the truth when he told you
19 the material was not CTA material from the Brown Line.

20 A. The only thing I would say, that I wouldn't
21 have trusted his judgment only based on the fact that
22 he gave a bunch of manifests out to individuals where a
23 situation occurred like this. That's the only reason
24 why I didn't trust him.

1 Q. You didn't trust his judgment. Did you trust
2 his veracity, his ability to tell the truth?

3 A. Did I trust -- No, I couldn't judge it
4 anymore because he stopped talking to me after that,
5 after John Kryl and Stanley Kaehler arrived.

6 Q. Okay. Have you told me all the reasons that
7 you think Mr. Webber was lying to you when he told you
8 that the material came from the CTA Brown Line?

9 A. I wouldn't say he was lying. I would say
10 that he was in a state of confusion, if anything, on
11 what exactly was going on and how this came about. But
12 like I said, I couldn't -- I can't derive to an answer
13 as far as if he was lying to me or not based on what he
14 had told me.

15 Q. Well, he would be in a better position to
16 know what was happening at the CTA than you, correct?

17 A. That's correct.

18 Q. And he would be in a better position to
19 understand that Paschen was contracting with the CTA to
20 do work on the Brown Line, correct?

21 A. That's correct.

22 Q. And he would also be in a position to know
23 that E. King was subcontracting for Paschen with regard
24 to the Brown Line work, correct?

1 A. That's correct.

2 Q. And, in fact, some of the materials by the
3 suspect -- over in the yard there were railroad ties,
4 were they not?

5 A. Correct.

6 Q. And you still do not believe that the
7 material was CTA Brown Line material?

8 A. Which material in regards -- are you talking
9 about?

10 Q. Well, the suspected CTA material.

11 I mean, Mr. Webber told you it was
12 CTA material, right?

13 A. Mr. Webber told us that the material that was
14 coming into that property was supposed to be CTA
15 material. Paschen then started rebutting it by saying
16 that the material there didn't look to be coming from
17 the CTA project itself.

18 Q. Now, Paschen would tell you that because
19 they're seeking to avoid getting ticketed, correct?

20 A. I have no knowledge if they did or not. Like
21 I said, it's strictly hearsay --

22 Q. What is hearsay, sir?

23 A. Hearsay is, I would believe, people saying a
24 bunch of things and without any legal documentation. I

1 mean, they really can't take any legal recourse on that
2 other than with that.

3 Q. For instance, like what the drivers did when
4 they pointed out Mr. Gonzalez, correct, same thing?

5 A. No.

6 Q. Okay. Why did you believe the drivers when
7 they pointed out the, quote, boss man and you didn't
8 believe Chuck Webber when he told you that the material
9 was from the CTA Brown Line?

10 A. I believe I'm pretty good at reading people
11 out as far as their integrity. The driver and the
12 operator didn't even hesitate when they pointed right
13 at the guy and said, "We're not moving till he tells us
14 to do so. We're not doing anything till he tells us to
15 do so."

16 Q. So you're relying on your ability to assess
17 credibility as to the -- who caused and allowed these
18 violations, correct?

19 A. No.

20 Q. Well, you just said you can read people's --
21 whether or not they're telling the truth, correct?

22 A. I have a pretty good indicator on that, yes.

23 Q. Okay. And we don't know who the people who
24 were talking to you were because you never took their

1 picture, correct?

2 A. I didn't take their picture, no.

3 Q. So you're asking this Court to rely on your
4 ability to read people's credibility in determining
5 whether or not the respondent should be held
6 responsible for causing or allowing these violations,
7 correct?

8 A. Not based on the my credibility but, I mean,
9 evidence --

10 Q. Your ability to read their credibility.
11 Correct?

12 A. That's part of my investigation, yes.

13 Q. Okay. Did you write anything in your
14 investigation report about your ability to read
15 credibility?

16 A. No.

17 Q. Do you have a background in reading people's
18 credibility?

19 A. No.

20 Q. Do you have any special training in reading
21 people's credibility?

22 A. No, I don't.

23 Q. Let's talk about --

24 A. Actually -- excuse me -- I have had training

1 for that.

2 Q. What was your training, sir?

3 A. I had training with the FBI on that.

4 Q. And what did the FBI train you on, and when
5 did you take this training?

6 A. I took the training about 4 years ago.

7 Q. Okay. And when I asked you about your
8 background at the deposition, did you mention anything
9 about the FBI training?

10 A. No.

11 Q. Okay. And why is that?

12 A. Basically, I didn't think it was appropriate
13 at the time.

14 Q. Didn't I ask you about all your training?

15 A. Yes, you did.

16 Q. Okay. And you chose not to tell me about
17 your FBI training?

18 A. Well, there's a bunch of training that I
19 wouldn't think that was pertinent to the information
20 that you were asking for. So --

21 Q. So you only gave me the information that you
22 thought would be pertinent, correct?

23 A. At that time, yes.

24 Q. Is there any information -- any additional

1 information that you thought was pertinent but you
2 chose not to tell me?

3 A. No.

4 Q. Okay. Tell me about your FBI training, sir.

5 A. The training that I had received was on
6 telltale signs of how you can tell if someone's fibbing
7 to you.

8 Q. And when did you receive this training?

9 A. About 4 years ago.

10 Q. Where?

11 A. This was here in the City of Chicago.

12 Q. Is pausing a telltale sign on whether or not
13 you can tell if someone's telling the truth or not?

14 A. That could be an indicator --

15 Q. Did you just pause right now?

16 A. Yes, I did.

17 Q. Would that indicate that you're not telling
18 the truth here, sir?

19 A. No, that wouldn't.

20 Q. Why not, sir, if that's a telltale sign of
21 you -- of how you were taught by the FBI on whether or
22 not to tell the truth?

23 A. All that was was I was getting -- gathering
24 my thoughts. That's why --

1 Q. And that's different than pausing, sir?

2 A. It can be.

3 Q. What other training -- Tell us more about
4 this training you had with the FBI. What other --

5 A. Jitteriness, shaking of the leg --

6 Q. I'm sorry. What, jitteriness?

7 A. Jitteriness, yes.

8 Q. Uh-huh. Touching their eye like you just
9 did? Is that an indication?

10 A. No. That's an indication of me scratching my
11 eye.

12 Q. Do you know what a tell is, sir?

13 A. A tell?

14 Q. What is a tell?

15 A. You tell me what a tell is.

16 Q. You had the training by the FBI. Did the FBI
17 teach you what a tell is?

18 A. No, they did not.

19 Q. Okay. What else did they teach you about
20 determining credibility?

21 A. Determining credibility is people's actions,
22 whether they're stuttering, back-talking, eye contact
23 are different forms of identification as far as
24 methods.

1 Q. Did you get a certificate from the FBI?
2 A. Yes, I did.
3 Q. And what does the certificate demonstrate?
4 What is the certificate for?
5 A. That I just finished the course.
6 Q. What is the course name?
7 A. I don't recall at --
8 Q. Who taught the course?
9 A. I don't recall the individual's name.
10 Q. Do you have a certificate of that course?
11 A. No, I don't right now.
12 Q. You didn't get the certificate?
13 A. I don't have it with me now, no.
14 Q. Okay. And when -- Do you know the agent who
15 taught you?
16 A. I don't recall his name.
17 Q. Where were you taught, sir?
18 A. Here in the City of Chicago.
19 Q. These are vague answers. Are you aware of
20 that, sir?
21 A. This is because this is about 4 years ago,
22 so --
23 Q. Are vague answers an indication that
24 someone's not telling the truth, sir?

1 A. No, that's not an indication.

2 Q. They're not?

3 A. No.

4 Q. Okay, sir. Where did you have this training?

5 A. City of Chicago.

6 Q. Where?

7 A. I believe it was in --

8 Q. You're pausing again, sir. Are you aware of

9 that?

10 A. Yes, I am.

11 Q. Okay. Where was the training?

12 A. I believe it was in the federal building.

13 Q. Okay. You believe, but you don't know if it

14 was in the federal building?

15 A. It was at the federal -- at a federal

16 building.

17 Q. Which federal building, sir?

18 A. I don't recall the correct address.

19 Q. Was it downtown?

20 A. Yes, it was.

21 Q. And what was in relation -- How did you

22 happen to take an FBI training on determining people's

23 credibility?

24 A. It was just a course that was given to

1 investigators, inspectors.

2 Q. Okay. And who else was with you in the
3 course?

4 A. I believe it was just me.

5 Q. There was a course taught, and you were the
6 only participant in the course?

7 A. For my department, I was the only one.

8 Q. Anyone else at the course?

9 A. Other than other County -- individuals from
10 the County, individuals from other municipal
11 facilities.

12 Q. And did -- Who paid for the course?

13 A. I did.

14 Q. Why wouldn't your work pay for the course if
15 it was work-related, sir?

16 A. It wasn't work-related. It was just an
17 individual class that I wanted to take.

18 Q. Did you write it off --

19 A. No.

20 Q. -- on your taxes?

21 A. No.

22 Q. Wasn't it work-related, sir?

23 A. Wasn't it work-related? I failed -- I think,
24 for me, it was more so I wanted to take the class for

1 my own personal interest, and also it would -- I
2 thought it would help me in my job.

3 Q. Didn't you testify it was work-related, sir?

4 A. Did I testify that it was work-related?

5 Q. Just now, sir?

6 A. I would say that it was.

7 Q. Was it work-related, or is it not
8 work-related?

9 A. I guess it's work-related to a degree because
10 I thought maybe my personal interest would help me to
11 further my job.

12 Q. How did you pay for the course, sir?

13 A. I believe I paid by check.

14 Q. Okay. Personal check?

15 A. I don't remember. I think it was a money
16 order, if anything.

17 Q. So we couldn't trace it if we went to your
18 bank; is that correct, sir?

19 A. I can't tell you. I really don't remember
20 right now.

21 Q. Okay. Sir, in the course of your
22 investigations, have you ever indicated to individuals
23 that "Maybe we can work this out"?

24 A. No.

1 Q. What does "we can work this out" mean to you,
2 sir?

3 A. What does it mean? I would --

4 Q. If you were to tell an individual, "Maybe we
5 can work this out," what does that mean to you as a
6 senior environmental inspector?

7 MS. BURKE: Objection to the relevance
8 of this question.

9 THE HEARING OFFICER: Mr. Levine.

10 MR. LEVINE: Well, your Honor, he's
11 testified with some trepidation that he has an
12 ability -- that he has prior training in the
13 credibility of witnesses that he paid for with a money
14 order, has no information --

15 MS. BURKE: Are you testifying?

16 MR. LEVINE: -- I believe this goes to
17 the witness's truthfulness with regard to his testimony
18 at this hearing today.

19 MS. BURKE: We started a new line of
20 questioning about the words "work it out." What
21 does --

22 THE HEARING OFFICER: Yeah. That's what
23 I think Ms. Burke was objecting to.

24 MR. LEVINE: Well, I'm wondering if the

1 truthfulness -- his ability to -- his lack of veracity
2 leads into any other areas with regard to his work as
3 an inspector, and I have a good-faith basis which I
4 will bring in through another witness at a later time.
5 I'm not fishing here, Judge.

6 THE HEARING OFFICER: I will sustain
7 Ms. Burke's objection. But the line of questioning --
8 you can bring it in as an offer of proof, and the Board
9 can take a look at it and disregard it or regard it as
10 it were. But let me know --

11 MR. LEVINE: I just have three
12 questions.

13 THE HEARING OFFICER: Okay.

14 BY MR. LEVINE:

15 Q. Sir, have you ever offered to an individual
16 you were investigating an opportunity to, quote, work
17 it out?

18 A. I think what I have said was that, in the
19 past, to people or certain individuals -- actually till
20 this day I tell people -- basically what I tell them
21 is, "Look, help me help you out so you can avoid
22 getting citations and you stay in compliance." I tell
23 them, "My job here is to make sure that you are in
24 compliance. So if I ask you do something, you take

1 care of it by executing whatever you need to do to make
2 sure that you're in compliance on the property, and you
3 will avoid the citations."

