

ILLINOIS POLLUTION CONTROL BOARD

PEORIA DISPOSAL COMPANY,)	
)	
Petitioner,)	
)	
vs.)	PCB 08-25
)	(Permit Appeal - RCRA)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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STATE OF ILLINOIS
Pollution Control Board

The following is the transcript of a hearing held in the above-captioned matter, taken stenographically by Gale G. Everhart, CSR-RPR, a notary public within and for the County of Peoria and State of Illinois, before Carol Webb, Hearing Officer, at 324 Main Street, Room 403, Peoria, Illinois, on the 6th day of November, A.D. 2007, commencing at 9:00 a.m.

1 PRESENT:

2 HEARING TAKEN BEFORE:
3 ILLINOIS POLLUTION CONTROL BOARD
4 1021 North Grand Avenue East
5 Springfield, Illinois 62794-9274
6 (217) 524-8509
7 BY: CAROL WEBB

8 APPEARANCES:

9 ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.
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11 JANAKI NAIR, ESQUIRE
12 Attorneys at Law
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15 (309) 637-6000
16 On Behalf of the Petitioner.

17 BROWN, HAY & STEPHENS, LLP
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22 (815) 431-1500
23 On Behalf of the Petitioner.

24 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: MICHELLE M. RYAN, ESQUIRE
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On Behalf of the Respondent.

ALSO PRESENT:

ROYAL COULTER

MEMBERS OF THE PUBLIC WERE PRESENT

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1 HEARING OFFICER WEBB: Good morning. My name is
2 Carol Webb. I'm a hearing officer with the Pollution
3 Control Board. This is PCB 08-25, Peoria Disposal
4 Company versus IEPA. It is November 6th, 2007, and we
5 are beginning at 9 a.m.

6 At issue in the case is the Agency's denial
7 of Petitioner's application to modify its permit for its
8 landfill in Peoria County. You should know that it is
9 the Pollution Control Board and not me that will make
10 the final decision in this case. My purpose is to
11 conduct the hearing in a neutral and orderly manner so
12 that we have a clear record of the proceedings.

13 I will also assess the credibility of any
14 witnesses on the record at the end of the hearing. At
15 the end of the hearing, members of the public will be
16 allowed to give public comment. The public is
17 instructed to limit comments to the issue currently
18 before the Board which is whether PDC's proposed
19 residual waste landfill constitutes a new pollution
20 control facility subject to local siting approval or
21 whether it qualifies for an exclusion from that
22 definition on the grounds that it is solely accepting
23 waste generated by PDC.

24 This hearing was noticed pursuant to the Act

1 and the Board's rules and will be conducted pursuant to
2 sections 101.600 through 101.632 of the Board's
3 procedural rules.

4 At this time I would like to ask the parties
5 to please make their appearance on the record.

6 MS. MANNING: Good morning, Madam Hearing Officer.
7 My name is Claire Manning. I'm here on behalf of Peoria
8 Disposal Company.

9 MS. NAIR: My name is Janaki Nair, also here on
10 behalf of Peoria Disposal Company. And we will be
11 joined presently by Brian Meginnes who will also be
12 appearing on behalf of Peoria Disposal.

13 HEARING OFFICER WEBB: Thank you.

14 MS. RYAN: My name is Michelle Ryan. I'm a special
15 assistant attorney general for the Illinois
16 Environmental Protection Agency.

17 HEARING OFFICER WEBB: Thank you very much. Are
18 there any preliminary matters to discuss on the record?
19 No? Okay. Would PDC like to make an opening statement?

20 MS. MANNING: The only preliminary that we have,
21 Madam Hearing Officer, is that we will have a
22 stipulation of facts ready shortly. That's where
23 Mr. Meginnes is. And we have no evidence and/or
24 exhibits to put on the record because they are -- the

1 record is already the permit application. Any other
2 exhibits we have will be part of the permit application.
3 We will do it for demonstrative purposes. But the
4 record is already before the Illinois Pollution Control
5 Board.

6 HEARING OFFICER WEBB: Thank you. Would you like
7 to make an opening statement?

8 MS. MANNING: I would, Madam Hearing Officer.
9 Thank you.

10 May it please the Hearing Officer and members
11 of the Illinois Pollution Control Board, we thank the
12 hearing officer and the Pollution Control Board for
13 their time in this matter.

14 The appeal before the Board is
15 straightforward. It seeks a reversal of the denial of
16 the Illinois Environmental Protection Agency's denial
17 letter in this permit appeal. We ask that the Board
18 reverse the determination of that Agency and remand to
19 the Agency for purposes of technical review of the
20 permit.

21 The issues before the Board in a permit
22 appeal are framed by the Agency's permit denial letter.
23 Here the permit was denied on one specific basis. The
24 IEPA made the determination that, as a condition

1 precedent to permit issuance, Peoria Disposal Company
2 should receive local siting under section 39 of the Act.
3 We are here today because we don't believe that
4 determination is correct as a matter of law. Section 39
5 applies only to new pollution control facilities. New
6 pollution control facilities are specifically defined in
7 the law. The law that is applicable, as the Hearing
8 Officer and Board knows, is the Illinois Environmental
9 Protection Act. The act says what they are and what
10 they are not. Here this permit has been designed
11 specifically so that the requested permit modification
12 sought here does not require siting priority issuance.
13 Here, as everyone knows, Peoria Disposal originally
14 sought siting of an expansion of its facility. While
15 not relevant here today, that expansion as proposed at
16 siting sought an expansion to accommodate the facility's
17 current operations and, in fact, constituted a new
18 pollution control facility.

19 In short, that pollution control facility
20 that was at siting did not qualify for an exemption.
21 Well, that case has been on appeal and is currently on
22 appeal before the Third District. Peoria Disposal has
23 gone back to the drawing board. Here in this permit
24 application Peoria Disposal seeks permit approval for an

1 expansion that would just accommodate the waste permit's
2 treatment process of which Peoria Disposal is itself the
3 generator. It seeks to dispose of that in its own
4 residential waste landfill. It is entitled under the
5 law to do so without siting.

6 This residual waste constitutes a fraction of
7 the waste now being accepted into the facility. With
8 this permit, Peoria Disposal will no longer be entitled
9 to dispose of approximately 40 percent of its currently
10 incoming waste. Instead, it will only be allowed to
11 dispose of that material which has been in effect
12 transformed in its treatment stabilization process
13 through the addition of reagents. The material entitled
14 to be disposed of pursuant to this permit application is
15 known as treatment residue or residual waste. The
16 reagents, which are purchased by Peoria Disposal and
17 mixed in as additives constitute approximately 40
18 percent of the volume of the treatment residue. In
19 other words, a full two fifths of the residual waste
20 that will be disposed of in the residual waste landfill
21 which is the subject of this permit appeal is the
22 reagent product itself which has been purchased by
23 Peoria Disposal. The other three fifths is inextricably
24 mixed with the reagents in a treatment process designed

1 to meet health risk based regulatory standards.

2 No incoming waste can be directly disposed.
3 One hundred percent of it will be subject to the
4 treatment process and can and will only be disposed of
5 as residual waste. Accordingly, section 3.30A3 of the
6 Act applies. That section provides a company who
7 conducts a waste storage operation for the purpose of
8 disposing of waste generated by its own activities is
9 exempt from siting where such wastes are stored,
10 treated, disposed of, transferred or incinerated within
11 the site or facility owned, controlled or operated by
12 such company or transported within or between facilities
13 owned, controlled or operated by such company.

14 This exemption is not new. It's not unique.
15 It has been applied before by the courts, by the Board
16 and by the Illinois Environmental Protection Agency. It
17 applies here.

18 In 2004 the Second District Appellate Court
19 reviewed this very exemption we argue here and
20 determined that a wastewater treatment facility in Lake
21 County was not a Pollution Control Board facility -- a
22 pollution control facility, excuse me. And,
23 accordingly, zoning was not preempted by local siting.
24 The Court rejected the plaintiff's contention. It

1 determined that it didn't matter that some of the waste
2 would come from those who did not own the facility.

3 The IEPA has previously determined the same
4 thing in at least two instances that we are aware. In
5 1993 the IEPA issued a RCRA class 3 permit, which is the
6 very same permit that this applicant seeks today, to
7 Northwestern Steel and Wire in Sterling, Illinois.
8 There, as here, the facility had been operating as a
9 RCRA permitted facility since the late 1980s. The key
10 was that siting was not required because Northwestern
11 was simply disposing at its own facility waste that it
12 generated. There is no debate. Like Northwestern Steel
13 and Wire, Peoria Disposal is the generator of the waste
14 it intends to dispose in the permit that is requested
15 today.

16 In 1994 in a case brought by Envirite against
17 the Illinois Environmental Protection Agency and Peoria
18 Disposal Company, the Illinois Supreme Court had an
19 opportunity to look at the very treatment process that's
20 before the Board in this permit application. It
21 determined that Peoria Disposal Company is, in fact and
22 in law, the generator of the waste that it treats and
23 disposes. The producer of the waste is not. Relevant
24 to the Board's review here, the Court ruled that the

1 statutory language is the best indicator of the
2 legislative intent. And decision makers like the Court
3 and like the Board need only to look to that language
4 without any other aids or instruction.

5 The second situation we are aware of where
6 the IEPA allowed a permit to issue under similar
7 circumstances without siting involved the original
8 permitting of the landfill in Livingston County near
9 Pontiac, Illinois on I-55. In looking to the statutory
10 exemption language relevant here, the IEPA determined
11 yet in another context, a similar context, that siting
12 wasn't necessary. Thus, the landfill on Route 55 near
13 Pontiac was originally allowed to be built and
14 constructed without siting. In a 1990 letter from IEPA
15 an IEPA attorney to a lawyer for Envirite who originally
16 owned the facility, the IEPA concluded that since the
17 facility would only be accepting waste generated by
18 Envirite -- and in this case the facility that was
19 generating the waste by Envirite was some 50 miles away
20 in Harvey, Illinois -- siting was not required on the
21 basis of the very same language and exemption we argue
22 today. Specifically the IEPA in that case wrote,
23 "Materials generated by these operations of the Harvey
24 facility which are transported to and disposed of at the

1 Envirite Livingston Residential Waste Landfill in
2 Livingston County would not cause the facility to be a
3 pollution control facility because" -- and he cites the
4 very same exception relevant here -- "they are waste
5 generated by a person's own activities."

