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ILLINOIS POLLUTION CONTROL BOARD

TOM EDWARDS,)
)
Petitioner,)
)
vs.) PCB 08-42
) (Third-Party
PEORIA DISPOSAL COMPANY and) Permit Appeal-RCRA)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondents.)

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 BRADLEY HALLORAN, Hearing Officer, at 324 Main Street, Room 403, Peoria, Illinois, on the 16th day of April, A.D. 2008, commencing at 10:05 a.m.

1 PRESENT:

2

HEARING TAKEN BEFORE:
3 ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph Street
4 James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601
5 (312) 814-8917
6 BY: BRADLEY P. HALLORAN

7 APPEARANCES:

8

TOM EDWARDS
9 902 West Moss Avenue
Peoria, Illinois
10 Appeared Pro Se.

11

ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.
12 BY: BRIAN J. MEGINNES, ESQUIRE
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13 Attorneys at Law
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15 On Behalf of the Respondent
Peoria Disposal Company.
16

17

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18 BY: MICHELLE M. RYAN, ESQUIRE
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19 P.O. Box 19276
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20 (217) 782-5544
On Behalf of the Respondent Illinois
21 Environmental Protection Agency.

22

23

24

1 ALSO PRESENT:

- 2 ROYAL COULTER
- 3 RON WELK
- 4 RON EDWARDS
- 5 CHRIS COULTER
- 6 MATT COULTER
- 7 KAREN RAITHEL

8 MEMBERS OF THE PUBLIC AND MEDIA WERE PRESENT

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23

24

1 HEARING OFFICER HALLORAN: Good morning. My name
2 is Bradley Halloran. I'm a hearing officer with the
3 Illinois Pollution Control Board. I'm also assigned to
4 this matter today entitled Tom Edwards, Petitioner,
5 versus Peoria Disposal Company and the Illinois
6 Environmental Protection Agency, PCB 08-42, which is a
7 third-party permit appeal RCRA.

8 Today is April 16th at 10:00 a.m., approximately
9 10:05. We are going to run this hearing pursuant to
10 section 105, subpart B and section 101, subpart F of the
11 Board's procedural provisions.

12 I also want to note for the record that this
13 hearing was properly noticed up. The hearing is
14 intended to develop a record for the Illinois Pollution
15 Control Board. I will not be making the ultimate
16 decision in the case. It will up to the four board
17 members to make that decision. I'm here to rule on any
18 kind of evidentiary matters and make sure the hearing
19 goes without a hitch.

20 I do want to note there are approximately
21 20 -- it looks like about 20, 22 members of the public
22 or nonparties. We also have the presence of the media.
23 With that said, Mr. Edwards, would you like to give your
24 opening or introduce yourself, please?

1 MR. TOM EDWARDS: Tom Edwards, a citizen of Peoria
2 and a resident of -- within three miles of the landfill,
3 near Bradley University.

4 HEARING OFFICER HALLORAN: Thank you.

5 Respondents, please introduce yourself.

6 MR. MEGINNES: My name is Brian Meginnes and with
7 me is Janaki Nair. We are both from the law firm of
8 Elias, Meginnes, Riffle & Seghetti. We are here
9 representing Peoria Disposal Company.

10 HEARING OFFICER HALLORAN: Thank you, sir.

11 MS. RYAN: Michelle Ryan, special assistant
12 attorney general for the Illinois EPA.

13 HEARING OFFICER HALLORAN: Okay. Mr. Edwards, your
14 opening. And I believe on the April 10th telephone
15 status conference you stated that you're not going to
16 call any witnesses, right?

17 MR. TOM EDWARDS: Correct.

18 HEARING OFFICER HALLORAN: You may proceed with
19 your opening.

20 MR. TOM EDWARDS: There is only 15 such
21 landfills -- 15 -- 13 states that has such landfills as
22 we do. And none of them are in the Midwest except one
23 over in Indianapolis. We receive highly toxic waste in
24 Peoria County right next to the city of Peoria from 15

1 states. It's the most important issue facing the city
2 and county and its future. 95 percent of the direct
3 impact of these -- of this hazardous waste landfill will
4 be to the city. Also we have two outlying areas which
5 draw all their water, 100 percent of it from the aquifer
6 right near the landfill, Pleasant Valley and I forget
7 the other one.

8 There are 843 chemicals, the most toxic known
9 to man short of nuclear waste the Illinois EPA permits
10 PDC to bury in its 74-acre landfill. The EPA requires
11 testing for just 20 of them now, 21 with the new permit
12 and has PDC itself do practically all of the testing.
13 But there is -- most of these 843 toxic chemicals are
14 volatile according to the chemistry professor. That
15 means they will effervesce into the air while they are
16 sitting in the landfill. But there is no EPA testing
17 for air pollution from the landfill, but chemicals do
18 volatize into the air. Indeed, PDC has stack pipes for
19 landfills to vent gases.

20 A recent five-county study in Europe found
21 that babies born to mothers living near such landfills
22 had 40 percent more birth defects and 33 percent more of
23 other abnormalities. The counties were Britain -- well,
24 countries were -- five countries in Europe.

1 A New Jersey study revealed twice as many
2 premature births ascribed to airborne fumes from such a
3 landfill. A New York State study reveals 15 percent
4 more strokes in adults living near such landfills.

5 Peoria has a dense population. Over 50,000
6 living down wind from -- or within a three-mile radius
7 of the PDC landfill. This area includes 265 residential
8 streets lined with single and multi family homes and
9 apartments plus Bradley University. But the effect goes
10 far beyond. Ground water contamination is a long-term
11 effect and travels for miles. This landfill adjoins the
12 aquifers of where 60 percent of the city water is drawn.