4 Q. Have you ever had discussions with
5 Mr. Gonzalez where you stated, in essence, "Help me
6 help you avoid a citation"?

7 A. No.

8 Q. And you are aware that when you say, "Help me
9 help you avoid a citation," that could have a myriad of
10 interpretations, could it not?

11 A. No. I'm pretty sure, if you're talking about
12 taking bribes, I've never taken any. My credibility in
13 any position that I've done in my job will tell you
14 that.

15 Q. Sir, you're pretty sure you've never taken a
16 bribe?

17 A. I'm positive.

18 Q. But you have said to people, "Help me help
19 you avoid a citation," correct?

20 A. I probably might have said it to some lingo
21 in that regard. Probably so.

22 THE HEARING OFFICER: We're into five
23 questions, Mr. Levine.

24 MR. LEVINE: Thank you, Judge. I'll

1 move on.

2 THE HEARING OFFICER: Okay. That ends
3 the offer of proof?

4 MR. LEVINE: Yes.

5 BY MR. LEVINE:

6 Q. Now, did you issue any violations with regard
7 to the porta-potties?

8 A. No.

9 Q. Okay.

10 A. We have in the past, though, in a different
11 area.

12 Q. That doesn't relate to this charge, does it,
13 sir?

14 A. No.

15 Q. And --

16 THE COURT REPORTER: Can you take your
17 hands away from your mouth?

18 MR. LEVINE: I'm sorry.

19 THE COURT REPORTER: That's okay.

20 BY MR. LEVINE:

21 Q. How about -- I'm missing something here.

22 Now, in Exhibit A, pages 1
23 through -- 2 through 5, those are the violations
24 alleged, correct?

1 A. That's correct.

2 Q. Okay. With regard to page 6 -- I'm sorry --
3 page 5, is there a charge at the bottom, public
4 nuisance from salt-unloading operations?

5 A. That, I have no idea what that was on there
6 for. I didn't write that up there.

7 Q. Was there any salt?

8 A. I didn't witness any salt.

9 Q. Was there any ACM, asbestos?

10 A. I didn't witness any --

11 MS. BURKE: I'm going to object as to
12 the relevance of these questions. We're looking at the
13 page called "Municipal Violations," and this
14 administrative citation deals with violations of
15 Section 21(p) of the State Act for open dumping.

16 MR. LEVINE: It's my understanding that
17 the landscaping company was also charged with municipal
18 violations; is that correct?

19 MS. BURKE: The jurisdiction of the
20 Board is just under the Act, Section 21(p).

21 MR. LEVINE: So it's your contention
22 that -- I'm sorry. 21 (d)?

23 MS. BURKE: (P). I'm referring to the
24 Illinois Environmental Protection Act that's alleged in

1 the citation.

2 MR. LEVINE: Okay.

3 BY MR. LEVINE:

4 Q. With regard to any other -- Are you
5 contending that the respondent committed apparent State
6 violations?

7 A. Yes, he did.

8 Q. Okay. And is that why it's in your
9 investigative report?

10 A. That's correct.

11 Q. Okay. And are you contending that he
12 committed municipal violations as well?

13 A. I believe so.

14 Q. Okay. And the municipal violations are
15 listed on page 5, correct?

16 A. That would be correct.

17 Q. Okay. Was there residential homes?

18 MS. BURKE: I'm going to make the same
19 objection. I don't know -- understand why we're going
20 through the municipal violations.

21 MR. LEVINE: It's in his report. It
22 goes to his credibility --

23 THE HEARING OFFICER: I'm going overrule
24 it. The Board will take a look at it accordingly.

- 1 Q. So do you believe that he maybe saw
2 residential homes that you didn't see?
- 3 A. I would assume so.
- 4 Q. Really?
- 5 A. I didn't see any.
- 6 Q. Okay. Were there any?
- 7 A. No.
- 8 Q. You know the area pretty well, don't you?
- 9 A. Yes.
- 10 Q. There's no residences anywhere near there.
- 11 A. Over 130th Street, there would be the --
12 which would be the projects area.
- 13 Q. Do you know why these violations appear when
14 there's no basis for them?
- 15 A. I have no idea.
- 16 Q. Were there any sewers on the lot?
- 17 A. I don't recall if there was or not.
- 18 Q. Okay. Do you know how they could have been
19 dumping grease or oil in the sewers when there's no
20 sewers?
- 21 A. I don't recall.
- 22 Q. Salt?
- 23 A. I don't recall that either.
- 24 Q. Okay. Now, is it possible that one of the

1 reasons the copper wire was removed from the pile was
2 not scavenging but for purposes that CID wouldn't take
3 material mixed with copper wire?

4 A. Could you repeat that question again?

5 Q. Yeah. The copper wire was removed from the
6 CTA waste, correct? It was separated, correct?

7 A. I don't know if it was or not.

8 Q. Well, you saw it separated in the photograph,
9 didn't you?

10 A. It's separated in the photograph, yes.

11 Q. Okay. And would a reason that that was
12 separated be because CID wouldn't take a load if it had
13 any copper; it would reject it?

14 A. That would be one reason, yes.

15 Q. Okay. And you testified the load -- the
16 entire load wouldn't be allowed if there was any copper
17 flat out, correct?

18 A. It would -- If any other product than what's
19 supposed to be in the analytical report, definitely,
20 yes, it would be rejected.

21 Q. Electrical wire as well?

22 A. I would assume, yes.

23 Q. Well, didn't you testify to that, sir?

24 A. Yes.

1 Q. Okay. So the load would be rejected -- it
2 would have to be removed before CID accepted the load,
3 correct?

4 A. That would be correct.

5 Q. Same with PVC, correct?

6 A. That would be correct.

7 Q. Okay. And how about wood? Are they
8 concerned about wood?

9 A. Depending on how much of the -- I guess, on
10 the bulk of the load would be wood. They --

11 Q. They want wood separately, do they not?

12 A. Not all the time, no.

13 Q. But at times, they want wood separately,
14 correct?

15 A. I guess, depending, like I said, on the
16 amount and whether or not it was contaminated or not.

17 Q. And this wood was contaminated?

18 A. I have no idea if it was or not.

19 Q. You testified they were railroad ties. Were
20 they not?

21 A. Yes.

22 Q. Railroad ties are soaked in creosol?

23 A. Some are, yes.

24 Q. So you know they're contaminated, correct?

1 A. Some.

2 Q. Okay. I'm going to ask you a bunch of
3 questions, repetitive questions.

4 THE HEARING OFFICER: Mr. Levine, do you
5 have a lot of questions, or does anybody need to take a
6 break?

7 Okay. The most important person in
8 the room needs to take a break, so we're going to go
9 off the record for 15 minutes and then come back on.

10 Thank you.

11 (A short break was had.)

12 THE HEARING OFFICER: We're back on the
13 record. It's approximately 10:45. Mr. Levine is still
14 doing his cross.

15 You may proceed sir.

16 MR. LEVINE: Thank you, Judge.

17 BY MR. LEVINE:

18 Q. Mr. Maciel, did you testify that there was a
19 strong urine odor coming from the Oui Oui
20 porta-potties?

21 A. Yes.

22 Q. And there was a question as to whether or not
23 they were cleaning them out?

24 A. Correct.

1 Q. What bearing did those two portions of your
2 testimony have on the allegations against the
3 respondent in today's case?

4 A. I think I was basing it more on the fact that
5 I had a previous incident with Mr. Speedy Gonzalez on a
6 different site.

7 Q. Mr. Jose Gonzalez, correct?

8 A. Correct.

9 Q. And what I'm asking, again, is: How is that
10 relevant to the allegations today, what had happened
11 previously?

12 A. Basically I thought he was maybe cleaning
13 them out again on the property, but as I walked around
14 there, there was no evidence to suggest that other than
15 just a strong urine odor from the porta-potties.

16 Q. Okay. So you are not contending that the
17 landscaping company was cleaning out the porta-potties
18 correct?

19 A. That's correct.

20 Q. You also testified that the front end loader
21 was pushing material?

22 A. Correct, when I first arrived there.

23 Q. Okay. And what -- In addition to pushing, it
24 was picking the material up and putting it in the

1 truck, correct?

2 A. No.

3 Q. Didn't we go through that already about
4 whether or not the trucks were being loaded as opposed
5 dumped?

6 A. I think I was assuming that they were.

7 Q. Assuming that they were what?

8 A. That they were loading the trucks up at
9 first, when I first got there. I had assumed it.

10 Q. You and other investigators stayed outside
11 the lot for 3 days, did you not, monitoring?

12 A. Not myself.

13 Q. Did other investigators on your behalf stay
14 outside the lot?

15 A. No to my knowledge.

16 Q. Did you or any other investigator ever see a
17 full load on an E. King truck pulling into the lot?

18 A. Not to my knowledge. I didn't see -- I
19 didn't look inside the rear end of the trailer to see
20 if there was any material in there or not.

21 Q. Well, did you, in fact, witness numerous
22 loaded trucks leave the lot and proceed to -- out of
23 the location?

24 A. I seen one truck leave. Whether or not he

1 was loaded or not, I have no idea. I didn't -- Like I
2 said, I didn't take a look inside the bed of the truck.

3 Q. You'll agree with me that they were removing
4 material and loading trucks, will you not?

5 A. It could have been a possibility.

6 Q. Well, didn't you testify to that today and on
7 December 6th?

8 A. I believe I assumed it.

9 Q. Did you qualify your testimony on
10 December 6th with you assumed it, or did you say
11 unequivocally they were hauling debris, loading up, and
12 taking the material to CID?

13 A. According to what the interview had stated
14 was that the material was supposed to be getting --
15 arriving to that site and then from that site traveling
16 on to CID, according to the interview process that I
17 had with Paschen and CTA.

18 Q. Didn't you testify both today and on
19 December 6th, 2006, that the material was being loaded?
20 They were removing material, they were loading trucks,
21 and they were going to CID to dump the material?

22 A. Per interview, yes, that's what I had said.
23 That's what I derived my answer from.

24 Q. And is it your position that that assumption

1 was incorrect now?

2 A. I would assume, after I've had all the
3 information, yes, that it was incorrect.

4 Q. What information did you have that would
5 change your assumption, your initial assumption?

6 A. The information that I have was the fact that
7 I was given a manifest and also the interview with
8 Chuck Webber from CTA, Paschen Construction, and an
9 E. King representative.

10 Q. And you believe that Mr. King was lying,
11 right -- I'm sorry.

12 You believe Mr. Webber was lying
13 based on your experience, correct?

14 A. I just felt that he was wasn't telling me
15 everything, but then again, I couldn't make an outright
16 decision on whether he was lying to me or not based on
17 that he just stopped talking to me altogether.

18 Q. Why is that, sir?

19 A. Because my supervisor, Stanley Kaehler,
20 arrived and John Kryl also arrived from our department
21 and they proceeded to speak with him.

22 Q. So he didn't stop speaking with you; he just,
23 in fact, went to speak with someone else, correct?

24 A. Correct, to the supervising officials there.

1 Q. And tell me, again, what was on the CTA
2 documents that changed your assumption of whether or
3 not the trucks were being loaded or unloaded?

4 A. What changed it was -- per se was that
5 Mr. Webber, Paschen, CTA -- I'm sorry -- Paschen
6 Construction and -- including the representative from
7 E. King, all stated that there was a verbal agreement
8 with the property owner that they were to take the
9 material and place it on the property.

10 Q. In a roll-off box, correct?

11 A. That is correct.

12 Q. Okay. And that was not on the CTA documents,
13 was it?

14 A. No, it wasn't.

15 Q. Okay. What on the CTA documents led you to
16 believe that the individuals on March 22nd were
17 unloading debris?

18 A. I think it was the fact that the driver of
19 the vehicle handed it over to me, and also the
20 operator.

21 Q. The fact that the vehicle -- the driver
22 handed over the transfer documents?

23 A. The driver of the vehicle, yes. He gave me
24 the manifests when I asked him for any load tickets or

1 any other pertinent information to what the material
2 was that they were bringing, and that's when he gave me
3 the manifests. He says, "We're doing work for you
4 guys, the City of Chicago. We're bringing it here, and
5 this is the paperwork we have."