6 And my comments on all of those cases really
7 constitute legal argument. We plan to present no
8 evidence and we doubt that the Agency will present any
9 evidence that wouldn't be relevant -- that wouldn't be
10 appropriate. These are the kinds of arguments we will
11 be further making in our brief.

12 In terms of fact, there really are no
13 disputed facts here before the Board. In fact,
14 Mr. Meginnes was going to get a stipulated statement of
15 facts between us and the Agency. The sole question
16 before the Board is a question of law. While
17 traditionally the Board has held hearings in permit
18 appeals, this question could readily have been decided
19 without the hearing on the basis of the permit
20 application before us and the law. Therefore, we will
21 only present one witness today, Ron Edwards, who is the
22 operator of the waste stabilization facility in the
23 Peoria Disposal Facility. And he is the signator on the
24 permit before the Board.

1 I will turn to Janaki Nair in a moment who
2 will proceed with questioning Mr. Edwards. The Board's
3 authority is clear under the law. It is required to
4 apply the law correctly. The Courts, on review, hold it
5 accountable to do so. And we appreciate your time today
6 and look forward to the hearing. Thank you.

7 HEARING OFFICER WEBB: Thank you.

8 Ms. Ryan, would you like to make an opening
9 statement?

10 MS. RYAN: Yes, please. Madam Hearing Officer, we
11 do agree with PDC that there is one single issue in this
12 case which is the issue of siting. The Illinois EPA
13 believes that siting is required for this permit for the
14 reason that the exemption claimed by PDC does not apply.
15 Today we have one witness who will describe some minor
16 detail of how Illinois EPA views the siting situation as
17 well as how the permitting process works to further
18 inform the Board as to the facts that are already in the
19 record. And as Counsel indicated, we do have a
20 stipulation of facts that we agree upon and so no
21 additional facts really need to be introduced here.

22 I do have to take issue with the statement,
23 however, that there is no debate that PDC is the
24 generator of the waste from the waste stabilization

1 facility. That is, in fact, the debate in this case.
2 We believe that PDC is not the generator for purposes of
3 siting of the materials coming from the waste
4 stabilization facility, and that was the basis for our
5 decision that siting was required prior to issuance of a
6 permit in this case.

7 HEARING OFFICER WEBB: Thank you.

8 MS. MANNING: We have here, Madam Hearing Officer,
9 the stipulations to present at this time.

10 HEARING OFFICER WEBB: Okay.

11 (Exhibit Number 1 was marked for
12 identification.)

13 HEARING OFFICER WEBB: Okay. I have the stipulated
14 statement of fact. This is a joint --

15 MS. RYAN: That's correct.

16 HEARING OFFICER WEBB: -- filing; is that correct?
17 So I assume nobody objects to it. It's admitted as
18 Exhibit Number 1. So this will be admitted as Exhibit
19 Number 1.

20 MS. MANNING: Madam Hearing Officer, you can call
21 it Joint Exhibit Number 1 if you like.

22 HEARING OFFICER WEBB: I will do that.

23 Okay. PDC may call its first witness.

24 MS. NAIR: Thank you, Madam Hearing Officer. We

1 call Ron Edwards.

2 HEARING OFFICER WEBB: Mr. Edwards, you may have a
3 seat up here and the court reporter will swear you in.

4 (Witness sworn.)

5 RON EDWARDS,
6 called as a witness, after being first duly sworn, was
7 examined and testified upon his oath as follows:

8 DIRECT EXAMINATION

9 BY MS. NAIR:

10 Q Could you please state your full name for the
11 record?

12 A Yes. Ron L. Edwards.

13 Q And what is your current position with Peoria
14 Disposal Company?

15 A I'm vice president of development and
16 operations of landfills.

17 Q Could you briefly describe your experience in
18 this industry?

19 A Yes. I have more than 24 years of experience
20 in the management of hazardous and solid waste. I have
21 served in the capacities of construction manager,
22 facility manager, director of operations and vice
23 president of development and operations and also vice
24 president of environmental affairs.

1 Q Could you briefly describe your professional
2 affiliations?

3 A Yes. I'm a member of the National Solid
4 Waste Management Association. I have served as past
5 chairman of the Landfill Technical Committee. One of
6 the things that we did on that committee is we served
7 with a committee to import these federal
8 subtitle -- these rules into the existing State of
9 Illinois rules.

10 Q And so did you actually participate with the
11 IEPA and the Pollution Control Board in having those
12 regulations passed?

13 A Yes. There were representatives of IEPA and
14 Pollution Control Board as well as industry members on
15 the committee.

16 Q And could you briefly describe your current
17 job duties?

18 A Currently, I'm responsible for landfill
19 development and operations and also environmental
20 compliance.

21 Q Could you briefly describe for us the purpose
22 of the permit application that was filed in this case?

23 A Yes. The purpose of this application was to
24 develop an area specifically for disposal of waste

1 residues that are generated by our onsite treatment
2 plant.

3 Q Did you supervise the preparation of the
4 application?

5 A I did.

6 Q And did you certify the accuracy of the
7 application?

8 A Yes.

9 MS. NAIR: Madam Hearing Officer, may I approach?

10 HEARING OFFICER WEBB: Yes.

11 Q I'm handing you what was marked in the
12 administrative record as page 4, Bates page 4. Do you
13 recognize that document?

14 A Yes.

15 Q And that's a certification document; is that
16 correct?

17 A Right. It's a required certification to be
18 included with a request to modify RCRA part B permit.

19 Q And is that your signature that appears on
20 that page?

21 A Yes, it is.

22 Q Are the statements and representations in the
23 application true and correct to the best of your
24 knowledge?

1 A Yes.

2 Q Did you have an opportunity to review the
3 administrative record as it was filed by the IEPA?

4 A I have.

5 Q Did you specifically review Bates-stamped
6 pages number 1 through 1363?

7 A Yes.

8 Q And do those pages appear to be a true and
9 accurate copy of the application?

10 A Yes, they are.

11 Q Could you briefly describe the location of
12 the facilities in question here?

13 A The location. It's 4349-1/2 West Southport
14 Road, Peoria, Illinois.

15 MS. NAIR: Madam Hearing Officer, may I have
16 continuing permission to approach?

17 HEARING OFFICER WEBB: Yes.

18 MS. NAIR: Thank you.

19 Q I'm handing you what was marked Exhibit A to
20 appendix D616A to the application. It's Bates-stamped
21 1129 through 1131. Do you know what this is?

22 A Yes. This is a photograph included in the
23 application. And it shows the PDC 1 facility. It shows
24 the waste stabilization plant and the proposed residual

1 waste landfill.

2 Q Are those facilities adjacent to each other
3 on that photo?

4 A Yes.

5 Q And are they contiguous?

6 A Yes.

7 Q I'm now going to hand you Exhibit M to
8 appendix D616A to the application. This is
9 Bates-stamped pages 1219 and 1220. Do you recognize
10 this?

11 A Yes. This is a site plan of the residual
12 waste landfill footprint. What that footprint would be
13 is the aerial boundary in which waste could be placed.
14 It also depicts the existing waste stabilization
15 facility.

16 Q And does this drawing also depict the
17 facilities as being adjacent and contiguous?

18 A Yes.

19 Q Could you briefly describe for us the
20 creation of those portions of the existing landfill that
21 will be subject to the application?

22 A Yes. The area C landfill, which is the area
23 that's the subject of this application, was permitted in
24 1987 in a RCRA part B permit. It was developed to begin

1 operating in 1988. The waste stabilization facility as
2 well was permitted in 1987. It was constructed in 1988,
3 began operating in 1989.

4 Q I'm going to hand you what was previously
5 marked Exhibit B to appendix D616A to the application,
6 Bates-stamped page 1132 to 1138. Do you recognize this?

7 A Yes. This is a copy of our waste
8 stabilization permit portion of our RCRA part B permit.

9 Q And is the waste treatment facility currently
10 permitted?

11 A It is.

12 Q And is that a copy of the currently
13 applicable permit?

14 A Yes.

15 Q Is the treatment facility itself a subject of
16 the application?

17 A No.

18 Q Could you describe what is proposed to be
19 disposed of at the residual waste landfill?

20 A Yes. Only those materials that we process
21 through the treatment plant. And those would be what
22 would be disposed and only those.

23 Q By way of comparison, what is currently
24 disposed of at the site?

1 A There is -- we have two types that we are
2 disposing. One is waste that goes to the treatment
3 plant for treatment. And then the other is what we call
4 direct disposal. That's waste that already achieves the
5 standards that can be directly deposited into the
6 disposal unit.

7 Q Under the application, will PDC be able to
8 directly dispose of hazardous waste at the residual
9 waste landfill?

10 A No.

11 Q How about MGP waste or coal tar?

12 A No.

13 Q PCB waste?

14 A No.

15 Q Nonhazardous special waste?

16 A No.

17 Q Only treatment residue will be deposited in
18 the residual waste landfill under the application?

19 A That's correct.

20 Q Is that the only treatment residue generated
21 by PDC's activities at the site?

22 A Right.

23 Q Could you describe the general purpose of the
24 treatment facility?

1 A The treatment facility is a permitted
2 hazardous waste management operation. It's an
3 industrial process, employs methods and techniques
4 specified by the U.S. EPA and IEPA to treat -- to
5 physically change the composition of a hazardous waste.
6 And it would render the resultant residue to achieve
7 health base risk standards prior to disposal.

8 Q What is the treatment process itself?

9 A We have incoming materials to the building.
10 They are dumped into receiving bays. They are
11 commingled with other waste materials coming into the
12 plant. They are moved to a mixing chamber. We add
13 reagents to the mixing chamber. As part of that
14 process, we are adding cement, ferrous sulfate, fly ash
15 and water. There is a exothermic chain reaction
16 occurring -- exothermic meaning it's producing heat.
17 Reaction occurs in the chamber itself. It renders the
18 material much greater mass than initially was placed
19 into the mixer. It's also very stable. It has improved
20 load-bearing capacity. And it's very cohesive material.

21 Q The exothermic reaction, is that caused by
22 the addition of the reagents, or is it externally
23 heated?

24 A The addition of the reagents are creating the

1 heat, yes.

2 Q You mentioned that fly ash, ferrous sulfate
3 and cement are added to the materials received from
4 customers. What percentage of mass does that
5 constitute?

6 A It's about 40 to 50 percent of the mass once
7 treated.

8 Q How does the facility acquire these materials
9 that we mentioned?

10 A They are purchased.

11 Q And you may have already answered this, but
12 what is the difference in the mass of the waste that's
13 brought in from customers versus the treatment residue?