6 Q. He said, "We're bringing it here"?

7 A. He basically said, "This is for you guys.
8 We're doing your work."

9 Q. He basically -- You just said -- You just
10 testified he said "We're bringing it here."

11 Did he say that to you?

12 A. I don't recall if he did say that or not.

13 Q. You just testified to that, though. That's
14 incorrect, correct.

15 A. Okay. It's incorrect.

16 Q. Are you agreeing with me, or are you
17 testifying under oath, sir?

18 A. Can you ask me the question again?

19 Q. Are you testifying -- Are you agreeing with
20 me, or are you testifying under oath as to what the
21 driver told you?

22 A. Specifically what the driver told me, I
23 really can't recall all of it, but he did insinuate
24 that the material that they had brought was okay

1 through the City of Chicago because it was actually --
2 it was work for the City of Chicago and they had the
3 appropriate paperwork, which was when the manifest was
4 produced.

5 Q. And the fact that he insinuated that he was
6 working for the CTA, how did that allow you to make the
7 conclusion that the drivers on -- that the operators on
8 the 22nd of March were unloading material as opposed to
9 loading it for removal?

10 A. Could you repeat that again?

11 Q. How would the fact that the driver insinuated
12 to you that the -- they were working for the CTA
13 indicate to you that the drivers were -- that the
14 workers were unloading material as opposed to loading
15 it?

16 A. Just based on the fact that they gave me --
17 when I asked them the question. "What material do you
18 have? What paperwork do you have for me for bringing
19 this material here?" The base of my question was, when
20 I asked them, "What was giving you the appropriate
21 reason to bring the material here?" And that's when he
22 produced the manifests.

23 So the assumption was made that
24 "This is what we're bringing in. This is the

1 manifest," when he handed it over to me. And that's
2 when he told me, "We're working for you guys, the City
3 of Chicago." And I looked at the manifest, and I said,
4 "No. You're working for the CTA, and actually the
5 material is not supposed to be here. It's supposed to
6 go directly to the landfill. Why is it coming here?"

7 Q. It wasn't supposed to because you learned in
8 your investigation that E. King was supposed to store
9 it in roll-off boxes at that site, correct?

10 A. Through the conversation with Paschen, the
11 CTA, and E. King -- the representative of E. King, yes.

12 Q. As a result of your investigation, you
13 learned that, correct?

14 A. As a result of their interview, yes.

15 Q. Okay. Why would you need a front end loader
16 to unload a dump truck?

17 A. Why?

18 Q. Yes.

19 A. Sometimes --

20 Q. Give me all the reasons why.

21 A. Sometimes the load -- when a bed raises up,
22 the load itself doesn't shake out all the way. One
23 process is the truck going back and forth till it comes
24 out. Sometimes a front end loader has to move any

1 concrete that's inside of the vehicle itself to brush
2 it off or loosen it up. Sometimes they get jammed in
3 the back of the bed. Sometimes the material gets
4 scattered all the way around. Another thing, too, is
5 drivers don't usually listen to where they're supposed
6 to be dumping at, and they will dump the material just
7 because of the fact that some of these guys get paid by
8 hauling, per hauls, or sometimes they get paid by the
9 hour. So they're always in a rush. So they'll just
10 dump wherever they want, pretty much.

11 So the front end loader would be
12 there for a reason, to move the material over to one
13 area.

14 Q. That would be to move the material, but it
15 wouldn't be to unload the material, correct?

16 A. Not to unload it.

17 Q. Okay. Now, wasn't CID open on the 22nd?

18 A. I believe it was.

19 Q. What sense would it make for the CTA Brown
20 Line material to be dumped at the 130th Street location
21 if they could have taken it right next-door to CID?
22 Would that make sense to you?

23 MS. BURKE: Objection, calls for
24 speculation.

1 THE HEARING OFFICER: Mr. Levine.

2 MR. LEVINE: He's proposing -- He's
3 postulating a thesis that doesn't make logical sense.
4 I'm inquiring as to the logic behind it.

5 THE HEARING OFFICER: If the witness can
6 answer, he can do so. Overruled.

7 BY THE WITNESS:

8 A. Personally I didn't think it would make any
9 sense why it would be dumped off in that area there.
10 There was really no excuse given to me why it was just
11 dumped on the property other than it's just going
12 directly to CID.

13 BY MR. LEVINE:

14 Q. Wouldn't it make more sense to you logically
15 that CID is closed during the weekend and that E. King
16 dumped the material outside of the agreement that
17 everyone had on the lot and now they were there
18 cleaning it up to take it over to CID?

19 A. That could have been one reason.

20 Q. Well, wouldn't that have made more sense than
21 your postulation?

22 A. Basically I was still in the process of
23 trying to figure out what was going on, why was it
24 there instead of going to CID --

1 Q. But you're here today testifying that the
2 matter was being unloaded, correct?

3 A. I made the assumption at the time that it was
4 being unloaded, yes.

5 Q. And you're continuing with that assumption;
6 you're asserting that assumption today, are you not?

7 A. Correct.

8 Q. When it doesn't make any sense; would you
9 agree with me to that?

10 A. As far as why it would end up there instead
11 of the CID landfill, yes.

12 Q. Okay. And it makes more sense that -- Given
13 the fact that you saw no dumping and given the fact
14 that there was a front end loader there and the trucks
15 were leaving the yard, it makes more sense that the
16 agreement was violated by someone, most likely E. King,
17 and that E. King was fixing their mistake; isn't that
18 correct, sir?

19 A. Basically during my investigation, I wasn't
20 fixated on -- so much on what their agreement was. I
21 was more looking into the facts of the matter, which
22 was the material was there, what are we going to do
23 with the material from then on, which is what I was
24 trying to get the answers to before John and Stanley

1 Kaehler -- John Kryl and Stanley Kaehler arrived.

2 Q. Did you want to seek to work it out to avoid
3 a violation at that time when you first appeared there?

4 A. Not at all. I saw this as a big offense. I
5 mean, it's -- Basically if you pull out a manifest,
6 it's suggesting that the material is a waste material,
7 and it has a specific -- and being that the address
8 didn't match up to where it was supposed to be going to
9 was -- like I said, was setting off whistles and bells
10 in my head as to why wasn't it up on this property here
11 when CID was open and it's just maybe, like, less than
12 100 feet away from there --

13 Q. Wasn't it the driver of the E. King truck who
14 pulled out the manifests?

15 A. He was one and then the heavy equipment
16 operator also.

17 Q. Okay. And have you given all the reasons
18 that you -- pursuant to your investigation, that you
19 believe that these individuals were employees of the
20 respondent, Speedy Gonzalez Landscaping, Incorporated?

21 A. Have I given all the reasons as far as --

22 Q. Why you think these individuals who gave you
23 the manifests were employees of Speedy Gonzalez
24 Landscaping, Incorporated.

1 MS. BURKE: Objection to the extent that
2 that mischaracterizes what's been said.

3 THE HEARING OFFICER: You know, yeah, I
4 would agree. If you could rephrase it --

5 BY MR. LEVINE:

6 Q. Let me rephrase it.

7 What are all the reasons that you
8 believe that the people that gave you the manifests
9 were employees of Speedy Gonzalez Landscaping,
10 Incorporated?

11 MS. BURKE: Objection. That
12 mischaracterizes the testimony.

13 THE HEARING OFFICER: Okay. How so?

14 MS. BURKE: He has not testified that
15 the employees who gave him the manifests were employees
16 of Speedy Gonzalez Landscaping.

17 BY MR. LEVINE:

18 Q. You believe that, don't you?

19 THE HEARING OFFICER: Hold on,
20 Mr. Levine.

21 MR. LEVINE: I believe he testified,
22 Judge, that these individuals were working at the
23 direction of the guy in the white truck.

24 THE HEARING OFFICER: See, I agree. I

1 agree. Somewhere in there --

2 MR. LEVINE: And for him to be
3 responsible, he'd have to show that their acting caused
4 or allowed it.

5 THE HEARING OFFICER: If you could wrap
6 it up. I feel like I'm dancing through a time warp. I
7 think we've visited up this and touched on it for the
8 last 2 hours. But if you could just wrap this line of
9 questioning and move on, I'd appreciate it.

10 MR. LEVINE: I just want to make sure
11 because the witness is now talking about his
12 conclusions and his misassertions as to whether or not
13 there was loading or unloading. There's been loads of
14 prior testimony as to whether or not they were loading
15 or unloading, and now he maintains that --

16 MS. BURKE: Are you testifying? Are you
17 arguing?

18 MR. LEVINE: No, no. I'm arguing why
19 I'm allowed to go into this line of --

20 THE HEARING OFFICER: I've already
21 granted it.

22 MR. LEVINE: Okay. Okay.

23 THE HEARING OFFICER: Limit it.

24

1 BY MR. LEVINE:

2 Q. Can you state, in conclusion, all the reasons
3 you believe that the individual driving the E. King
4 dump truck and the front loader were working for Speedy
5 Gonzalez Landscaping on March 22nd?

6 A. I based it solely on the fact that they
7 pointed out to the white truck and said that was their
8 boss.

9 Q. They pointed, or they actually said
10 something?

11 A. They pointed at him.

12 Q. Okay. They didn't say anything?

13 A. Yeah, they did. They said, "That's" --
14 "Whatever our boss man wants to do, that's what we're
15 going to do."

16 Q. They said "boss man"?

17 A. That was the specific term that they used,
18 "boss man."

19 Q. I just have some follow-up.

20 Now, to summarize, do you remember
21 at your deposition I asked you numerous questions as to
22 whether or not respondent caused or allowed specific
23 actions?

24 A. Could you repeat that question?

1 Q. Do you remember at your deposition I asked
2 you numerous questions as to whether or not any
3 respondents caused or allowed violations? Do you
4 remember those?

5 A. I believe so.

6 Q. Okay. Do you know whether the landscaping
7 company or any respondent was aware of the open
8 burning?

9 A. I believe -- I have no idea. I can't
10 indicate that.

11 Q. Okay. And my follow-up question is: Do you
12 know whether any respondent caused the open burning or
13 allowed the open burning?

14 A. Whether any other respondents caused it?

15 MS. BURKE: Objection. Are you asking
16 for any of the ACs or just the landscaping company that
17 we're dealing with right now.

18 MR. LEVINE: Landscaping company or any
19 respondents.

20 MS. BURKE: I don't feel --

21 THE HEARING OFFICER: You're under
22 AC 6-39.

23 MR. LEVINE: Okay. I'll ask my --

24

1 BY MR. LEVINE:

2 Q. Do you know whether or not the landscaping
3 company caused or allowed the burning?

4 A. I would have no knowledge of that.

5 Q. Okay. Do you have any information that the
6 landscaping company caused or allowed the open dumping
7 at 1601 East 130th Street?

8 A. I have no knowledge of that either.

9 Q. Do you know whether or not the landscaping
10 company, Speedy Gonzalez Landscaping, caused or allowed
11 open dumping in the yard?

12 A. Other than being the property owner, that's
13 all I'm indicating there.

14 Q. I'm sorry. It's your contention that Speedy
15 Gonzalez Landscaping was the property owner?

16 A. Part of the property owner, one of them, yes.

17 Q. What do you base that on, sir?

18 A. Based on him telling me that it was his
19 property and for us to get off.

20 Q. Okay. But he could own the property,
21 Mr. Gonzalez, and the landscaping company could have no
22 connection, correct?

23 A. That's correct.

24 Q. So are you aware that the landscaping company

1 had any ownership interest in the property?

2 A. Speedy -- There was Speedy Gonzalez -- the
3 tanker there that belonged to them, I guess.

4 Q. Okay. Do you have any knowledge that Speedy
5 Gonzalez Landscaping had any ownership interest in the
6 property? Yes or no, sir?

7 A. I'm not aware of it, no.

8 Q. Okay. Do you know whether or not Speedy
9 Gonzalez Landscaping caused or allowed material to be
10 dumped there?

11 A. I'm not aware of that, no.

12 Q. Do you have any knowledge whether or not
13 Speedy Gonzalez Landscaping had any connection to the
14 violations other than the tanker being there?