14 A There is an increase of 40 to 50 percent.

15 Q Could you describe any other physical changes
16 undergone by the waste as it becomes the treatment
17 residue?

18 A Essentially, it's sludges and dust that are
19 coming into the plant. Once processed, it becomes a
20 clay-like consistency. It's very compactible.

21 Q And that final product, the treatment
22 residue, is that homogenous?

23 A Yes.

24 Q Is it possible to separate that homogenous

1 mass into its constituent elements?

2 A No. Not after it's been homogeneously mixed.

3 Q Could you describe the chemical changes that
4 are undergone during the treatment process?

5 A Yes. This is the best demonstrative
6 available technology process that's designated by the
7 EPA under the regulations. And what's occurring is
8 three things, a pH adjustment. We also are changing
9 metal ions to hydroxides. And that's limiting
10 leachability of the metal itself. The third thing is
11 it's a pozzolanic material being added. The
12 cementitious materials are pozzolanic, and they have
13 silicates present. Those silicates combine around the
14 metal. There is positive charge and negative charge
15 ions. So they tend to bind around that metal itself to
16 limit leachability of the metal.

17 Q Can the waste that's brought in by PDC's
18 customers for treatment be directly disposed of in a
19 landfill?

20 A No. Those are what are called restricted
21 wastes. They do not meet the health base risk standards
22 to allow lawful land disposal.

23 Q In comparison, can the treatment residues be
24 landfilled?

1 A Yes. After we've processed it, the residues
2 do achieve the health base risk standards, and they are
3 legally allowed to be land disposed.

4 Q So who is the generator of the treatment
5 residue that's generated at the facility?

6 A Peoria Disposal.

7 Q I'm going to hand you what's previously been
8 marked Exhibit E to appendix D616A to the application.
9 It's Bates-stamped 1145 to 1147. Do you know what these
10 documents are?

11 A Yes. This is an excerpt from our waste
12 locator log which is part of our operating record.

13 Q What is the waste locator log?

14 A We are required by regulation to locate the
15 placement of waste going into the land disposal unit.
16 We do that on a coordinate and elevation system. And
17 that's what the locator log depicts is where that
18 specific waste was placed within the landfill.

19 Q And what entity requires that you maintain
20 these locator logs?

21 A The IEPA.

22 Q Who is listed as the generator of the
23 treatment residue on the locator logs?

24 A This locator log actually depicts our initial

1 placement of waste from our treatment facility in '89.

2 And the generator is listed as PDC treatment facility.

3 Q You mentioned locator logs are part of the
4 operating record; is that correct?

5 A Correct.

6 Q And are those -- is that operating record
7 subject to review by the IEPA?

8 A Yes. It's available for review as required.

9 Q And how frequently does the IEPA review the
10 operating record?

11 A We get an inspection, which includes both
12 field and record review, once each 15 days, sometime
13 during the 15 days. It's not on the 15th day.

14 Q I'm going to hand you now what's been marked
15 Exhibit J to appendix D616A of the application. These
16 pages are Bates-stamped 1161 through 1206. Do you know
17 what this is?

18 A This is an excerpt from our annual report
19 from the facility. These are specific to years 2004 and
20 '5. It's an excerpt of the generation and management
21 portion of the report.

22 Q And who is listed as generator of the
23 treatment residues on those annual reports?

24 A It's Peoria Disposal.

1 Q And these are from 2004 and 2005. Would this
2 be typical of all the other years that generator reports
3 have been required?

4 A That's correct. Since 1989's report, it
5 included the generation and form.

6 Q And on all those reports, was PDC listed as
7 the generator of the treatment residues?

8 A Correct.

9 Q What entity requires that you prepare an
10 annual report?

11 A Illinois EPA.

12 Q And what do you do with these annual reports
13 once they are prepared?

14 A Submit it to IEPA Springfield.

15 Q Are there other examples of regulatory and
16 administrative filings and documents that recite that
17 PDC is the generator of the treatment residue?

18 A Yes.

19 Q And are some of those filings given as
20 examples in the application?

21 A Yes. We have included some of them in the
22 application.

23 Q To conclude, to what does the application
24 apply?

1 A It applies specifically to the residues that
2 are coming from our onsite treatment plant to be
3 deposited into the landfill.

4 MS. NAIR: We have nothing further, Madam Hearing
5 Officer.

6 HEARING OFFICER WEBB: Thank you.

7 Ms. Ryan?

8 MS. RYAN: I don't have any questions.

9 HEARING OFFICER WEBB: Okay. Thank you,
10 Mr. Edwards.

11 Does PDC have anything further?

12 MS. MANNING: We do not.

13 HEARING OFFICER WEBB: Ms. Ryan, you may call your
14 witness.

15 MS. RYAN: We call Mark Crites.

16 HEARING OFFICER WEBB: Mr. Crites, the court
17 reporter will swear you in.

18 (Witness sworn.)

19 HEARING OFFICER WEBB: Could you spell your name on
20 the record, please?

21 THE WITNESS: C-r-i-t-e-s.

22 HEARING OFFICER WEBB: Thank you.

23

24

1 Q What type of application is this?

2 A It's a class 3 permit modification request to
3 expand the facility.

4 Q And expand in what sense?

5 A In pretty much all senses. It's vertical.
6 It's horizontal, volume-wise.

7 Q Did you conduct a full technical review of
8 this application?

9 A No, I did not.

10 Q And why was that?

11 A Because upon receiving the application and
12 familiarizing myself with what was being requested, it
13 became clear that there was at least some questions as
14 to whether or not local siting approval would be
15 required for an application of this type. And a
16 decision was made within permit section that we should
17 refer the application to our division of legal counsel
18 to review the application and make a decision on whether
19 or not -- how we should proceed.

20 Q And what was the Illinois EPA's decision with
21 respect to the siting issue?

22 A It was decided that we felt that siting would
23 be necessary for this application.

24 Q Are you familiar with section 39H of the Act?

1 A Yes.

2 Q Can you tell me what that pertains to?

3 A It pertains to -- it requires approval for
4 the disposal of certain types of waste before that waste
5 can be disposed.

6 Q In the early 1990s, how did the Illinois EPA
7 process and issue waste stream authorization?

8 A We would get separate applications for each
9 individual waste stream, and it would be reviewed on a
10 case-by-case basis and individual permits were issued
11 for each waste stream.

12 Q And is it still done that way today?

13 A No, it's not.

14 Q How is it done today?

15 A As of approximately 1995, we changed our
16 procedure so that most of the requirements that
17 originally were placed in waste stream authorizations
18 were actually put in the main body of the main permit
19 for the facility so that this process of approving waste
20 streams became sort of a semiautomatic process. It did
21 not require a separate permit from the Agency for each
22 waste stream.

23 Q Are you familiar with the Northwestern Steel
24 and Wire facility that's been referenced in PDC's

1 application?

2 A Yes, I am.

3 Q And how are you familiar with it?

4 A At one time I was the permit writer for that
5 facility.

6 Q What did that application pertain to as best
7 you can recall?

8 A It was a vertical expansion of their onsite
9 landfill.

10 Q And do you know what types of materials were
11 going to be placed in that landfill?

12 A It was electric arc furnace dust from their
13 bag houses from steel production. And treated spent
14 pickle liquor --

15 COURT REPORTER: Treated what?

16 A Well, it was lime stabilized sludges from the
17 treatment of spent pickle liquor which at one point in
18 time was regulated as a hazardous waste, as K063.
19 It's -- at some point in time, I believe in the
20 early -- I believe it was in early '90s that particular
21 waste code was removed from regulation.

22 Q What type of facility is Northwestern Steel
23 and Wire -- or was it, I should say?

24 A It was a steel facility.

1 Q And it produced steel?

2 A Yes.

3 Q What decision did Illinois EPA make with
4 respect to siting for that expansion?

5 A Siting really wasn't a question in that
6 particular case because it was waste that was produced
7 at that facility originally. It was treated at that
8 facility and then disposed at that facility. So we felt
9 that it was a pretty clear exemption under that -- the
10 exemption that's already been referenced in the Act.

11 Q And if that identical issue came up today,
12 would you agree with that decision that was made?

13 A Yes, I would.

14 Q Are you somewhat familiar with the Envirite
15 facility that's also referenced in PDC's application?

16 A I have some knowledge of it, but I have never
17 been directly involved with that facility.

18 Q Did you review any of the documentation that
19 PDC attached to its application relating to the Envirite
20 facility?

21 A Yes, I did.

22 Q And according to that information, what did
23 that permit application pertain to?

24 MS. MANNING: Madam Hearing Officer, I'm going to

1 object to any testimony on the Envirite facility. He
2 already told us that he is not familiar with that
3 application. He can't speak to anything factually. He
4 would only be able to speak to questions of law and
5 legal argument. And, accordingly, I would suggest that
6 he not be questioned about the Envirite facility.

7 MS. RYAN: I think the Envirite facility was part
8 of their application. The documentation that he is
9 referring to was the documentation that he reviewed in
10 reviewing the application, the parts that he did review.
11 And I think that he can give his impressions of that
12 information and that informed our decision on the siting
13 issue.

14 MS. MANNING: I think he can't speak to anything
15 other than facts.

16 HEARING OFFICER WEBB: Okay. Well, I will allow
17 him to proceed.

18 Q What did that application, the Envirite
19 application, pertain to?

20 A It -- as I understand it, it was a permit
21 application for a new landfill cell at a facility in
22 Livingston County that was owned by the Envirite
23 Corporation at the time. And that their plan was to
24 take wastes that they stabilized at their facility in

1 Harvey, Illinois, that -- and then dispose of it in that
2 landfill, in that new landfill cell that they were
3 creating.

4 Q And according to the documentation in the
5 application, what decision did Illinois EPA make with
6 respect to siting for that application?

7 A It was decided at that time that we would not
8 require siting.

9 Q Based upon your experience in the permit
10 section, how does that decision on the Envirite siting
11 issue compare with other siting issues decided by
12 Illinois EPA in the early 1990s?

13 A It seems to be consistent with the way we
14 viewed siting at the time.

15 Q And would you agree with that decision today
16 if that application were to come before you today?

17 MS. MANNING: I'm going to object to any
18 speculative testimony as to whether they would or
19 whether they wouldn't. The fact of the matter is the
20 Agency didn't.

21 HEARING OFFICER WEBB: I'm going to allow him to
22 answer.

23 A I don't think we would approve it based on
24 the way we view the laws surrounding the issue today.

1 Q And why is that?

2 A I don't think that flow of consideration was
3 given to the value of the local control that the
4 legislature decided was necessary for siting, you know,
5 a commercial operation, a waste disposal operation.

6 MS. MANNING: Madam Hearing Officer, I'm going to
7 continue this line of objection. The reason is, there
8 are several documents in the record which have been
9 redacted on the part of the Agency. Clearly, I suspect
10 that there was debate going on in the Agency between the
11 legal unit and the permit unit as to whether siting was
12 applicable or was not applicable in this circumstance.
13 Those are all legal questions.

14 To the extent to which the Agency never
15 indicated to us any of its deliberative process by
16 redacting any memos or anything else that's in the
17 record that we do have and we put in the record for the
18 Enviroline case, I would suggest that it's inappropriate
19 for the witness here to be testifying as to conjecture
20 as to what was in the Agency's mind because all we have
21 and all we know is the permit denial letter.

22 HEARING OFFICER WEBB: Ms. Ryan, what is your
23 response to that?

24 MS. RYAN: I was actually done.

1 HEARING OFFICER WEBB: Oh. Okay. All right.

2 Would you like to cross-examine the witness?

3 MS. MANNING: I just have a very few questions.

4 CROSS-EXAMINATION

5 BY MS. MANNING:

6 Q You were here for obviously the testimony of
7 Mr. Edwards?

8 A Yes, I was.

9 Q And he testified that 40 percent of the
10 material that becomes the residual waste is actually
11 reagents, correct?

12 A That's what he said, yes.

13 Q And you don't have any dispute on that based
14 on the application?

15 A No.

16 Q That's consistent with what's in the
17 application, correct?

18 A Yes.

19 Q You would absolutely agree -- even for
20 purposes of siting they are the generator of that waste?

21 A Clarify your question. Are you talking about
22 the 40 percent that is there?

23 Q Yes. I mean, they didn't receive it from
24 anyone else? They bought it as product and disposed of

1 it, correct?

2 A If they wanted to buy treatment reagents and
3 then dispose of those treatment reagents in their own
4 landfill, I think, yes, they would --

5 Q They are the generator?

6 A Yes.

7 Q So for -- what is the one -- I think I said
8 at the beginning two fifths of what has become the
9 residual waste, you have no problem with in terms of
10 being subject to the siting exemption? In other words,
11 3.3-- 3083 would apply?

12 A I'm not sure about your math. And also
13 Mr. Edwards testified that the stuff couldn't be
14 separated out. So, yeah, I mean, if you waved a magic
15 wand and separated it and put this 40 percent in the
16 landfill, yes, that would be -- as long as it met
17 appropriate regulations.

18 Q And you agree that for purposes of RCRA
19 Peoria Disposal is, in fact, as the Supreme Court said,
20 the generator for purposes of RCRA?

21 A I would agree that they are a generator for
22 purposes of RCRA.

23 Q Well, in fact, you have no dispute, do you,
24 that, in fact, all of the documents that were put into

1 evidence earlier, the Agency gets those documents?

2 A Yes.

3 Q And the Agency reviews and has not only
4 accepted the fact that they call themselves the
5 generator, you would be -- you would be holding them in
6 violation were they not filing those generator
7 statements; is that correct?

8 A That's correct.

9 Q The statutory exemption applicable here,
10 section 3.330A, is the very same language, is it not,
11 that was applicable during the Envirite matter?

12 A Well, there was a revision to the siting
13 rules in the early '90s. And I believe that that
14 revision occurred after the Envirite case. And I'm not
15 sure if that is the exact same language or not. I would
16 have to review the two different --

17 Q That's all right. We will put it in our
18 brief. We will just --

19 A It's similar. I will agree that it's
20 similar.

21 Q For purposes of today's action, it's really
22 virtually the same language that it was at the time of
23 the Envirite as well as the time of the Northwestern
24 Steel and Wire?

1 A I will agree with that, yes.

2 MS. MANNING: All right. Thank you. That's all I
3 have.

4 HEARING OFFICER WEBB: Ms. Ryan?

5 MS. MANNING: Just a second, please.

6 (Pause in proceedings.)

7 MS. MANNING: Just for purposes of the record, I'm
8 looking at one of the exemptions in part document. It's
9 exempt document number 227, file number L143812003. And
10 redacted from this document is a statement here in a
11 memo dated July 2nd, 2007, from Mark White to Steve
12 Nightingale and Mark Crites. "Mr. White recommends,"
13 and then that rest of the portion of that paragraph is
14 redacted, blacked out. So we can't ascertain what
15 Mr. White's opinion is. I don't assume you want to
16 share with us today, do you, what Mr. White's opinion
17 is?

18 MS. RYAN: Mark may want to share it, but I don't
19 want him to share it.

20 MS. MANNING: I appreciate it. Thank you very
21 much. I'm fine. I'm done with the questions. Thank
22 you.

23

24

1 REDIRECT EXAMINATION

2 BY MS. RYAN:

3 Q Mark, those documents that Claire mentioned
4 that are submitted to the Agency that indicated that PDC
5 is the generator, I believe she is referring to waste
6 locator logs and annual reports and that sort of thing.
7 Are those documents that you actually review in your job
8 as permit reviewer?

9 A Not normally except if they are included with
10 a permit application such as this.

11 MS. RYAN: Thank you. That's all I have.

12 HEARING OFFICER WEBB: Thank you, Mr. Crites.

13 Ms. Ryan, do you have anything further to
14 present?

15 MS. RYAN: I do not. Thank you.

16 HEARING OFFICER WEBB: At this time I would like to
17 confirm the briefing schedule that we discussed earlier.
18 The transcript will be available on the 9th. And the
19 Petitioner's brief is due by November 16th.
20 Respondent's brief is due by November 28th. And
21 Petitioner's reply is due by December 3rd. And the
22 mailbox rule will not apply.

23 The public comment deadline is also December
24 3rd. Public comment must be filed in a 101.628 of the

1 Board's procedural rules.

2 Would PDC like to make any closing argument?

3 Or reserve it for brief?

4 MS. MANNING: We will reserve it for brief.

5 HEARING OFFICER WEBB: Okay. At this time I will
6 take public comment that is relevant to the issue of
7 whether PDC's proposed residual waste landfill qualifies
8 for an exclusion from local siting approval. I
9 have -- well, I have one name up here. Ms. Pryde,
10 Phyllis Pryde. I will call on everyone, though, who
11 wants to speak. Would you like to come up here, Ma'am?

12 I also want to make another announcement.
13 I'm going to assume that everybody here today is making
14 a public comment. If anybody wants to make a sworn
15 statement, that is subject to cross-examination by the
16 parties, whereas public comment is not. So I'm assuming
17 that everybody wants to make a public comment. If I'm
18 wrong, just let me know.

19 Ms. Pryde?

20 MS. PRYDE: Yes.

21 HEARING OFFICER WEBB: And that's -- I'll let you
22 go ahead and spell your name for the court reporter
23 there.

24 MS. PRYDE: Phyllis, P-h-y-l-l-i-s, Pryde,

1 P-r-y-d-e.

2 HEARING OFFICER WEBB: Okay. You may make your
3 statement.

4 MS. PRYDE: I'm here because I'm a grandmother.
5 I'm very concerned about the aquifer and the quality of
6 our water now and hopefully for generations to come. My
7 husband was a Ph.D. in organic chemistry at the Northern
8 Research Laboratory and was extremely concerned with our
9 environment. I, too, have a bachelor of science degree
10 from Bradley University. And I know that what we do now
11 is going to affect our environment for generations to
12 come. And it's the scariest thing I can think of.
13 People in companies and products try to change their
14 identities all the time. In fact, if a woman has enough
15 money, she can have a tummy tuck, enlarge her boobs,
16 have a facelift and a nose job and all new teeth and
17 change her hair in any color and style and put on
18 colored contacts and even change her name. But that
19 will never change who she is because you cannot change
20 DNA. And toxic waste is toxic waste is toxic waste, and
21 it is poison. It's already leaking in our aquifer. And
22 at the PDC laboratories we were shown loaves of concrete
23 mixed with treated waste.

24 MS. MANNING: Madam Hearing Officer, with all due

1 respect -- and I appreciate that the public has the
2 opportunity to comment. But really the comment needs to
3 be relevant to the permit application that we have
4 before us today.

5 HEARING OFFICER WEBB: I will make an announcement.
6 This isn't exactly like the last hearing. The Board is
7 not going to be considering the public health, safety
8 and welfare arguments that were at issue at the landfill
9 expansion. The testimony you have heard today regarding
10 the permit issues is really all the Board is going to be
11 considering. I want to offer you some leeway. I don't
12 want anyone here feeling like they didn't get an
13 opportunity to be heard. You may wish to consider,
14 though, if you have -- if you want to sit to address
15 public health, safety and welfare, maybe submit a
16 written comment to the Board. But I don't want to
17 prevent anyone from saying what they came here to say,
18 but I don't want to spend a lot of time on issues that
19 the Board is not going to be considering. So I will
20 offer some leeway, but if everyone could at least keep
21 it a minute or two, that would be -- you know, on that
22 kind of stuff that would be great.

23 MS. PRYDE: I understand.

24 HEARING OFFICER WEBB: Okay. Thank you.

1 MS. PRYDE: In February of 2007 in this very room
2 the Peoria County Board with two absent, 16 to nothing
3 to prevent the expansion of PDC. Sometime in this year
4 probably, the Illinois Pollution Control Board in
5 Chicago voted 4 to nothing to prevent the expansion of
6 PDC. I simply am here to pray that the Illinois
7 Environmental Protection Agency will consider the votes
8 of people who have studied this for years and will not
9 permit an expansion of the site of PDC.

10 I would hope that instead of further
11 lawsuits, PDC, who has been a very good employer and run
12 a clean plant under the legal auspices that they have
13 had, would take that money and put it into their
14 employees' retirement. That they would haul silt to
15 cover the old sites that have been closed and that they
16 would bring in more silt to cover any new sites that are
17 closed and plant with savanna.

18 There might even be funds from the Illinois
19 government to compensate them for acreage that is
20 returned to a savanna. This would be a very win win
21 situation, not only for PDC whose only problem has been
22 location. A lot of toxic materials were not known about
23 until perhaps the last decade or so. I'm sure they
24 didn't bury toxic barrels knowing they were toxic

1 barrels. They have been very good to their employees.
2 And they have been a very fine company in this area.
3 But I would hope that it could go back to being green.
4 And it would be a win win for not only PDC, but also for
5 the whole entire county and for the aquifer. Thank you.