15 A. Just based on his interview, that's about it.

16 Q. Whose interview?

17 A. Jose Gonzalez.

18 Q. And what did the basis of the interview say?

19 A. That we were on his property.

20 Q. Okay. But he didn't say you're on Speedy
21 Gonzalez Landscaping's property, did he?

22 A. No, he did not.

23 Q. Okay. Do you have any knowledge that whether
24 or not Speedy Gonzalez Landscaping company allowed --

1 caused or allowed the railroad ties to be on the
2 property?

3 A. I have no knowledge of that.

4 THE HEARING OFFICER: Could you speak
5 up, please? I'm sorry.

6 THE WITNESS: I'm sorry.

7 THE HEARING OFFICER: Thanks.

8 BY MR. LEVINE:

9 Q. Do you have any knowledge or information
10 whether or not the piles on the east side of the
11 property were caused or allowed by Speedy Gonzalez
12 Landscaping company?

13 A. I have no knowledge of that.

14 Q. Do you have any knowledge whether or not
15 Speedy Gonzalez landscaping company caused or allowed
16 dumping to take place at the property?

17 A. Other than him being the property owner, no.

18 Q. "Him" being Jose Gonzalez?

19 A. Yes.

20 Q. And, again, Mr. Gonzalez is a separate entity
21 from Speedy Gonzalez Landscaping company, correct?

22 A. That's correct.

23 Q. Okay. Do you have any knowledge whether or
24 not the landscaping company caused or allowed timber

1 with creosol to be placed in the yard?

2 A. I have no direct knowledge of that, no.

3 Q. Okay. Do you have any knowledge of whether
4 or not -- direct knowledge -- Do you have indirect
5 knowledge of that, sir?

6 A. No.

7 Q. With regard to the waste tires that were on
8 the property, do you have any knowledge whether or not
9 the landscaping company caused or allowed the material
10 to be placed in the yard?

11 A. No.

12 Q. Do you have any knowledge whether or not the
13 landscaping company caused or allowed concrete blocks
14 to be placed on the property?

15 A. I have no knowledge of that, no.

16 Q. Do you have any knowledge whether or not the
17 landscaping company caused the porta-johns to be
18 cleaned out on the property?

19 A. I have no knowledge of that either.

20 MR. LEVINE: Nothing further from this
21 witness.

22 THE HEARING OFFICER: Thank you,
23 Mr. Levine.

24 Redirect, Ms. Burke.

1 MS. BURKE: Yes.

2 REDIRECT EXAMINATION

3 BY MS. BURKE:

4 Q. Referring back to Exhibit A, the photographs
5 that are attached to your report which are on
6 pages 9 -- starting on page 9 through page 22, do these
7 photographs accurately depict what you saw when you
8 were at the site on March 22nd?

9 A. That is correct.

10 Q. Referring to the first photograph, does -- is
11 that what you had referenced as suspect CTA material?

12 A. No.

13 Q. Is Photograph No. 2 --

14 A. No.

15 Q. -- suspect CTA material?

16 Does Photograph No. 3 represent
17 suspect CTA material?

18 A. No.

19 Q. Is photograph 4 suspect CTA material?

20 A. No.

21 Q. Is Photograph 5 the suspect CTA material?

22 A. No.

23 Q. Is Photograph 6 the suspect CTA material?

24 A. No.

1 Q. Is Photograph 8 the suspect CTA material?
2 A. No.
3 Q. Is Photograph 11 the suspect CTA material?
4 A. No.
5 Q. Is Photograph 12 the suspect CTA material?
6 A. No.
7 Q. Is Photograph 13 the suspect CTA material?
8 A. No.
9 Q. Is Photograph 14 the suspect CTA material?
10 A. No.
11 Q. Is Photograph 15 the suspect CTA material?
12 A. No.
13 Q. Is Photograph 16 the suspect CTA material?
14 A. No.
15 Q. Is Photograph 18 the suspect CTA material?
16 A. No.
17 Q. Is Photograph 19 the suspect CTA material?
18 A. No.
19 Q. Is Photograph 20 the suspect CTA material?
20 A. No.
21 Q. Did you ever determine the source of the
22 suspect CTA material?
23 A. Per the interview, I was only -- I based it
24 on the interview with Paschen and CTA, that the

1 material there was in question of whether or not it was
2 coming from the CTA Brown Line project based solely on
3 what Paschen was stating at the time.

4 Q. Prior to arriving -- Or just before arriving
5 at the site on March 22nd, did you know who owned the
6 site?

7 A. No, I did not.

8 Q. Did you know that Jose Gonzalez had any
9 connection with the site --

10 A. No.

11 Q. -- at that time?

12 When you inspect a site and find a
13 violation, is it within your authority to allow some --
14 allow the site owner to come into compliance prior to
15 issuing any violation?

16 A. We do have that -- How can I say? We are
17 allowed, to some degree, some ample, I guess, leeway to
18 work things out with them as far as to try to get them
19 into compliance if the situation doesn't -- isn't
20 drastic and if it can be done within a reasonable time,
21 meaning right away.

22 MS. BURKE: That's all I have.

23 THE HEARING OFFICER: Thank you,

24 Ms. Burke.

1 Mr. Levine, recross.

2 RECCROSS-EXAMINATION

3 BY MR. LEVINE:

4 Q. With a yard like this that was full of waste,
5 what would be a reasonable time from the time the land
6 was purchased to clean it up?

7 A. What would be a reasonable time?

8 Q. Yes.

9 A. From the date of the violations -- I guess,
10 from the date of the inspection, whenever we did, this
11 the investigation -- I'm sorry -- I would have given
12 him probably about a month to clean up all the material
13 pending results from the analytical -- from any of the
14 CTA material that was in question of where it came from
15 only because of the discoloration of the material and
16 there was a little bit of odor on it and looking at the
17 analytical results for the material -- like I said, it
18 would be based solely on that first. But I definitely
19 would have given him a month or so to clean up the
20 area.

21 Q. Okay. Do you know for certain that what
22 occurred on March 22nd was not the cleaning up of the
23 property?

24 A. Do I know for certain?

1 Q. Yes.

2 A. Other than when I've interviewed and all the
3 information and the facts that I gathered that day, I
4 would say, to the best of my knowledge, that it wasn't
5 a clean-up.

6 Q. Do you know that for certain, sir?

7 A. No, I don't.

8 Q. Okay. What would have given you more
9 information as to whether or not the material -- the
10 lot was being cleaned up on March 22nd?

11 MS. BURKE: I'm going to object to the
12 relevance of what -- What relevance does clean-up have
13 what he observed on the site on that day?

14 MR. LEVINE: Because he just testified
15 that with this type of lot, he would give someone
16 approximately a month to clean it up.

17 THE HEARING OFFICER: I agree.

18 Overruled. He may answer if he's able.

19 BY THE WITNESS:

20 A. What I would have done -- I guess what would
21 have been a credible answer for me would have been if I
22 would have had the appropriate answers from Jose
23 Gonzalez. If he would have told me, "Look. I am
24 cleaning up," I would have told him, "Okay. Well,

1 where are you sending this material? Can you show me
2 evidence of that? Do you have load tickets?" He
3 didn't answer me as far as any load tickets. He told
4 me the manifests in my hand weren't mine. So I mean,
5 he was negating everything that I was asking him.

6 Also, too, I told him basically he
7 was running an illegal transfer station. He had
8 concrete there. He had landscape waste there. I mean,
9 basically under the eyes of the EPA, that is an illegal
10 transfer station.

11 So I mean, he didn't tell me flat
12 out he was cleaning up either, which would have --

13 BY MR. LEVINE:

14 Q. He didn't tell you flat out? Did he indicate
15 that he was --

16 A. He did not tell me that he was cleaning up
17 that area, no.

18 Q. Okay. Did he -- Is it your conclusion that
19 he caused or allowed the transfer station to be run on
20 his property?

21 A. I would say yes. I mean, the gate was locked
22 on a daily basis. So I mean, for that reason, that one
23 day it was unlocked. I mean, it was under his --
24 probably his authority. I would assume that he has the

1 only key to that lock.

2 Q. Would you assume that someone could cut the
3 lock and dump illegally on his property?

4 A. It was -- When we first came in there, it
5 didn't look like the lock was cut. It looked like --

6 Q. I'm saying at other times, not the 22nd but
7 prior to that.

8 A. It could.

9 Q. And if that did happen, then -- if the lock
10 had been cut and people had dumped illegally on his
11 property, is it your contention that he would still be
12 running an illegal transfer station?

13 A. Basically if he doesn't clean up right away,
14 he's still held -- by the City ordinance, he still
15 would be held liable.

16 Q. Okay. And what would it look like if he was
17 cleaning up? Would there be dump trucks there?

18 A. There would probably be dump trucks, roll-out
19 boxes --

20 Q. Okay. And would there also be front end
21 loaders and Bobcats there?

22 A. There would front end loaders, Bobcats --

23 Q. And would they be traveling back and forth
24 along the property, taking the property out?

- 1 A. I would say, yeah.
- 2 Q. Okay. And did you see dump trucks there that
3 day?
- 4 A. Two.
- 5 Q. And did you see a front end loader there that
6 day?
- 7 A. Yes, I did.
- 8 Q. And did you see a Bobcat working there that
9 day?
- 10 A. I don't recall seeing a Bobcat.
- 11 Q. Okay. And did you see trucks going out of
12 the yard?
- 13 A. The only truck that I seen leave at the time
14 was when -- After I made my comments about not leaving,
15 one truck just decided to leave outright.
- 16 Q. Okay. So you don't know whether or not the
17 area was being cleaned -- the yard was being cleaned on
18 March 22nd, do you?
- 19 A. I would say that it wasn't being cleaned.
- 20 Q. But you don't know whether it was being
21 cleaned, do you, sir?
- 22 A. No.
- 23 Q. Okay. Counsel asked you if you ever
24 determined the source of the CTA material. Do you

1 remember that question?

2 A. Yes.

3 Q. Okay. Was there additional investigation
4 done by you or anyone else at the Department of
5 Environment to determine that source?

6 A. Basically I was taken off the case after
7 this -- after we wrote up the narrative form, and I
8 really don't know -- I don't have any of those answers
9 as far as what determined -- what was the outcome of
10 the material.

11 Q. With regard to Photographs 18 and 19, hadn't
12 there been snow on that area a few days before that had
13 melted?

14 A. I don't recall if there was or not.

15 Q. Okay. Well, you know the temperature was
16 just above freezing, correct?

17 A. Correct.

18 Q. And when it goes above freezing, what happens
19 to snow?

20 A. It melts.

21 Q. And was there gravel in the yard being placed
22 on the low areas of the yard on March 22nd, 2006?

23 A. I was unaware if there was gravel being
24 placed on the lower part of the areas. I was aware of

1 gravel being there, but it wasn't moved.

2 Q. When you drove in, didn't you drive on
3 gravel?

4 A. Yes.

5 Q. Okay. And didn't that gravel come from the
6 pile on page -- Photograph 7?

7 A. I couldn't tell you that.

8 Q. Okay. You talked about -- Your counsel also
9 asked you about Photographs 1 through 6 and asked you
10 if that was not suspect -- whether or not that was
11 suspect CTA material.

12 A. Correct.

13 Q. Okay. And you testified that it was not
14 suspect CTA material, correct?

15 A. Correct.

16 Q. My question is: This is -- This looks like
17 fly dumping, correct?

18 A. It could be a possibility, yes.

19 Q. Okay. If someone were storing landscaping
20 materials for a business, wouldn't that -- those
21 materials be segregated into different areas that they
22 could use for landscaping work?

23 A. Some of the material was segregated.

24 Q. I'm asking you with regard to Photographs 1

1 through 6.