6 HEARING OFFICER WEBB: Thank you. Who else is here
7 to speak?

8 (Pause in proceedings.)

9 HEARING OFFICER WEBB: You don't need to be sworn
10 in. You are just giving a public comment, but if you
11 would please spell your name for the court reporter.

12 DR. ZWICKY: I will. Gary Zwicky, Z-w-i-c-k-y.

13 I have a couple of comments, but actually
14 first, a couple of questions. Mr. Edwards told us what
15 chemicals will not be going into the site. One of the
16 questions I have, Is there any potential for chemicals
17 or other compounds from Superfund cleanup sites to be
18 deposited in this new facility that you are proposing?

19 HEARING OFFICER WEBB: You can present your
20 questions into the record, but he is not required to
21 answer.

22 DR. ZWICKY: That's fine. And then I'm a simple
23 person but to me this issue of being a generator or
24 producer is a little confusing. I see this industry as

1 a generator of two things, a product that they can sell
2 and has value and waste that may or may not have value.
3 And if the product has value, it can be sold. It can be
4 owned and it can be sold. So if PDC is receiving money
5 to take in waste from other companies, then you are
6 saying you are generating something. I assume, that's
7 what you are calling your product? And you must produce
8 some waste also, but we just heard that because of the
9 chemical reaction the product and the waste are the same
10 thing. They can't be separated. So I assume that that
11 product has value and somebody owns it. So either you
12 own it or the company who produced it originally owns
13 it. And how long do you own it for? Those are my two
14 questions for the record.

15 My comment is, over 25 years ago a landfill
16 existed in Peoria County when new federal regulations
17 regarding hazardous waste disposal came into being. And
18 at that time it was recognized that the site was not
19 ideally suited for hazardous waste disposal.
20 Nevertheless, the site was understandably grandfathered
21 and received a permit to operate for ten years.

22 Now the concept of grandfather clause in
23 business, law or medicine or anything is one that says
24 for whatever reason the person or entity seeking

1 permission would have a difficult time meeting the
2 newest applicable standards. And perhaps we might allow
3 that entity to operate for some period of time and see
4 what happens.

5 Now we are told -- or have been told that the
6 Peoria County Board at the time of that original
7 grandfathering said that the site should not be
8 expanded. They felt that ten years -- they must have
9 felt that ten years was an adequate amount of time for
10 the company to operate without undue hardship caused by
11 the new permit regulations. But the fact of the matter
12 is the regulators, the Peoria County Board and we as the
13 public were asleep at the wheel in 1997 when the
14 ten-year operating permit expired. So what the public
15 and the Peoria County Board thought was a ten-year
16 agreement unbelievably stretched out to 20 years. And
17 today we sit here again debating essentially another
18 great-grandfathering clause for PDC.

19 And yet today we know much more about the
20 health effects of heavy metals and other chemicals that
21 are being deposited in that site. We know what exposure
22 to humans can do more than we did 20 years ago. And
23 many of the chemicals disposed at that landfill
24 including heavy metals and PCBs are now prohibited by

1 law from being landfilled in the European Union. The
2 United States is well behind the European Union in those
3 regards. Today we know that Peoria children have among
4 the highest percentage in the nation of lead level
5 exposure in their blood. And we also know that Peoria
6 County has a high burden of cancer compared to the rest
7 of the state.

8 So what are we as a community going to do
9 about that? Physicians in the Peoria area have voiced
10 their concern about these issues. We do not believe it
11 makes sense to bury hazardous compounds, known cancer
12 causing and other harmful effect compounds in this
13 landfill. And we certainly stand opposed to importing
14 hazardous -- some of the most hazardous components on
15 earth from EPA Superfund sites around the country and
16 entombing them in a poorly sited landfill here in Peoria
17 whose grandfathered permit should have expired ten years
18 ago. Therefore, we urge the Illinois Pollution Control
19 Board to deny the landfill reclassification. Thank you.

20 HEARING OFFICER WEBB: Mr. Zwicky, did you say --
21 are you representing a group? I'm sorry, I --

22 DR. ZWICKY: I have spoken for physicians in Peoria
23 County at multiple --

24 HEARING OFFICER WEBB: Okay. Thank you.

1 (Brief pause in proceedings.)

2 HEARING OFFICER WEBB: Ma'am, would you spell your
3 name, please?

4 MS. BLUMENSHINE: Yes. My name is Joyce,
5 J-o-y-c-e, Blumenshine, B-l-u-m-e-n-s-h-i-n-e.

6 HEARING OFFICER WEBB: Are you representing anyone
7 here today?

8 MS. BLUMENSHINE: Yes, I am. I'm here on behalf of
9 the Heart of Illinois Sierra Club. I'm a volunteer and
10 member of that group. And on behalf of Heart of
11 Illinois Sierra Club, I would like to give these
12 comments.

13 We thank the Illinois Pollution Control Board
14 for holding this hearing in Peoria today. Heart of
15 Illinois Sierra Club has over 800 members in the Central
16 Illinois area. And we appreciate the opportunity to be
17 part of this hearing. This issue is a grave concern to
18 the people of Peoria. Like I said, this issue of grave
19 concern to the people of Peoria whose children,
20 grandchildren and future generations will be faced with
21 the millions of tons of hazardous and other wastes that
22 PDC has buried over aquifer level sands linked to the
23 San Koty aquifer, our major aquifer. It is our opinion
24 that it is completely disingenuous and a ruse that PDC

1 attempts to claim that their expansion does not
2 constitute a new pollution control facility.

3 The specifics of the PDC permit modification
4 request application clearly show that the expansion has
5 a new vertical structure which will hugely increase the
6 elevation of a large section of the landfill to a
7 pitched height of 45 feet above about 32 acres of the
8 current ground level. This will create a new mountain
9 of toxic waste of where no current mountain exists.

10 The other part of the PDC expansion is to
11 open a new lateral landfill area. The 8.2 acres of this
12 new expansion are not currently part of a hazardous
13 waste burial area that is being used or open at PDC.
14 The facts regarding their permit modification request
15 show that their plan is to develop two new hazardous
16 waste storage areas that do not currently exist.

17 This application, in our opinion, is an
18 attempt to circumvent local siting authority. In May of
19 2006 the Peoria County Board voted with a strong
20 majority of 12 to 6 to deny the expansion request
21 presented by PDC. In using the same expansion plans as
22 they presented to the Peoria County Board subsequent to
23 the denial of that expansion, we feel PDC is
24 demonstrating their lack of concern for known

1 environmental problems at the landfill.

2 The expansion would go over cell C1 which is
3 capped partially. The cell C1 liners in the 1980s
4 showed definite data showing large losses of leachate.
5 PDC would have to uncap this part of the cell to
6 continue their new vertical expansion. And this would
7 expose that cell to weather and other stress on the
8 liners.

9 After well over 30 years of operation as a
10 hazardous waste landfill, it is not now plausible to us,
11 nor does it seem acceptable for PDC to claim that they
12 generate waste and can expand without local siting
13 authority.

14 Heart of Illinois Sierra fully supports the
15 decision of the Environmental Protection Agency in
16 denying this class 3 permit modification, and we hope
17 that that decision will be carried forward. Thank you
18 very much for your time.

19 HEARING OFFICER WEBB: Is there somebody in the
20 back?

21 (Brief pause in proceedings.)

22 HEARING OFFICER WEBB: You don't need to be sworn
23 in, but if you could, please spell your name for us.

24 MR. MEINRICH: Yeah. Jay, J-a-y, Meinrich,

1 M-e-i-n-r-i-c-h.

2 HEARING OFFICER WEBB: Are you here representing
3 anyone?

4 MR. MEINRICH: No.

5 HEARING OFFICER WEBB: Just yourself? Okay. Go
6 ahead.

7 MR. MEINRICH: A brief comment. I'm against the
8 expansion of the landfill. And I think that the claim
9 of being a generator, at least in part, has some
10 validity. But because of what's been said today, it's
11 unfounded. You can't separate it so it's unfounded, and
12 I just think this is a big waste of time. Thank you.

13 HEARING OFFICER WEBB: Thank you. Was there
14 anybody over here? Ma'am?

15 (Brief pause in proceedings.)

16 HEARING OFFICER WEBB: Your name, please?

17 MS. FOX: Tracy, T-r-a-c-y, Fox, F-o-x. I'm a
18 citizen. I live in rural Peoria County, and I'm opposed
19 to PDC's expansion of the landfill. I specifically
20 believe that this application and the attempt to
21 reclassify PDC as a waste generator is a blatant attempt
22 to circumvent local siting authority. I believe that
23 common sense argues against what PDC says. They tell
24 you that they commingle waste, that it involves an

1 exothermic process and that only 60 percent of the
2 constituents come from outside customers. To me the
3 thing is, it's waste coming in and a common citizen
4 would classify it as waste coming out. It has no value.

5 What they do is basically just stabilize the
6 waste. And in my mind it's not that different from a
7 garbage truck compacting waste. Although that
8 commingles, it's exothermic, you certainly wouldn't
9 refer to that as a generator of waste. In my opinion
10 there is no difference.

11 They also try to equate themselves with a
12 steel mill disposing of its spent pickle liquor on-site.
13 I think most people would understand that steel mills
14 generate steel; they don't generate spent pickle liquor.
15 Therefore, I don't think it's reasonable to argue that
16 PDC is a generator of waste.

17 I also think that they try to play some games
18 with the limitations of language. They argue that
19 because locator logs and other reports that they submit
20 to the IEPA allow them to label themselves as a
21 generator, that somehow they are. I believe it's just
22 a limitation of language and that IEPA hasn't chosen to
23 unduly burden PDC with listing every single constituent
24 waste that's an input to that stream. It's simply

1 shorthand so that we can have a regulatory process that
2 actually worked. It does not, to me, imply that PDC is,
3 in fact, a waste generator. In the end I think that
4 PDC's actions speak much louder than their words. If
5 they truly believed that they were exempt from local
6 siting authority, that they were a waste generator, they
7 would not have expended the time and effort to go
8 through applying for an expansion with the Peoria County
9 Board. That, in fact, is the strongest argument to me
10 that PDC knows that they do not generate waste and this
11 is just a last-ditch attempt to circumvent the will of
12 the Peoria County Board, the Illinois Pollution Control
13 Board, the IEPA and the citizens of the area. Thank
14 you.

15 HEARING OFFICER WEBB: Thank you.

16 (Applause.)

17 HEARING OFFICER WEBB: Please hold your applause.

18 Ma'am?

19 (Brief pause in proceedings.)

20 HEARING OFFICER WEBB: Your name, please.

21 MS. OZUNA-THORNTON: Chris Ozuna, O-z-u-n-a,
22 hyphen, Thornton, T-h-o-r-n-t-o-n.

23 HEARING OFFICER WEBB: Is that Chris with a "C"?

24 MS. OZUNA-THORNTON: C-h-r-i-s.

1 HEARING OFFICER WEBB: Are you representing anyone
2 today?

3 MS. OZUNA-THORNTON: I'm hear representing myself
4 and my grandchildren.

5 HEARING OFFICER WEBB: All right.

6 MS. OZUNA-THORNTON: I want to offer my respects to
7 everyone here. Personalities, principles above
8 personalities. I think sometimes that to get a
9 principle out without the benefit of the personality can
10 help. And so I was thinking I will change the people
11 who are doing it and the place where it's happening.
12 And I live on the river, not far from San Koty. And so
13 I was thinking I could go ahead and build my landfill
14 there and I could get all my cement and other components
15 and mix it in two fifths. And I could get my liners and
16 even have concrete liners and put it out there and it
17 wouldn't be my fault wind storms come and the tide comes
18 in and it goes out. And the point being here, I'm not a
19 bad person. And I might make a lot of money. I might
20 even make a million a week potentially which is similar
21 to what PDC makes from time to time if not more. So I
22 can understand their fight and their reason to be in
23 here. But the fact is the location of the place is just
24 as dangerous as the one of mine on the river with the

1 flood plain coming in. It might take a little bit more
2 time and it might be my grandchildren who are here
3 suffering. We might not feel it right away, although
4 it's already begun. We know it's already begun.

5 Do I see PDC as a generator of waste? You
6 know, I can buy concrete myself and I don't call it a
7 generator of waste when I do my post holes and it's my
8 place. I might have a lot of concrete and I still don't
9 call myself a generator of waste. Now I think it's a
10 farfetched -- farfetched ploy and there has been a
11 four-pronged ploy before that. And the reason, as I see
12 it, is to drag their feet and to continue to operate
13 regardless. And they promise they will continue to
14 operate regardless and to appeal and appeal and appeal.
15 Understandably, because of the amount of money involved.
16 I think some people are afraid to say anything because
17 of the amount of money involved. But the money, guess
18 where that comes from, folks. That money, all those
19 millions, if not billions that they have, come from here
20 on the back of our little reservoir. And our citizens,
21 future and present, are having to pay the price for it.

22 I just feel that it's -- it is a waste of
23 time for us all to be here. This is not the last time
24 we will be here. It is going to continue, continue,

1 continue. They promised that hoping that we won't come
2 out anymore.

3 I think because of the amount of money
4 involved even though the people are very nice and
5 wonderful people -- but the money involved has made it
6 impossible for them to make an ethical or a good
7 decision. I think the time has come for those who give
8 them the licensing, who give them the right to operate,
9 to continue, who give them any time of day to say, Go on
10 and let's keep this little silliness going on forever
11 until it's full. And then they will say, Okay. My
12 appeal has ran out. Well --

13 MS. MANNING: Excuse me. Madam Hearing Officer,
14 can we keep the testimony to what's relevant before the
15 Board today? I appreciate the comments, but we have had
16 a siting hearing. We have had a public hearing prior to
17 even being here today. We need to keep the record
18 relevant.

19 HEARING OFFICER WEBB: I understand your
20 frustration. And you may make a standing objection.
21 Some of it has been relevant, more than I actually
22 expected.

23 (Applause.)

24 HEARING OFFICER WEBB: Ladies and gentlemen, please

1 don't do that. I do want people to have -- you know,
2 it's important that people feel that this was a fair
3 hearing. As you know, the Board will be considering the
4 issues that are before the Board and really nothing
5 else. But it's a very murky area to separate the
6 comments directly related to what we discussed and the
7 testimony today to some of the other issues that may
8 have been discussed at the last hearing. So I'm hoping
9 that people will keep their comments brief. And I will
10 try to cut people off if they go too long. But I would
11 like to give everyone at least five minutes to say what
12 they want to say, you know, so that everybody leaves
13 here feeling like they had a chance to participate. The
14 Board may consider a small portion of that; they may
15 not. I just don't know. But it will be there, and it
16 will be in the record for the Board to look at.

17 MS. MANNING: As long as it has been put in the
18 record that public comment is not testimony.

19 HEARING OFFICER WEBB: Absolutely. Public comment
20 is not testimony and you may make the standing objection
21 to the relevance of some of the public comment we have
22 heard today.

23 MS. OZUNA-THORNTON: I'm calling for
24 responsibility for the siting issue not only today but

1 for those all in the past and of the future. For those
2 people who are okaying it to take responsibility for
3 what they're doing today. Thank you very much.

4 HEARING OFFICER WEBB: Is there anybody else over
5 here who would like to -- Ma'am?

6 (Brief pause in proceedings.)

7 HEARING OFFICER WEBB: State your name, please.

8 MS. STEVENSON: Kathy Stevenson. I had a page of
9 prepared comments and a lot of them have been stated so
10 I will not go into those.

11 HEARING OFFICER WEBB: Okay.

12 MS. STEVENSON: But I think the bottom line is my
13 concern over the fact that PDC is able to reinvent
14 themselves as a waste generator specifically it seems to
15 bypass the laws that were designed to protect the
16 citizens of Peoria County. And it's very clear to me
17 today based on the testimony by Mr. Edwards that they
18 are not a waste generator. If that waste were not being
19 trucked to their facility, they have nothing to process.
20 And if we are getting into fractions, two fifths is
21 something that they are contributing. So 40 percent is
22 what they are putting into it, but three fifths is what
23 is coming in and it's hazardous and is what our concern
24 is. Without that three fifths coming in, they have

1 nothing to process. There is no residual waste.

2 So, again, I just don't think that we can
3 just decide all of a sudden that things haven't gone our
4 way, let's reinvent ourselves and play by some different
5 rules.

6 HEARING OFFICER WEBB: Thank you.

7 (Applause.)

8 HEARING OFFICER WEBB: Ladies and gentlemen, if you
9 could please not applaud, I would appreciate that.

10 Who is next, please? Sir?

11 (Brief pause in proceedings.)

12 HEARING OFFICER WEBB: Your name, please?

13 MR. PIOLETTI: Dan Pioletti.

14 HEARING OFFICER WEBB: Would you spell that,
15 please?

16 MR. PIOLETTI: P-i-o-l-e-t-t-i. First of all, I
17 have no doubt the Peoria Disposal Company is doing the
18 best job it can. It just comes down to location. I
19 live on the other side of the river in East Peoria. My
20 well-being is dependent on my well water which is part
21 of the aquifer, I think, that's under the aquifer of the
22 Peoria Disposal Company. So my living is dependent on
23 the purity of that water. My concern is that by
24 changing the semantics this would take away the power of

1 the Peoria citizens to have any say over something that
2 seriously could affect their life, the welfare of their
3 children and their grandchildren. So that's why this
4 exemption I feel should not be allowed for myself and
5 all the people of Peoria.

6 Also, my concern is that no matter how much
7 plastic lining they put around the toxic waste, it
8 doesn't matter how much, one leak into that aquifer can
9 spread for miles and miles and affect the life and
10 well-being of all the citizens of Peoria and the
11 surrounding area. So I have nothing against Peoria
12 Disposal Company. I think they should take the lead and
13 take their money and move it to a location where it
14 doesn't affect such a precious commodity for the people
15 of Peoria and the surrounding area. Thank you.

16 HEARING OFFICER WEBB: Thank you. Was there
17 someone else over here? No one over here. And there
18 was another person over here. Ma'am?

19 (Brief pause in proceedings.)

20 MS. ROACH: My name is Jean Roach, and I will make
21 my remarks very short. I am heartened to be here today
22 with a lot of people who have been involved in this
23 issue over the last couple years. And I am heartened by
24 the fact that the Agency, whose role is to protect the

1 citizens, that is, the Illinois Environmental Protection
2 Agency, has turned down this ruse on the part of PDC.
3 And I am heartened by this, and I hope that will
4 continue because as citizens the only thing we really do
5 have besides us being willing to speak out is getting
6 the agencies who have the laws behind them to stand up
7 to businesses who try to distort the law. So I am
8 pleased to be here and to hear the IEPA stand up for the
9 citizens who they represent. Thank you.

10 HEARING OFFICER WEBB: Thank you. Was there
11 another person over here? Ma'am?

12 (Brief pause in proceedings.)

13 MS. GERARD: My name is Suzanne, S-u-z-a-n-n-e,
14 Gerard, G-e-r-a-r-d. I have to admit that I along with
15 Dr. Zwicky am confused by the semantics. If I got out
16 my dictionary and looked up "generate," would I find
17 anything different from "produce"? I did this early on
18 when the same kind of argument came up involving toxic
19 and hazardous. And if you look in the dictionary, it's
20 the same thing. And now the argument is do you generate
21 or do you produce? And I heard nobody make any
22 explanation of the difference. I don't think our laws
23 should be enforced on semantic basis such as this where
24 you can take two words with the same meaning and try to

1 separate them. And as the discussion went on,
2 Mr. Edwards said that this process the waste was put
3 through made it physically more stable. But the problem
4 is not the physical; it is the chemical. And if it is
5 not chemically changed in such a way as to be
6 nonhazardous, how can you then claim it will be
7 nonhazardous?

8 Cement is not a permanent entity as anyone
9 knows who has seen all the road construction. And
10 churning it up with a bunch of cement does not make it a
11 product and does not make it permanently disposed of.
12 Thank you.

13 HEARING OFFICER WEBB: Thank you. Anybody else?
14 Ma'am?

15 (Brief pause in proceedings.)

16 MS. RAITHEL: Karen Raithel, R-a-i-t-h-e-l. I work
17 for Peoria County. And I have a couple of statements to
18 make. Peoria County did send a letter into the public
19 comment earlier this year. March 2nd, 2007, there was a
20 letter sent to IEPA regarding public comment for Peoria
21 Disposal Company permit modification request. The
22 Peoria County Board unanimously passed a resolution at
23 their February 8, 2007, meeting to voice its opposition
24 to Peoria Disposal Company permit modification submitted

1 to IEPA on January 5, 2007. Enclosed is a copy of the
2 resolution that outlines the Board's position to oppose
3 the request.