2 A. To some degree, it is segregated.

3 Q. In Photographs 1 through 6?

4 A. Correct.

5 Q. Okay. Is it segregated, or is it dumped like
6 that?

7 A. It's been dumped, but it looks like it's
8 segregated in a different pile to some degree.

9 Q. You don't know whether the dumped load, for
10 instance, in Photograph 6 was just a load of scrap
11 bricks that someone dumped, correct?

12 A. I have no knowledge of that.

13 Q. Okay. So you don't know whether it was
14 segregated or not, do you?

15 A. Based on just the facts of the pictures
16 itself, I mean, to me, it looked like it was
17 segregated.

18 Q. Okay. Does 1 look like it's segregated,
19 Photograph No. 1, page 9?

20 A. No.

21 Q. Okay. Does Photograph No. 2, page 9, look
22 like it's segregated?

23 A. No.

24 Q. Does that -- Either of those look like

1 landscaping materials?

2 A. Yeah, some of it does. It looks like tree
3 shrubbery here and also here in the page -- the second
4 photo too.

5 Q. You mean the sticks?

6 A. The sticks, yes. The sticks --

7 Q. Sticks are tree shrubbery?

8 A. If you look on Photo No. 1, you can see that
9 there's shrubbery on the left-hand side, upper corner.

10 Q. There's the what?

11 A. Left-hand side, upper corner --

12 Q. There's what?

13 A. -- shrubbery.

14 Q. And that looks like what to you?

15 A. Landscape material, shrubbery.

16 Q. Okay. The little piece of green in the midst
17 of all the garbage there?

18 A. With the surrounding brown stuff, that's part
19 of the shrubs, yeah.

20 Q. Okay. Do you know where that came from, sir?

21 A. No.

22 Q. Where do you believe that came from, sir?

23 A. I have no answer to that.

24 Q. With regard to Photo 12, those are railroad

1 ties, correct?

2 A. That is correct.

3 Q. Okay. The front group, does that look like
4 it may have -- may be suspect CTA material?

5 A. No.

6 Q. Does the CTA have used railroad ties on the
7 Brown Line?

8 A. They do.

9 Q. Okay. And wouldn't that be an example of the
10 type of ties that would be brought in?

11 A. That could be.

12 Q. But you don't know, correct?

13 A. No.

14 Q. Okay. Why was the land -- Speedy Gonzalez
15 Landscaping not given time to clean up the material?

16 A. I can't answer that. Like I said, they took
17 me off the case.

18 Q. Would you have given him time to clean up
19 this material?

20 A. Yes, I would have.

21 Q. And who took you off the case, specifically?

22 A. My supervisor.

23 Q. Who's that?

24 A. Stanley Kaehler, at the time.

1 Q. Do you know why he took you off the case?

2 A. I believe I had just a weight-load of other
3 cases that I had to attend to.

4 Q. Would it have anything to do with your
5 personal relationship with Mr. Gonzalez?

6 A. I don't have a personal relationship with
7 him.

8 Q. Well, you knew him growing up, correct?

9 A. I knew him, yes.

10 Q. And you've had prior instances dealing with
11 him, correct?

12 A. As far as maybe one or two occasions where we
13 did catch him doing some illegal activity, yes.

14 Q. Okay. And was it illegal activity? Did you
15 prove illegal activity?

16 A. I think, one of them, we did write a citation
17 for him. Whether or not it went to hearing or if he
18 defaulted or anything of the such, I have no knowledge
19 of that.

20 Q. So that's your conclusion, that it was
21 illegal, correct, sir?

22 A. Yes.

23 MR. LEVINE: Okay. Nothing further.

24 THE HEARING OFFICER: Thank you.

1 Ms. Burke, re-redirect.

2 MS. BURKE: No.

3 THE HEARING OFFICER: Thank you.

4 Sir, you may step down or aside as
5 the case may be.

6 (Witness excused.)

7 THE WITNESS: Thank you.

8 THE HEARING OFFICER: We can go off the
9 record for a second.

10 (Discussion off the record.)

11 THE HEARING OFFICER: We're back on the
12 record. It's approximately 11:28. The City has rested
13 in their case in chief. It's the respondent's turn.

14 If the witness would please raise
15 your right hand, the court reporter will swear you in.

16 (Witness sworn.)

17 WHEREUPON:

18 JOSE RAMON GONZALEZ,
19 called as a witness herein, having been first duly
20 sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. LEVINE:

23 Q. Sir, please state your name and spell your
24 last name?

1 A. My name is Jose Ramon Gonzalez. My last name
2 is G-O-N-Z-A-L-E-Z.

3 Q. Mr. Gonzalez, you're aware that there are
4 numerous complaints in this matter brought by the
5 Chicago Department of Environment?

6 A. Yes, I am.

7 Q. Okay. And one of those -- The complaint
8 we're dealing with today is the complaint where the
9 respondent is Speedy Gonzalez Landscaping,
10 Incorporated.

11 Are you aware of that, sir?

12 A. Yes.

13 Q. Okay. What is Speedy Gonzalez Landscaping,
14 Incorporated?

15 A. Speedy Gonzalez Landscaping, Incorporated, is
16 a landscape company. We mainly -- Do you want me to,
17 what, explain to you what Speedy Gonzalez does or --

18 Q. Just what the company -- landscaping company
19 does.

20 A. The landscaping company does a lot of work
21 for the City of Chicago and the Chicago Board of
22 Education and the Chicago Park District.

23 Q. Okay. Does the landscaping company have any
24 connection with the property located at 1601 to 1759

1 East 130th Street?

2 A. No. That property is an LLC, and it's owned
3 by me privately.

4 Q. Okay. And it's owned in the form of an LLC,
5 correct?

6 A. Yes.

7 Q. And what's the name of that LLC?

8 A. It's 1- -- I believe it's 130th, LLC.

9 Q. Okay. It's the address of the property,
10 correct?

11 A. Yes, it's the -- Yeah, that's what it is.

12 Q. I'm taking you back to March 22nd, 2006. Do
13 you remember that day?

14 A. Yes.

15 Q. Okay. First, when did you buy that property,
16 or when did you buy the property and incorporate it
17 into the LLC?

18 A. The property -- I first started looking at
19 the property, like, in November of -- October -- it
20 was, like, the end of October, like, of 2'05.

21 Q. Okay. When did you finalize the agreement to
22 purchase the property?

23 A. We finalized the agreement sometime in
24 January, I believe.

1 Q. What was the condition of the property when
2 you purchased it?

3 A. The property was just -- It was a piece of
4 vacant land. It was just, like, an overrun piece of
5 vacant land.

6 Q. And what was it overrun with?

7 A. It was overrun with garbage and just all
8 fly-dumping material and stuff like that.

9 Q. Okay. Has fly dumping on the property been a
10 constant problem for you since you acquired the
11 property?

12 A. Yes, it has.

13 Q. And what efforts -- What did you do to secure
14 the property to stop people from coming on it and fly
15 dumping?

16 A. I put -- I installed the gate -- a gate --
17 There was one opening left on the property where they
18 were coming in to fly dump at, so I went on ahead and
19 installed a fence with a gate on the front of the
20 property.

21 Q. And subsequent to your purchase of the
22 property, were -- did fly dumping continue to occur at
23 that address?

24 A. Yes, because when I was purchasing the

1 property from the previous owner, he stated to me that
2 he had a lot of problems with the property as far as
3 fly dumping because I questioned all the garbage on the
4 property. And he said that -- because I was haggling
5 back and forth with the price as far as -- because I
6 was telling him it was going to cost, like, 20-, 30,000
7 to clean up what was there and I was trying to get that
8 off the closing of what he was asking for. And he met
9 me halfway on it, and he said that was it, he says,
10 because it's an ongoing problem, he said.

11 Q. Since the time you purchased the property,
12 has it continued to be an ongoing problem?

13 A. Yes.

14 Q. How would people -- How would individuals
15 gain access to the property in order to fly dump on the
16 property?

17 A. A few times, they have knocken [sic] that --
18 the gate that I put up there, they have knocken that
19 gate down.

20 Q. When you say knocked it down, flattened it?

21 A. No. They, like, pulled it off the hinge
22 because it's on two hinges. It's two double gates, and
23 what they did, they pulled it off, like, one side of
24 the hinge and just threw the gate off to the side.

1 Q. Since you purchased the property, how many
2 improvements have you made to just the gate alone?

3 A. Probably six or seven.

4 Q. And since the date you purchased the
5 property, has the problem with fly dumping on the
6 property continued?

7 A. Yes.

8 Q. Okay. Now, I'm showing you some documents --
9 some photographs, if I could, and these are Exhibit A,
10 Photographs 1 through 6.

11 Could you take a look at these
12 documents, 1, 2, 3 -- on the next two pages? Do you
13 see those, 1 through 6?

14 A. Yes.

15 Q. Just those three pages, pages 9, 10, and 11,
16 are those examples of fly dumping that has occurred on
17 your property?

18 A. Yes.

19 Q. Did you cause or allow that material to be
20 dumped there?

21 A. No.

22 Q. In any way did the material in pages [sic] 1
23 through 6 have anything to do with your landscaping
24 company?

1 A. No.

2 Q. Now, if you could turn the page to page 13,
3 Photographs 9 and 10. Do you see that?

4 A. Yes.

5 Q. Now, can you tell me about the -- what is
6 termed as "suspected CTA material"?

7 A. Can you repeat that again?

8 Q. Okay. You're aware of material that is
9 listed on -- under Photograph 9 as suspected CTA
10 material, correct?

11 A. Yes.

12 Q. Okay. Did you have an agreement with other
13 entities with regard to that material?

14 A. Yes.

15 Q. Who did you have the agreement with?

16 A. I had the agreement with E. King
17 Construction.

18 Q. Okay. And who at E. King?

19 A. What was that?

20 Q. Who was the individual you were dealing with
21 at E. King?

22 A. Elaine King.

23 Q. Okay. And was your -- What was your
24 agreement with regard to storing material -- CTA

1 material on your site until the CID lot opened?

2 A. The agreement was that they were going to
3 stage trucks there. They were going to leave the stuff
4 either in Dumpsters or on the beds of the trucks over
5 the -- because they couldn't get CID to open at night
6 for them and they needed a place close by. And she
7 knew that I had just bought that property, so she asked
8 me if she could lease the property from me for a
9 nightly fee and I said yes.

10 Q. And there was also a question of CID being
11 closed on the weekend, correct?

12 A. Correct.

13 Q. Okay. And where was this material coming
14 from, and who was the contractor?

15 A. The contractor was F.H. Paschen, and the
16 material was coming from the Brown Line.

17 Q. CTA Brown Line?

18 A. For CTA.

19 Q. Okay. And did Mrs. King honor her agreement
20 with you? Did she store the material in boxes --

21 A. No.

22 Q. -- or in trucks?

23 A. No, they didn't honor it.

24 Q. What happened?

1 A. What happened was they worked that whole
2 weekend, and on Monday --

3 Q. This is the weekend before the 22nd?

4 A. Correct. They were --

5 Q. How did they get on the property?

6 A. I gave them a key for the gate.

7 Q. Okay. What happened, then, on Monday?

8 A. On Monday, they called -- one of my
9 friends -- actually my operator, Frank Martel, called
10 me, and he goes, "Aye, I just jumped on the highway on
11 130th." He goes, "Do you know the gate's open at
12 130th?" And I go, "What are you talking about?" He
13 goes, "The gate to the yard" -- "to the yard over
14 there, to that property. It's open." And I said okay,
15 which is -- My office is only, like, 10 minutes --
16 said, "Did you lock it?" He said, "No. I just kept
17 going." I said, "Okay. I'll go over there and lock
18 it."

19 So then when I got there, there
20 was, like -- this is not even, like, half of the
21 material. There was, like, tons and tons of material.

22 Q. So the photograph we see, Photographs 9 and
23 10, that's not all the material --

24 A. That's just part of that, like, not even a

1 quarter of it. I mean, there must have been, like, 2-,
2 300 semis dumped on the property.