4 During the landfill application review
5 process, a number of special conditions were proposed by
6 Peoria County Board and staff as well as PDC upon
7 approval of this application. Peoria County feels
8 strongly that the imposition of these special conditions
9 is the most protective of the health, welfare and safety
10 of the residents of Peoria County. Staff believes that
11 in the absence of these special conditions, the County
12 could not support the approval of PDC's siting
13 application as filed on November 14th, 2005.

14 There is a resolution that is attached as
15 well. Resolution: Whereas, Peoria Disposal Company has
16 applied for a class 3 permit modification to allow their
17 landfill in Peoria County to continue operation without
18 the siting approval of the Peoria County Board. And,
19 whereas, the Peoria County Board has previously denied
20 siting approval for proposed extension of Peoria
21 Disposal Company's Peoria County landfill facility.
22 And, whereas, Peoria Disposal Company's application for
23 a class 3 permit modification is identical to the
24 application the Peoria County Board denied except that

1 the proposed modification would only roughly -- apply to
2 roughly 60 percent of their current waste streams.

3 And, whereas, peoria Disposal Company's application for
4 a class 3 permit modification does not include various
5 conditions discussed during the proceedings before the
6 Peoria County Board and its subsidiary bodies. And
7 whereas the Illinois EPA is currently accepting public
8 comment on Peoria Disposal Company's application for a
9 permit -- class 3 permit modification.

10 And, therefore, be it resolved that the
11 Peoria County Board is opposed to Peoria Disposal
12 Company's pending application for a class 3 permit
13 modification because granting of the application would
14 deprive Peoria County of local siting authority and
15 would not provide appropriate special conditions to
16 protect the interest of Peoria County and its citizens.

17 The county administrator has directed to
18 communicate to IEPA that the County opposes the action
19 that deprives Peoria County of authority and prevents
20 Peoria County from imposing conditions deemed
21 appropriate by the Peoria County Board. Respectfully
22 submitted, the Health and Environmental Issues Committee
23 on February 8, 2007, which was approved by a roll call
24 vote of 16 ayes.

1 I also want to mention that IEPA did send a
2 letter to PDC regarding this permit and that Illinois
3 EPA's final decision on Peoria Disposal Company's class
4 3 modification request for landfill expansion on August
5 30th, 2007, IEPA denied PDC's request for a class 3
6 permit modification for expansion of PDC number 1
7 landfill by addition of residual based landfill. The
8 Agency's denial is based on a lack of permission from
9 the local siting authority, the Peoria County Board.

10 So with those comments, I would like to
11 submit into the record saying that Peoria County would
12 like to have its say for siting authority be brought
13 forward.

14 HEARING OFFICER WEBB: What is your position with
15 the County? Did you say?

16 MS. RAITHEL: I am recycling and resource
17 conservation director.

18 HEARING OFFICER WEBB: Is that anything you can
19 give to the court reporter?

20 MS. RAITHEL: Sure.

21 HEARING OFFICER WEBB: You read some things and I
22 think you read it rather quickly so I think she would
23 probably like a copy to type it in, not as an exhibit,
24 of course.

1 MS. MANNING: Right. I would suggest again that
2 this is public comment. I'm not entitled to
3 cross-examine the witnesses.

4 HEARING OFFICER WEBB: You are absolutely right.

5 MS. MANNING: And so we have to sit and listen to
6 this as public comment. And I'm just going to again
7 reiterate that it is not evidence before the Board. It
8 is simply public comment.

9 HEARING OFFICER WEBB: You are absolutely correct.

10 (Pause in proceedings.)

11 MS. CONVERSE: Kim Converse, K-i-m,
12 C-o-n-v-e-r-s-e.

13 HEARING OFFICER WEBB: I'm sorry, I didn't catch
14 that.

15 MS. CONVERSE: Kim Converse.

16 HEARING OFFICER WEBB: Kim Converse?

17 MS. CONVERSE: Uh-huh.

18 HEARING OFFICER WEBB: Are you representing anyone?

19 MS. CONVERSE: I'm representing Peoria Families
20 Against Toxic Waste. And I also did want to clarify for
21 the record -- Dr. Zwicky just had to leave, but I don't
22 think it was on the record that he is Dr. Zwicky rather
23 than mister. So I told him I would do that.

24 HEARING OFFICER WEBB: Thank you.

1 MS. CONVERSE: I want to thank you, Ms. Webb, for
2 being here today as well as everyone. I'm here today as
3 a member of Peoria Families Against Toxic Waste. And we
4 want to thank the Illinois EPA for their ruling against
5 PDC's class 3 permit modification request. And we
6 respectfully ask that the Illinois Pollution Control
7 Board uphold the IEPA's decision. The law is clear that
8 the Peoria County Board has jurisdiction over any
9 expansion decision in our county. Our county board
10 voted 18 to 0 to express its belief that any decision
11 related to the landfill's expansion should remain local.
12 And we ask you to ensure our County's right is
13 protected.

14 The idea that PDC generates this waste that
15 gets trucked in from multiple states defies common
16 sense. In fact, the County Board last spring -- County
17 Board meeting rather, Mr. Meginnis even stated --
18 speaking about a different issue, quote -- and I am
19 quoting here. And there is a video in the other room if
20 you would like to see it. I quote, "We are in the
21 service business. We don't generate the hazardous
22 waste. Just remember that. Our customers do," end
23 quote.

24 PDC itself described this effort to bypass

1 County Board approval as its, quote, "last backdoor
2 plan" to the Peoria Journal Star. We ask that the
3 Pollution Control Board pass this back to our -- and
4 uphold the Illinois EPA's decision. Thank you.

5 HEARING OFFICER WEBB: Thank you.

6 (Brief pause in proceedings.)

7 MS. BUCKLAR: Tessie Bucklar, T-e-s-s-i-e,
8 B-u-c-k-l-a-r.

9 HEARING OFFICER WEBB: Are you representing someone
10 today?

11 MS. BUCKLAR: I'm a member of Peoria Families
12 Against Toxic Waste.

13 HEARING OFFICER WEBB: Okay.

14 MS. BUCKLAR: I just want to -- obviously, I agree
15 with lot of things that have been said here that I think
16 most of us in this room realize that PDC does not
17 actually generate the waste that they landfill in this
18 facility. And I just want to clarify that. There was a
19 meeting, a public hearing PDC held at their laboratories
20 in January. And I have a transcript here. There is
21 just a couple of things that I had asked some questions.
22 I think these were all answered by Ron Edwards of PDC.
23 And this is on page 22 of the transcript. And I had
24 asked him if he would be transporting hazardous waste in

1 from other states.

2 He replied, "Yes."

3 I said, "So you are not actually creating the
4 waste in the other state before you bring it here?"

5 He said, "No we are not."

6 I asked him, "You are not actually creating
7 the waste. It's coming from another state; is that
8 correct?"

9 "The waste comes from the outside; that is
10 correct," answered Mr. Edwards.

11 I asked, "And does it come from a PDC
12 facility?"

13 Mr. Edwards answered "No."

14 I asked, "So does it come from another
15 company?"

16 Mr. Edwards answered "Right." So I just -- I
17 think that highlights very clearly that this waste is
18 not coming from -- it's not from a product they
19 generate. They are not a manufacturer. These are other
20 people's wastes that are coming in that they are
21 landfilling. And I am very much opposed to this, and I
22 hope that you will deny this request.

23 HEARING OFFICER WEBB: Thank you. And I also would
24 like to remind the parties that you are allowed to

1 address public comments in your post hearing briefs if
2 you have any comments on the comments.

3 (Pause in proceedings.)

4 MR. WENTWORTH: My name is David Wentworth,
5 W-e-n-t-w-o-r-t-h.

6 HEARING OFFICER WEBB: And you also are
7 representing the Peoria Families Against --

8 MR. WENTWORTH: Yeah. I will get to that, yes.

9 My name is Dave Wentworth and I'm an attorney
10 representing Peoria Families Against Toxic Waste and
11 also Heart of Illinois Sierra Club. And in addition I'm
12 one of the 53,190 people that live within three miles of
13 this facility. So I have a little bit of insight. I'm
14 also one of them.

15 I would like to thank the -- as I counted,
16 the 48 people that are sitting on the other side of the
17 horseshoe so not counting the parties or the counsel
18 that have been here for this entire hearing now that we
19 are into the hour and a half.

20 I would like to take -- to correct the record
21 just very briefly in the beginning. Ms. Manning
22 indicated this was a residential waste facility on two
23 separate occasions. I think that was a little bit of a
24 slip.

1 MS. MANNING: Excuse me. It's residual.

2 MR. WENTWORTH: Residual. Perhaps she thought that
3 because some of the houses and apartments are only 200
4 feet from the border of this facility.

5 The class 3 permit modification request
6 encompasses an identical site and facility which PDC
7 proposed before the Peoria County Board. Now in the
8 opening it was said that this was a specific design to
9 qualify for this class 3. It wasn't a specific design.
10 It was the design already pending before the Pollution
11 Control Board after Peoria County denied it. It wasn't
12 even on the shelf to take off the shelf and put here.
13 It was already still on their desks. And it was just
14 the exact same expansion. I believe it's already been
15 talked about by Mrs. Blumenshine about the vertical and
16 lateral expansions.

17 So it's the same expansion area proposed in
18 the siting authority -- in the siting application that
19 was denied by the Peoria County Board. Now on January
20 26th of 2007, over 50 people attended the meeting at the
21 PDC laboratories -- kind of snaking through the hallways
22 there. And during that time it was candidly
23 acknowledged by PDC that a previous class 3 modification
24 had been denied by the Agency. In addition, it was

1 acknowledged by PDC that this was the exact same permit.
2 That the permit that would be issued from this would be
3 the same one that would be issued had local siting been
4 approved.

5 Now in the -- after they filed it, during the
6 pendency of the matter before the Illinois Pollution
7 Control Board, PDC admitted through its counsel that,
8 quote, "It's our backup plan." Now this is a very,
9 very, very expensive backup plan. Because if PDC
10 thought that they did not need local siting authority,
11 why did they waste everybody's time at the local siting?
12 Why didn't they just go through, bring in some
13 professional Springfield lawyers with affiliation to the
14 Pollution Control Board and run with this first. This
15 was a very expensive backup plan where PDC spent
16 \$505,865.95 for outside fees associated with a local
17 siting application. That does not include attorneys'
18 fees. Of that \$222,239.26 was spent in PDC's expert
19 fees and other costs related to the siting hearing.
20 Certainly --

21 MS. MANNING: Madam Hearing Officer, if I might,
22 Mr. Wentworth is a lawyer as well. We need -- he knows
23 to keep things relevant to this particular issue before
24 the Board. That's not relevant. Thank you. Would you

1 admonish him, please, to stay with the issues? He was
2 obviously with the issues on a lot of this, but the
3 attorneys' fees were -- this is a business. They are
4 doing business. This is irrelevant.