3 So then I called Elaine and I said,
4 "Yo, what's going on?" I said, "You said you were
5 going to store this in trucks or Dumpsters." And she
6 said, "Oh, we had a change of plans." She goes, "Don't
7 get nervous." She goes, "Don't get nervous." She
8 goes, "Paschen's going to get a machine out there and
9 we're going to get trucks out there and we're going to
10 clean it all up and we're going to start taking it to
11 CID." She goes, "Don't worry about it. The machine
12 should be there any minute."

13 Q. Okay. And --

14 A. So then I said okay --

15 Q. -- what happened after you had this
16 conversation? Did E. King trucks come to your yard?

17 A. Yes.

18 Q. How many?

19 A. She had, like, seven trucks the first -- on
20 Monday. She had, like, seven trucks working there.

21 Q. Okay. And did they work throughout the
22 night?

23 A. No. They worked throughout the day. They
24 worked from -- They must have got there, like, about

1 8:00 o'clock that first day on Monday, and then they
2 were waiting for the machine to arrive, for the wheel
3 loader to get there. Then, finally, the wheel loader
4 got there, and they started loading these guys out. So
5 they worked -- I think they worked, like, 2 or 3 days
6 before these tickets were issued. They were working,
7 cleaning the stuff up.

8 Q. Okay. On March 22nd when the people from the
9 Department of Environment came to your yard, what was
10 happening?

11 A. They were -- What was happening, they were
12 loading trucks and hauling the stuff out of there.

13 Q. Okay. Did Rafael see that?

14 A. Yes.

15 Q. Did he ask you what was going on?

16 A. Yeah -- Well, I guess, he stopped the
17 operator, and one of the guys called me and they said,
18 "Aye, we got a problem." So I said, "I'll be right
19 over there," because my office is right around the
20 corner. So then I got there, and I stopped right in
21 the front. And I seen that it was Rafael, and so I
22 said, oh, here -- I just thought to myself, here we go.
23 You know what I'm saying?

24 Q. Why did you think that?

1 A. Because I already had numerous problems with
2 him in the past.

3 Q. When you say "problems," what type of
4 problems are you talking about?

5 A. As far as violations and -- where he's
6 written tickets for my company and stuff like that.

7 Q. And do you -- Has he written tickets for your
8 company where you believe you were not liable --

9 A. Yes.

10 Q. -- prior to this instance?

11 A. Yes.

12 Q. Okay. And did he make any statements to you
13 with regard to resolving the violations --

14 A. Yeah.

15 Q. -- prior to March 22nd?

16 A. Yeah, he did, prior -- not on March 22nd but
17 prior to that, he did.

18 Q. Okay. What did you interpret his --

19 MR. LEVINE: And this is part of my
20 offer of proof, Your Honor.

21 THE HEARING OFFICER: Okay.

22 BY MR. LEVINE:

23 Q. What did you interpret his indication, saying
24 "We could work it out," to mean to you when a City

1 inspector says that "We can work it out"?

2 A. I interpreted it like he was looking, like,
3 for a -- for a bribe, for me to give him something,
4 because I know him. I grew up with him. I used to
5 deliver -- I didn't work with him. He used to be a
6 butcher at a grocery store, and I used to -- I was,
7 like, 6 or 7 years old. I used to deliver -- The guy
8 used to have, like, a flyer, a sales paper, every
9 Friday, and I used to deliver them around the
10 neighborhood.

11 Q. You were working at 6 or 7?

12 A. Yeah, delivering -- delivering sales papers
13 to houses.

14 Q. Okay.

15 A. And that's -- And I knew him through there.

16 So then when he came to my
17 original -- where my office is at, he said, "Look. You
18 know you got these tickets," blah-blah-blah, and, "We
19 can work things out," you know. And he kind of, like,
20 aggravated me, and I just looked at him and I said,
21 "Look. Just do your job. Give me the f'ing tickets
22 and get out of here," I told him. That's the end of
23 it. And then he just looked at me and he goes, "All
24 right. You'll pay for this." That's what he told me.

1 Q. Now, this is what happened prior to
2 March 22nd, correct?

3 A. Correct.

4 Q. Did he have a conversation with you regarding
5 what was occurring of March 22nd?

6 THE HEARING OFFICER: Is that the end of
7 the offer --

8 MR. LEVINE: Yes, it is.

9 THE HEARING OFFICER: -- of proof,
10 Mr. Levine?

11 MR. LEVINE: Yes, it is. Thank you,
12 Judge.

13 THE HEARING OFFICER: Thank you.

14 BY THE WITNESS:

15 A. So then when I got there, I pulled in the
16 yard, and I looked and I could see him from a distance.
17 He was by the wheel loader. He was like -- He was
18 fighting with the truckdrivers because he wanted to
19 take the manifests from the truckdrivers. And the
20 truckdrivers didn't want to give him the paperwork.

21 So then he -- I seen him, and I
22 thought to myself, oh, here we go again. You know what
23 I mean? So I just stood in the pickup truck, and I
24 could see him arguing with the truckdriver, like,

1 telling him, "Give me the manifests," and the
2 truckdriver wouldn't give him the manifest of the
3 waste.

4 BY MR. LEVINE:

5 Q. If I could interrupt you briefly here.

6 The person driving the truck, the
7 E. King truck, that day, was it your employee?

8 A. No.

9 Q. Who was the -- Do you know who the person
10 was, the name of the person?

11 A. No. I didn't know the truck- -- They all
12 worked for Elaine, the truckdrivers?

13 Q. Elaine King?

14 A. Yes.

15 Q. Okay. And there was also a front end loader
16 on the property?

17 A. Correct.

18 Q. Who was driving the front end loader?

19 A. An operator that either Elaine or Paschen
20 sent out. I really don't know, but it was either from
21 Elaine or Paschen.

22 Q. Okay. Who paid for the front end loader?

23 A. Paschen.

24 Q. How do you know that?

1 A. Because I didn't pay for it.

2 Q. Okay. Did Elaine tell you that someone was
3 going to cover that?

4 A. Correct. She said Paschen was going to rent
5 a machine and they were going to have everything out
6 and they were going to clean it up, not to worry about
7 it.

8 So then I told her, "Well, I got to
9 make sure that they take everything out of there." I
10 told her, "Because that stuff is special waste." It's
11 not contaminated. They consider it a special waste.

12 Q. Okay. The other two individuals who were at
13 the yard that day besides the front end loader driver
14 and the truckdriver, were they your employees?

15 A. Which other -- No. Nobody there was --
16 Nobody there worked for me. Everybody --

17 Q. When I say "you," I'm saying you personally,
18 the LLC, or the landscaping company. Correct?

19 A. No, none of those guys were mine.

20 Q. They were all -- You assume they were
21 E. King's --

22 A. Yes.

23 Q. --- employees or Paschen's, correct?

24 A. Yes. She said, "We're going to handle it."

1 Don't worry about it."

2 Q. Okay. Now, in addition to the suspect CTA
3 material, there was also fly-dump material on your
4 yard?

5 A. Yes.

6 Q. And there was also material that was on your
7 yard before you purchased the --

8 A. Correct.

9 Q. -- property, correct?

10 A. Correct.

11 Q. And this --

12 THE HEARING OFFICER: Wait a minute.
13 Let's -- You're talking over one another. So just stop
14 and start and ...

15 THE WITNESS: Okay.

16 BY MR. LEVINE:

17 Q. Was there also material on the property that
18 was on the property when you purchased it?

19 A. Yes, there was.

20 Q. And can you describe some of the material
21 that was on the property when you purchased it?

22 You can look at the photographs,
23 too.

24 A. Yeah. If you look at page 15 at the bottom,

1 this material here, you have, like, a stop sign and
2 those old tires and stuff like that --

3 Q. The no-turn-on-red sign?

4 A. Yeah. (Continuing.) -- the no-turn-on-red
5 sign, that was -- there's a building -- There's an old
6 building that was left there, like, an old, metal
7 building. That was all inside the building, and --
8 like, inside -- There's still stuff inside the
9 building, and this was all, like -- somebody dumped it
10 all outside the building there. All these tires and
11 all that stuff were around the building.

12 Q. And is that also exhibited in Photograph 16
13 on the next page?

14 A. Yes, that's the same thing.

15 Q. Now, since you purchased the property, were
16 you engaged in the process of cleaning all the scrap --
17 the waste material off the property?

18 A. Yeah. I mean, I was going to clean --
19 because it was kind of still cold, but we were going to
20 clean it as soon as the weather broke because the
21 problem was it was -- the property was all -- it's,
22 like, all -- it was all dirt so we couldn't access the
23 back.

24 Q. Okay. So did you -- Did you take steps to

1 make it so that vehicles could be driven on the dirt?

2 A. Correct.

3 Q. What did you do?

4 A. I started bringing in stone to make a stone
5 road to access the property to the back.

6 Q. And is that stone exhibited in Photograph 7?

7 A. Yes.

8 Q. Is that all clean stone?

9 A. Where's Photograph 7?

10 Q. That's page 12.

11 A. Page 12?

12 Q. Of Exhibit A.

13 A. Yeah. If you notice on -- on page 12, the
14 top photograph, the -- there's a building in -- That
15 building in the back right there, that's my neighbor's
16 building. And if you see back there, that's that
17 fence. And right exactly where he took this picture
18 at, the gate is right here. That's where you went to,
19 the fence. The trucks were just backing up and dumping
20 the stone there because they couldn't get in there.
21 And then the machine was making the road going that way
22 to access the stuff.

23 Q. The front end loader or the Bobcat was
24 spreading the stone, correct?

1 A. Correct, yeah. You can see the tracks of the
2 machine, where it was --

3 Q. That's in Photograph 7, correct?

4 A. Correct.

5 Q. And on March 22nd, there was clean stone put
6 down from the entrance -- from the entrance gate, and
7 it was -- there was a road that was laid down with the
8 clean stone towards the back, correct?

9 A. Yes.

10 Q. And had you made arrangements with Mrs. King
11 with regard to the scrap waste on your property on that
12 day?

13 A. Yes -- Well, first, I was all upset because
14 they had dumped the material. So then she, like,
15 called me down and then I asked her, "Elaine," I said,
16 "Look," I said, "They dumped some stuff there." I
17 said, "Since you have the machine there, can you" --

18 Q. What machine are you talking about?

19 A. The wheel loader, that wheel loader.

20 Q. The front end loader?

21 A. The front end loader. (Continuing.) -- I
22 asked her, "Listen. Since you have the wheel loader
23 there, would you be able to just charge me for the
24 loads and I'll tell you where to take the stuff to and

1 I'll sign tickets on it and haul all that garbage out
2 for me." And she said, "Yeah, not a problem." She
3 goes, "It doesn't matter because Paschen" -- "we're
4 going to have the machine for a week and Paschen's
5 paying for it, so we'll clean it all up for you. The
6 only thing you have to pay is the trucking of the
7 material and the disposal of it." So I said, "That's
8 not a problem."

9 Q. So from the moment you purchased the property
10 to March 22nd, were you actively engaged in cleaning
11 all the waste off the property with regard to putting
12 the road in -- buying the gravel, putting the road in,
13 making arrangements --

14 A. No. I mean, the garbage was there. I never
15 tried to clean none of the garbage out. I was going
16 to -- As soon as the weather broke, I was going to
17 clean it up.

18 Q. Okay. Was March -- Was early March when the
19 weather broke, late March when the weather broke?

20 A. Yeah.

21 Q. Okay. And how long had you been spreading
22 stone before that date to clean the yard up?

23 A. Maybe a week ahead, a week before.

24 Q. How long before that had the stone -- had you

1 ordered the stone?

2 A. The stone was dropped off, like, on a Monday
3 or Tuesday because that was -- because the problem was
4 they wanted to use the property but -- So I told
5 them -- what I told Elaine, I said, "If you're going to
6 be storing trucks in there, you're not going to be able
7 to get in there." And she goes, "Why?" I said,
8 "Because you got to make either a stone path or a road
9 so the trucks can get in there because they're going to
10 get stuck."