5 HEARING OFFICER WEBB: All right. Let's keep it --

6 MR. WENTWORTH: I will tie it together right now if
7 I may.

8 HEARING OFFICER WEBB: Please.

9 MR. WENTWORTH: Thank you. The reason why this is
10 all relevant, is I respectfully submit that where the
11 Agency as part of the basis of its denial said that it
12 had not gone through local siting, anything associated
13 with local siting should be fair game for the Pollution
14 Control Board. Especially -- especially where the
15 documents submitted -- they are called application for
16 local siting approval of a pollution control facility.
17 Now this was denied by the Peoria County Board. And
18 that denial was affirmed by the Illinois Pollution
19 Control Board in case 06184, and they did that on
20 June 21st, 2007.

21 Now it's the Pollution Control Board
22 respectfully should be able to see that if what PDC says
23 in one application that it appealed and still called it
24 a pollution control facility before that entity, the

1 decision maker Pollution Control Board, they now can't
2 turn around and call it something else in that matter.

3 Now the -- in short, there is the last to
4 treat regarding the hazardous waste streams under
5 section 39H of the Environmental Protection Act do not
6 equal the, quote, "four wastes generated by such
7 person's own activities including the definition section
8 3.3383. In short, this is a case about section 39C.
9 PDC has attempted to make this a case about section 39H,
10 and they need a local permit. Stated differently, this
11 may be not unlike a concurrent jurisdiction case for
12 siting where more than one jurisdiction can be there.
13 It's really a case where everybody could be right.
14 Where for their waste streams under the Envirite case
15 they could be right that what comes out associated with
16 39H is they're a generator, but that does not apply to
17 39C nor the definition under the Act. That's all that I
18 have. Thank you.

19 HEARING OFFICER WEBB: Thank you.

20 Mr. Edwards? You're Tom Edwards, right?

21 MR. EDWARDS: I'm Tom Edwards, no relation to Ron
22 Edwards. We are friends, though.

23 HEARING OFFICER WEBB: Would you like to sit down?

24 MR. EDWARDS: I am a member of the Sierra Club.

1 Also I am representing River Rescue which started this
2 whole process four years ago. And it's kind of a loose
3 organization with a number of people, some in the
4 audience. Anyway, the background, under its current
5 expiring operational permit, Peoria Disposal Company is
6 considered a receiver and disposer of highly toxic waste
7 now a nearly full toxic waste landfill on Peoria's west
8 edge.

9 About 90 percent of that waste delivered to
10 PDC from an untold number of industries and communities
11 in 15 different states. For four years PDC has been
12 seeking a new permit from the County to expand its
13 landfill. But Peoria County Board, realizing the danger
14 of this growing hill of toxics, denied PDC a new permit.
15 That decision was upheld by the Illinois Pollution
16 Control Board.

17 PDC is now trying a different tactic. They
18 are proposing that itself be considered a sole generator
19 of the hazardous waste it takes in rather than the
20 sources themselves. The business and cities and 15
21 states that produce -- that is, generate and deliver it
22 to PDC's dump site.

23 But PDC says it, rather than the actual
24 producers of the waste, that it can claim on paper to be

1 the generator because PDC adds a bit of what it calls
2 treatment, a bit of treatment. The gain to PDC would be
3 to be named generator rather than disposer of the waste
4 brought to it. It would no longer need a Peoria County
5 permit for both expansion and operation of its landfill.
6 But the IEPA has denied PDC that classification because
7 it would be a travesty of truth to say PDC is a
8 generator rather than a disposer of the waste it
9 receives throughout much of the nation. PDC's so-called
10 treatment is basically mixing the waste with a
11 nonhardening form of cement or clay which mostly keeps
12 the toxic materials, which are very light, from being
13 blown away.

14 The waste is also left exposed to the air to
15 cure, cure, which lets volatile chemicals volatilize and
16 escape into the air. And most of the 843 chemicals the
17 EPA permit allows in this landfill are volatile. That's
18 according to a chemistry professor from Bradley
19 University. Even lead compounds volatilize to a degree.
20 This additional waste would be deposited on top of and
21 alongside the massive already five-story high hill of
22 toxic waste already there thus adding to its dangers.
23 If given this generator classification, PDC says it
24 would stop accepting MPG type waste, manufacturing type

1 waste because it cannot be disposed of as above. But
2 the EPA permit still allows 842 other toxic chemicals to
3 be put in the landfill. And PDC recently sought to add
4 one more toxic waste, PCB's, polychlorinated biphenyls,
5 now banned from almost all commercial use. And it has
6 to be thrown away somewhere, and they are trying to get
7 it in this landfill.

8 A glaring omission in overall EPA
9 regulations, PDC's landfill is immediately atop the
10 aquifer which is Peoria's main water supply. The Peoria
11 area's main water supply. And Peoria is immediately
12 downwind of the PDC landfill's gaseous emissions. And
13 there are emissions. We have the highest toxic release
14 inventory in the state and fifteenth highest in the
15 nation. The state EPA official said such considerations
16 are outside EPA's authority. I hope he is wrong. How
17 can this be true? The question, too, is why did PDC
18 wait until now to try to bypass County permit authority
19 over its landfill if it really thinks that is a
20 legitimate point? But you know it is. Thank you.

21 HEARING OFFICER WEBB: Mr. Edwards, do you want to
22 give the -- is that something you can part with?

23 MR. EDWARDS: Yes. I've got a few additional
24 things I ad-libbed.

1 HEARING OFFICER WEBB: It makes it easier for her
2 to fill in any of the blanks she may have missed.

3 Would anyone else like to speak here today?

4 MR. EDWARDS: Can I add one thing?

5 HEARING OFFICER WEBB: Why don't you submit it in a
6 written comment, Mr. Edwards?

7 MR. EDWARDS: Okay.

8 HEARING OFFICER WEBB: Is there anyone else who
9 would like to speak today?

10 You already spoke today. I would prefer you
11 submit anything further in a written comment if that's
12 okay. Anybody we haven't heard from yet?

13 (No audible response.)

14 HEARING OFFICER WEBB: All right. Would the
15 parties like to add anything before we wrap things up?

16 MS. MANNING: I don't have a closing statement.
17 I'm going to do it on the brief.

18 MS. RYAN: You had a comment about comments.

19 MS. MANNING: My only comment about comments was I
20 have already made it through these comments; we are not
21 allowed to cross-examine any of these witnesses.
22 Accordingly, the Board can't consider any of the
23 information presented in public comment as fact. We
24 can, of course, and the hearing officer indicated, we

1 can argue against those comments in our briefs, but that
2 doesn't make them facts because we have not been allowed
3 to cross-examine them. So that's the comment I want to
4 make about that.

5 We want to do closing statements. We will do
6 that in our brief. I do, however, have a motion that I
7 would like to make prior to the close of this hearing.
8 And that is that I would move that the Agency submit in
9 the record all its redacted comments. All of the
10 information that has been redacted from the record, I
11 think after today's hearing, is clear ought to be in the
12 record. And I would like the Hearing Officer to order
13 that all redacted information be submitted.

14 MS. RYAN: The information that was redacted from
15 the permit reviewer's notes there was an -- Counsel
16 indicated there was an introductory paragraph and then
17 redacted information as well as the attached memorandum
18 that was redacted. Those were all attorney work product
19 and attorney/client privilege documents. They were
20 created by Mr. Mark White in response to his client's
21 request for legal advice. The decision of the Agency
22 was clear in the permit denial letter. And I think the
23 thought processes of the attorneys of the Agency are not
24 relevant to the Board's consideration of this. And even

1 to the extent that they are relevant, they remain
2 privileged. And I don't think that they should be
3 disclosed to anybody

4 HEARING OFFICER WEBB: Well, I'm not going to grant
5 the motion because I don't feel that I can comfortably
6 do so at this hearing without knowing completely what
7 the issues are and having actual written motions and
8 such. So I'm not going to grant that motion at this
9 time.

10 MS. MANNING: Could I ask whether you will deny the
11 motion so that we can bring it to the Board and/or at
12 least develop an ability for us to develop these
13 arguments in writing?

14 HEARING OFFICER WEBB: Yes. Yes. I will do that.
15 I will deny the motion so that you can -- you may raise
16 the motion with the Board. I don't know that you need
17 me to deny it.

18 MR. MANNING: Mr. White, of course, is a land
19 attorney of well repute. He has done a lot of the land
20 regulations throughout the course of the Agency's
21 history. So it's important that the Agency not be in a
22 position to testify to one thing here and have things
23 redacted in the record that are contrary to its public
24 position and its position in its permit denial letter.

1 HEARING OFFICER WEBB: I understand your point. I
2 just don't feel comfortable making that ruling with the
3 limited amount of knowledge that I have in front of me
4 on that.

5 Is there anything further anyone would like
6 to discuss before we wrap things up?

7 MS. MANNING: No.

8 MS. RYAN: No.

9 HEARING OFFICER WEBB: I will now proceed to make a
10 statement as to the credibility of the two witnesses
11 testifying during this hearing. Based on my legal
12 judgment and experience, I find both the witnesses
13 testifying to be credible. At this time I will conclude
14 the proceedings. We stand adjourned. And I thank
15 everybody for their participation today.

16

17 (Whereupon, the proceedings concluded
18 at 10:50 a.m.)

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1 STATE OF ILLINOIS)
)
2 COUNTY OF PEORIA)

3

4

CERTIFICATE OF REPORTER

5

6

I, GALE G. EVERHART, CSR-RPR, Notary Public in and
7 for the County of Peoria, State of Illinois, do hereby
8 certify that the foregoing transcript, consisting of
9 pages 1 through 83, both inclusive, constitutes a true
10 and accurate transcript of the original stenographic
11 notes recorded by me of the foregoing proceedings had
12 before Hearing Officer Carol Webb, in Peoria,
13 Illinois, on the 6th day of November, 2007.

14

15

Dated this 8th day of November, 2007.

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Gale Everhart
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Illinois License No. 084-004217

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