11 Q. So the plan --

12 A. So they started a week ahead dumping the
13 stone and making the road.

14 Q. Okay. You ordered the gravel?

15 A. Yes.

16 Q. You were spreading the gravel --

17 A. Correct.

18 Q. -- a week before March 22nd?

19 A. Yes.

20 And if you look at page 11 -- If
21 you look at page 11 -- If you look at page 11, you
22 could see, where that guy's standing at, all that --
23 there's a road going all the way to the back now of
24 stone. That was the road that was created. That's

1 where all the stone is at.

2 Q. Rafael testified today that that road -- that
3 the stones in Photograph 5 was not the same stones as
4 in Photograph 7. Is that correct, or are the stones in
5 Photograph 5 the same stones as in Photograph 7?

6 A. It's the same stone.

7 Q. And was that laid down in an effort --

8 A. Correct.

9 Q. -- to --

10 THE HEARING OFFICER: One at a time,
11 gentlemen.

12 MR. LEVINE: Okay.

13 BY MR. LEVINE:

14 Q. (Continuing.) -- was that, where that stone
15 is laid down, in an effort to begin cleaning the yard?

16 A. Yes.

17 Q. Okay.

18 A. Can I say something?

19 Q. Go ahead.

20 A. When Rafael was out there, because he came to
21 me after -- When he was arguing with the truckdriver,
22 he came to me and he goes -- he tells me, "Well, tell
23 the truckdrivers to give me the manifests. What are
24 you guys doing?" And I said, "What are you talking

1 about, what are we doing?" I said, "We're cleaning the
2 yard." And he goes, "Yeah." He goes to me, "I know.
3 I've been watching you for, like, 3 days," he goes. "I
4 was seeing if anything was coming in this yard." I
5 said, "There's nothing coming in." I said,
6 "Everything's been going out." And he goes, "Well, you
7 know, we're going to start writing" -- "we're going to
8 write you a ticket for everything that I could write
9 you a ticket on." And then he just smiled and walked
10 away, and then I told him, "Well, just do whatever you
11 have to do."

12 Q. So you had a conversation with Rafael telling
13 him that you were cleaning the yard, correct?

14 A. Yes.

15 Q. And did anyone else -- Was anyone else there
16 that saw the trucks being loaded and leaving?

17 A. There was a -- I believe there were, like, in
18 a little van a team of inspectors that were there, but
19 the only one that you talked to was Rafael.

20 Q. Okay. While --

21 A. The -- The other inspectors were in the van.
22 And then I called Elaine, and I told Elaine, "You'd
23 better call CTA or Paschen and you'd better tell them
24 there's a problem out here, that somebody needs to come

1 loaded and were leaving the property, correct?

2 A. Correct.

3 Q. Could Rafael see this occurring?

4 A. Yes.

5 Q. Did -- Is any of the waste that's on the
6 property landscaping waste that came from a Speedy
7 Gonzalez Landscaping company job?

8 A. No. It's all -- You can see it. It's all
9 metal, trees, limbs. It's all mixed.

10 See, what he did, he just took --
11 He selectively took pictures. He didn't take pictures
12 of the whole area to show -- He selectively just took
13 pictures of items he wanted to take.

14 Q. Are there any photographs that you see of any
15 E. King trucks?

16 A. No, he didn't take pictures of none of that.

17 Q. Photograph 18 on page 18, there's some -- Do
18 you have that? Do you see that?

19 A. Yes.

20 Q. That's some smoke coming off an area?

21 A. Yes.

22 Q. Do you know how that -- how that fire
23 originated?

24 A. One of the guys that -- the guys at E. King

1 had -- because it was kind of cold that day, so they
2 went on ahead and they started fire to keep warm.

3 Q. Mr. Maciel has testified that the amount of
4 items burned was 5 to 15 cubic yards -- sorry -- 15 to
5 20 cubic yards.

6 A. No. They were burning wood. They were
7 burning wood. That's what they were burning to keep
8 warm.

9 Q. Did you allow that to happen on your
10 property?

11 A. No.

12 Q. Do you know how much wood was burned?

13 A. No, I couldn't tell you.

14 Q. Would it have been 15 to 20 cubic yards of
15 material?

16 A. 15 to 20?

17 Q. Cubic yards.

18 A. No.

19 Q. How big is 15 to 20 cubic yards?

20 A. It's like -- A semi holds, like, 14. If that
21 was 20, it's like a semi and a half of wood.

22 Q. The water that's indicated on Photographs 18
23 and 19, prior to March 22nd, what was in the area where
24 the water was? Was that snow or ice?

1 A. Yeah. See, what happened, if you see back
2 here, that's where I --

3 Q. When you say "back here," where are you
4 pointing?

5 A. Right here on Photograph 18 --

6 MS. BURKE: That's the page.

7 BY THE WITNESS:

8 A. Yeah, I mean, page 18.

9 BY MR. LEVINE:

10 Q. Photograph 18.

11 A. Okay. Page 18, if you look at that page,
12 there's -- these are at cattails right here. And the
13 railroad tracks are in the back --

14 Q. The cattails are the green and black -- or
15 green and brown --

16 A. Yeah, those are cattails.

17 What happened was the previous
18 owner that owned this property, what he did to stop the
19 fly dumping, he excavated -- he took a dozer and he
20 pushed -- he scraped, like, a foot of dirt off the
21 whole entire site, which is, like, almost 11 acres, and
22 he pushed to the front on 130th.

23 Q. And he made a berm out of that?

24 A. He made a berm out of the material that was

1 there. And right here, all this right here, this is
2 where I was telling where we did the road because the
3 site, it has no -- that site has nowhere to drain
4 because he just blowed [sic] right through the site.

5 So even, like, right now, if you go
6 there, like, all these cattails -- this used to be,
7 like, an old swamp or something. That whole back end
8 of the property is full of water. It's completely full
9 of water.

10 Q. And are you putting gravel down in that area?

11 A. Well, right now, there's a gravel road there.
12 But off to the side of the gravel road, if you go there
13 and take pictures now, there's water on each side of
14 it.

15 Q. The berm itself is made from soil from the
16 property, correct?

17 A. Correct.

18 Q. Okay. If someone had claimed that the berm
19 was made from waste garbage, would that be correct?

20 A. No. You could see that that dirt has been
21 there for years because it has cattails -- it has
22 everything growing on it.

23 Q. Now, Photograph No. 20 on page 20 --

24 A. That's the back -- That's where I told you

1 where the water naturally -- On 19, if you go to
2 page 19 -- If you go to page 19, you could see -- you
3 could see where I'm telling you -- here's where they
4 parked. The road -- This is where the road was coming
5 in, and this whole back area, it has water.

6 And I just did -- Just last week, I
7 paid, like, \$30,000 and they went in there and they
8 did -- they did borings on -- for the p.s.i. of the
9 dirt because I'm going to develop the land. I'm
10 putting an industrial complex there. And I had to do a
11 p.s.i., and that's exactly what they told me on my
12 reports. They said that the water table is real high
13 on that property and that the fill on the property is
14 all garbage. There used to be, like, a swamp there or
15 something.

16 So their recommendation is, for the
17 buildings, I have to put case-ons to hit all the way to
18 90 feet. The building has to be set on case-ons
19 because of the water table on this property. It's real
20 high. The water table is real high.

21 Q. Okay. Did you or Speedy Gonzalez Landscaping
22 company cause or allow the waste that we see in
23 Photographs 18, 19, and 20 to be placed on the
24 property?

1 A. No.

2 Q. In fact, you want the waste off the property
3 because you seek to develop it, correct?

4 A. Correct.

5 Q. Photograph 20, it indicates composite
6 material?

7 A. No. That's part of the berm. That's the
8 berm.

9 Q. And the berm is created from the dirt on the
10 site, correct?

11 A. Correct. You can see right on top -- You can
12 see right on top -- It was winter, and you can see all
13 the old vegetation on the berm. If you look at it real
14 good, you could see all the vegetation, like, all the
15 old stuff on it right on the berm on page 20.

16 Q. Now, in certain photographs -- In
17 Photograph 5, there's a tanker there?

18 THE HEARING OFFICER: What page?

19 MR. LEVINE: It's page 11, Judge.

20 THE HEARING OFFICER: Thanks.

21 BY THE WITNESS:

22 A. Yeah.

23

24 BY MR. LEVINE:

1 Q. Is that tanker in any way related to the
2 landscaping company?

3 A. Yeah. It used to belong to the landscaping
4 company, but it's just an old tanker. It's not -- It
5 didn't pass the DOT inspection, so we basically have to
6 cut it up and throw it away. If not, I have to spend,
7 like, 8 grand to fix it, and it's not even worth it.
8 It used to be an old water tanker that we used to --

9 Q. So it's being stored at the yard at this
10 point?

11 A. Just that. And then there's also -- Right
12 next to the tanker, if you look, there's a 48-foot
13 flatbed, a semi, which we use to store, like, materials
14 when we do a playground. We take it out on-site, and
15 we just put all the materials in there and lock it for
16 playgrounds.

17 Q. Okay. Did you cause or allow a waste
18 transfer station to be operated at 1601 East 130th
19 Street?

20 A. No.

21 Q. Okay. The waste material that we see in
22 small piles in Photographs 1 through 4 -- I'm sorry --
23 1 through 6, is that a result of fly dumping?

24 A. Which ones?

1 Q. 1 through 6, pages 9, 10, and 11.

2 A. Okay. Yes.

3 Q. Okay.

4 A. See what happened, because she had -- If you
5 look at -- If you go to -- I just seen it right here.

6 If you go to page 21, if you look
7 closely in the piles, you can see all the garbage that
8 was in this pile from CTA.

9 And if you go to page 22 where he
10 took -- where he went in closer, you could see all the
11 wood, pipes, and everything that was in the material.
12 And he even put on the bottom, CTA waste, broken
13 concrete, wood, debris, bricks, soil. There was
14 everything in this material.

15 So that's -- CID was complaining
16 about the quality of the material because CID, before
17 they take material, they go out and they do studies on
18 the material and they profile the material. So what
19 happened, CID was saying that the material had too much
20 waste in it, so that's when E. King -- E. King and
21 Paschen, they brought these guys out there so they
22 could pick, like, all the pipes and all the copper and
23 everything that was in it because they were going to
24 throw that in Dumpsters after the fact.

1 A. Yes.

2 Q. Okay. Sir, did the landscaping company cause
3 or allow any of the waste on this property?

4 A. No. And this -- With all this, he didn't --
5 When he went out there, none -- This property has
6 nothing to do with the company.

7 When he went out there -- Because
8 he already knows me. He went and he right away put
9 everything on my company. And then he's like, "Oh,
10 I'll see that you never get work from CTA ever again."
11 And I told him, "I'm not even working for CTA. I got
12 nothing to do with them." I told him, "I just lease
13 the property, so do whatever you want to do."

14 And then they went through all the
15 channels and they figured it out, because he figured he
16 was going to get me in trouble with CTA and they were
17 going to, like, revoke my contract. And then he
18 figured it all out, that what I told him was true. I
19 had nothing to do with -- And then he went and he gave
20 me all the tickets and everybody from CTA, Paschen,
21 E. King, he didn't give them nothing.

22 They allowed them to go back in
23 there and clean everything up, and they were out there
24 supervising them. They allowed them. They cleaned up

1 the whole property, and then that was the end of it.

2 Q. After they cleaned up the property and after
3 you cleaned up the fly-dump material, did the fly
4 dumping continue to occur on your property?

5 A. Yeah, like, a month later, they fly dumped
6 again on it.

7 Q. Has it been a continuing problem?

8 A. Yes.

9 Q. Have the locks been cut at your gate?

10 A. Yes.

11 Q. Have you replaced the gates numerous times?

12 A. Yes.

13 Q. Have you replaced -- Have you built
14 additional gates?

15 A. Yes.

16 Q. When was the last time that material has been
17 fly dumped on this property, if you remember?

18 A. I don't actually remember the exact date, but
19 there's been stuff dumped.

20 Q. Has it been recent?

21 A. Yeah, within a couple months; 2, 3 months.

22 MR. LEVINE: Okay. I have nothing
23 further.

24 THE HEARING OFFICER: Thank You,

1 Mr. Levine.

2 Ms. Burke, cross, please.

3 MS. BURKE: Yes.

4 CROSS-EXAMINATION

5 BY MS. BURKE:

6 Q. I just want to clarify the dates.

7 You said that you first were
8 interested in the property in late October or November
9 of 2005; is that correct?

10 A. Yeah. We dealt with the property, like, over
11 a year. We were haggling back and forth. I don't
12 really -- To be honest with you, I don't remember the
13 exact date, but -- The property -- We negotiated the
14 property for, like, over -- it was over a year because
15 there was environmental issues. We wanted to make sure
16 that the property was clean, and then all this -- we
17 were haggling back and forth -- It was \$45,000 that we
18 were fighting over for clean-up of the property, that I
19 was fighting back over and over with the owner.

20 Q. When you use the phrase "environmental
21 issues," are you referring to the material that was on
22 the surface of the property?

23 A. No. We were actually concerned about the --
24 not the surface -- not the fly-dump material, the land

1 itself because being that it was -- being that it was
2 right next to the landfill, they were thinking that
3 since the landfill -- It creates what they call lechae
4 (phonetic). They were thinking that the property maybe
5 had lechae or -- They did all kinds of -- like, a
6 Phase 1 and a Phase 2 and all that.

7 And then there was -- They found
8 out that there was a -- there used to be a gas station
9 on the property, a trucking stop, like, maybe, like,
10 back in the '70s. And then what happened, they didn't
11 know -- they only had record of, like, two of the tanks
12 being removed, and they were saying that there was a
13 permit for, like, seven tanks. And there was no record
14 of those other tanks being removed.

15 So then they did a magnetic field
16 test, and then they found out that there was some tanks
17 there. So then we had to take -- To minimize the cost,
18 since I have an excavation company, I'd send my
19 machines out there, and we found -- we did -- With the
20 owner and all that and that environmental consultant,
21 we went out there and he, like, outlined the areas
22 where -- that they were showing, like, something -- a
23 large object. And we found the tanks there, but then
24 it ended up being a tank for -- because, I guess, with

1 Q. Okay.

2 A. Because there was a whole bunch -- A lot of
3 sequences happened where -- Because I was -- I got a --
4 I paid a million dollars for the land, and I was
5 getting, like, a -- I was getting, like, a
6 500,000-dollar loan from the bank. And then the
7 bank -- I wanted to buy it, and then the bank was
8 concerned about these tests. And it was, like, a thing
9 going back and forth, and then the deal almost fell
10 apart. And then, finally, the owner came up with the
11 information showing that the tanks were removed
12 properly, some permits, and it was a big ordeal. And
13 it -- First, it was hot, cold, hot, and then -- That's
14 the way it went down.

15 Then with the garbage -- Because I
16 was fighting for, like -- It was \$45,000 when we were
17 finagling on the price. So then I told the owner that
18 it was going to cost 45,000 to clean it up. And then
19 he's like, "Well, I'll have it cleaned up." So then I
20 told him, "Well, you clean it up." And then he says,
21 "Well, I'm not going to have it cleaned up by the
22 closing date." And then I said, "Well, if you don't
23 have it, I'm not going to buy it." And it just went on
24 again.

1 So then, finally, I told him,
2 "Look. I have an excavation company." I said, "If you
3 split it with me, the 45,000" -- "Let's split the
4 45,000. I'll clean it up." So then that's what we
5 did. We ended up -- He just said, "Look. I don't even
6 want to bother. We'll split the 45-, and you buy it
7 with all the garbage on it. And that's the end of it."
8 And so that's what we ended up doing.

9 So then I told my guy, I said,
10 "Don't worry. I'll clean it up for, like, 10,000
11 because I'll just get the trucks and load it and get it
12 all out of there." That's where we ended up at.

13 Q. So the inspection that's at the center of
14 this case was in March 2006. So do you recall whether
15 that closing was that January right before March 2006
16 or the --

17 A. No. The closing was prior -- It was in
18 October -- The closing was -- We did it -- It was,
19 like, either in October or November. I could find out.
20 I could get you the exact date. That's not a problem.
21 It wasn't -- It was prior -- before this thing
22 happened.

23 I also had --

24 MR. LEVINE: Wait till there's a

1 question put to you.

2 THE HEARING OFFICER: Thank you.

3 BY MS. BURKE:

4 Q. A few times, you've referred to Elaine. Is
5 that Elaine King?

6 A. Yes, and Elaine King, she's --

7 MR. LEVINE: Wait. Till there's a
8 question.

9 THE WITNESS: Okay. I just want to
10 explain to her who Elaine King is.

11 MR. LEVINE: She'll ask you.

12 BY MS. BURKE:

13 Q. Who is Elaine King?

14 A. Elaine King -- Elaine King was working for
15 Paschen, and she's the owner of a trucking company.
16 All she does is supply trucks. She owns her own
17 trucks, and she, like, has a brokerage. But she was
18 working for Paschen under that contract for -- and
19 Paschen was the general contractor for CTA.

20 Q. And you testified that it's Elaine's company
21 that was on the site on March 22nd taking material from
22 the site?

23 A. Correct.

24 Q. And do you know where Elaine's company was

1 bringing the material?

2 A. Yeah. The stuff from -- That CTA stuff was
3 going to CID, and then all the -- like, the concrete
4 that they separated from the pile, they took that to
5 V & R.

6 Q. And what is V & R?

7 A. V & R is a recycling for concrete.

8 And then, like, all the -- Like, if
9 you notice, like, on page 10 where they have the -- Do
10 you see that blue stuff? That was, like, rubber. That
11 stuff, it was, like, rubber. And, like, all the wood,
12 all those timbers, that was all, like -- Those timbers,
13 they took all that to Tristate Disposal on 127th and --
14 that was dumped on 127th and Ashland, which Tristate
15 Disposal, that's a transfer station. That's where that
16 was dumped off at.

17 Q. Were there any other disposal locations for
18 the material from this site?

19 A. No. Those were the two locations -- the
20 three locations.

21 Q. The pictures that you were referring to
22 during your testimony on pages 9 through 22 of the
23 exhibit that you're looking at, Exhibit A, are those
24 pictures all of the site at 1601 East 130th Street?

1 A. Yes. See, where -- Can I say one more thing?
2 I forget to tell you this.

3 On page 9, if you see right -- If
4 you see right here on page 9, see what happened? They
5 had dumped -- Do you see all this dirt? They had
6 dumped -- Right here, they had dumped about, like,
7 50 semis here.

8 MR. LEVINE: Which photograph?

9 THE WITNESS: On Photograph 9.

10 MR. LEVINE: The bottom one?

11 THE WITNESS: Yeah.

12 BY THE WITNESS:

13 A. On Photograph 9, you can see the wheel -- the
14 tracks of the wheel loader back in the back right
15 there. They dumped 50 semis of that CTA stuff right
16 there. And all this stuff was the stuff that was
17 coming out of there, the stuff that you see that they
18 had separated, because you could see where the berm is
19 at and this is, like, on the bottom of the berm.
20 That's the stuff those kids were separating from the
21 CTA stuff.

22 But by the time -- When Rafael got
23 there, that was already clean right there. This whole
24 area was clean already. That was already clean.

1 That's why you see, like, a thing where it's all,
2 like -- it's just garbage. You know what I'm saying?
3 But all this, they had dumped 50 loads, and this is
4 where they started off on Monday.

5 BY MS. BURKE:

6 Q. So the dumping you're describing all occurred
7 on that weekend before March 22nd?

8 A. Yeah. See, originally, they were --

9 MR. LEVINE: Wait for a question.

10 BY MS. BURKE:

11 Q. Did you pay Rafael any money regarding the
12 inspection at this site?

13 A. At this site right here?

14 Q. Yes.

15 A. No.

16 Q. Did you pay any City employee any money
17 regarding this site?

18 A. No.

19 MS. BURKE: I don't have any additional
20 questions.

21 THE HEARING OFFICER: Thank you.

22 Mr. Levine, redirect.

23 MR. LEVINE: I'll be as brief as I can,
24 Judge.

1 REDIRECT EXAMINATION

2 BY MR. LEVINE:

3 Q. Page 14, Counsel asked you if this was all
4 your property.

5 The wood ties in Photograph 11 on
6 the top and Photograph 12 at the bottom, is that -- are
7 these photographs of material on your property --

8 A. Yes.

9 Q. -- or is this railroad property?

10 A. No. The stuff on -- The top picture, that's
11 stuff was the stuff that was fly dumped right alongside
12 the gravel road. But if you look at the bottom stuff,
13 those are -- all these in the back, all -- those
14 timbers all belong to the railroad property.

15 My property ends right where the
16 incline to the railroad starts. All -- The railroad
17 company always dumped timbers off to the side, and
18 that's what I was trying to explain to him. I said,
19 "Those are not my timbers." And I asked the guy from
20 the railroad company the other day if they could clean
21 them up because I had got a ticket, and he said, "No.
22 This is my property. If you get on here and touch my
23 timbers, that's trespassing."

24 And the stuff in the front, that's

1 the stuff that was coming out of the ground, and that's
2 the stuff that -- like, the concrete and there was some
3 ties there from the Brown Line. You can see the size
4 of them. That's the stuff -- Because all the pile --
5 The whole pile was there.

6 See when -- prior -- before they
7 got there, I mean, there was a lot of material on
8 there. They didn't get to even see a quarter of the
9 material. There was, like -- You wouldn't even imagine
10 how many trucks were dumped.

11 Q. Okay. Lastly, Counsel asked you about the
12 date you closed.

13 This occurred in March -- The
14 tickets occurred in March of 2006?

15 A. Yes.

16 Q. You closed on the property 3 months before, a
17 few months before?

18 A. I don't quite remember. It was either, like,
19 3 or 6 months. It was right around that --

20 Q. Was it over a year before? Did a year pass
21 where you did nothing to the property, or did --

22 A. No. It had to be at least -- The maximum, it
23 was probably, like, 8 months before we did anything to
24 it.

1 MR. LEVINE: Okay. Nothing further.

2 THE HEARING OFFICER: Ms. Burke.

3 MS. BURKE: No, nothing further.

4 THE HEARING OFFICER: Thank you,

5 Mr. Gonzalez. You may step down. Thank you.

6 (Witness excused.)

7 THE HEARING OFFICER: Off the record.

8 (Discussion off the record.)

9 THE HEARING OFFICER: Okay. All right.

10 We're back on the record. It's approximately 12:20.

11 Both parties have rested. They
12 have opted to reserve their closing arguments for the
13 post-hearing brief.

14 We have not addressed the
15 post-hearing briefing schedule. Let's go off the
16 record for a minute.

17 (Discussion off the record.)

18 THE HEARING OFFICER: Okay. We're back
19 on the record.

20 In any even, we were off the record
21 discussing post-hearing brief dates. As indicated
22 before, both parties have rested on AC 6-39. They're
23 going to reserve their closing arguments for the
24 post-hearing brief.

1 By my calculations, the transcript
2 should be ready by May 23rd. With that said, the
3 City's brief is due on or before June 13th, 2007. The
4 respondent's brief is due on or before June 29th, 2007.
5 The City's reply, if any, is due July 13th, 2007.

6 And I was remiss. I need to set
7 public comment. And public comment will be due -- I'll
8 give them to June 4th for public comment.

9 All right. With that, if there's
10 no comments, issues, questions, that concludes the
11 hearing in Administrative Citation 6-39. Thank you.

12 (Which were all the proceedings had
13 in the above-entitled cause.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF COOK)

3 Martina Manzo, being first duly sworn, on
4 oath says that she is a Certified Shorthand Reporter
5 doing business in the City of Chicago, County of Cook
6 and the State of Illinois;

7 That she reported in shorthand the
8 proceedings had at the foregoing hearing;

9 And that the foregoing is a true and correct
10 transcript of her shorthand notes so taken as aforesaid
11 and contains all the proceedings had at the said
12 hearing.

13

14

15

MARTINA MANZO, CSR

16

17

18

CSR No. 084-004341

19

20

SUBSCRIBED AND SWORN TO
before me this 22nd day of
May, A.D., 2007.

21

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NOTARY PUBLIC

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