13 Chemical toxins can last for centuries,
14 forever, experts warn. The plastic and clay landfill
15 liners are short-lived. And monitoring methods are not
16 failsafe. Every landfill leaks.

17 PDC's current EPA permit allows 2.63 million
18 cubic yards of waste. And it was to expire 2006, but
19 extended to 2009. And I am grateful to say that now
20 they are going to close it in 2009. According to
21 published reports it wants to add more -- taken off the
22 idea of adding more of everything. And they want to go
23 up and add another 15 years. Anyway, state law defines
24 hazardous waste as waste which may cause or

1 significantly contribute to an increase in mortality or
2 serious irreversible or incapacitating illness or pose a
3 substantial hazard to human health or environment.

4 Elsewhere where the study has been conducted
5 they show that it does occur. It's about time we had a
6 study in Illinois, right here in Peoria County. We ask
7 that PDC reject the expansion of the landfill. Peoria
8 County has full authority to do that, and it has done
9 that last year by a vote of 12 to 6.

10 We ask now to begin the permanent closure of
11 this landfill while we are still alert to problems and
12 have PDC on board to help pay for it before they go out
13 of business. So the community voice urging the state
14 and nation to require and accelerate development of
15 means to detoxify hazardous waste and recycle it for a
16 beneficial use instead of burying it in the ground where
17 it will remain forever a hazard. Thank you.

18 HEARING OFFICER HALLORAN: Thank you, Mr. Edwards.

19 Mr. Meginnes or Ms. Ryan?

20 MR. MEGINNES: My name is Brian Meginnes, and I
21 represent Peoria Disposal Company. We would like to
22 make a few brief comments before we start.

23 First, for the record, PDC reserves the right
24 to contest the jurisdiction of the Board to hear this

1 appeal for the reasons stated in Peoria Disposal
2 Company's motion to dismiss which was filed with the
3 Board on January 23rd, 2008.

4 Second, section 39(a) of the Act provides
5 that the Illinois Environmental Protection Agency has a
6 duty to issue a permit upon proof that the facility will
7 not cause a violation of the Act or Board regulations.
8 In a third-party appeal of the issuance of a permit by
9 the Illinois EPA, the Board's inquiry is solely whether
10 the third party proves that the permit as issued will
11 violate the Act or Board regulations. The Board
12 reiterated this standard in its March 6, 2008, order in
13 this case.

14 Third, we would like to note that the Board's
15 review of permit appeals is limited to information
16 before the Illinois EPA during the Agency's statutory
17 review period. It is not based on information developed
18 by either the permit applicant or the Agency or a third
19 party after the Agency's decision. Again, the Board
20 reiterated the standard in its March 6th, 2008, order.

21 Fourth, this appeal is not about
22 whether PDC landfill number 1 should be allowed to
23 expand. This issue is the subject of two appeals
24 pending in the Third District Appellate Court. The

1 Board stated in its March 6th, 2008, order in this case,
2 "A permit appeal is not the proper form for a citizen to
3 generally challenge the Agency's performance of its
4 statutory duties."

5 Finally, we would like to note that the
6 Illinois EPA conducted a very thorough review of the
7 permit application submitted by Peoria Disposal Company.
8 We are confident after reviewing the record the Board
9 will conclude that the record supports the Agency's
10 decision and that the RCRA permit as issued to Peoria
11 Disposal Company will not violate the Act or Board
12 regulations. Thank you.

13 HEARING OFFICER HALLORAN: Thank you, Mr. Meginnes.

14 Ms. Ryan?

15 MS. RYAN: The only thing I have to add,
16 Mr. Hearing Officer, is that Illinois EPA stands by the
17 grant of its permit based on the record which has been
18 filed with the Board this week. And we feel that this
19 petition does not contain any legal basis to determine
20 that the permit was incorrectly granted. We also stand
21 by our motion to dismiss in which we indicated the same
22 filed previously. We are not planning to call any
23 witnesses today because we don't think there is any
24 additional facts that need to be added to the record

1 that we have before us when we made the petition.

2 HEARING OFFICER HALLORAN: Thank you, Ms. Ryan.

3 Before we proceed with Mr. Edwards' case in
4 chief, I just want to make clear that the members of the
5 public may give public statements. They may stand up
6 here and give a statement or they may come up here and
7 give an oral statement under oath. But when you do
8 that, you are subject to cross-examination. And I think
9 the best time for the public to come up here is after
10 Mr. Edwards' case in chief. So when Mr. Edwards
11 concludes his case in chief, I will ask if anybody wants
12 to come up here and state their piece.

13 Mr. Edwards.

14 MR. TOM EDWARDS: Thank you.

15 I will be, of course as you know, filing a
16 brief in three weeks after which PDC will be filing a
17 brief to reply to that. So what we are pointing out
18 here today will be kind of an overview of some of the
19 things we talked about in the brief.

20 I would like to bring out a couple of little
21 facts to start with. The landfill is restricted to two
22 percent of mercury in its waste. Mercury is one of the
23 most hazardous contaminants of pollutants known to man.

24 HEARING OFFICER HALLORAN: Mr. Edwards, before you

1 proceed, it's your choice not to be sworn to. So this
2 is not under oath.

3 MR. TOM EDWARDS: Sure. I will be putting it on
4 paper for the brief. That will be under oath.

5 And this two percent --

6 MR. HALLORAN: Pardon me, sir, Mr. Edwards.

7 Mr. Meginnes?

8 MR. MEGINNES: If he is not being sworn to present
9 testimony, then I'm assuming his comments will be
10 considered as public comment and not as testimony for
11 the record?

12 HEARING OFFICER HALLORAN: That's my understanding.
13 The Board will weigh it accordingly. If he is not being
14 sworn in, it is considered, I believe, public comment.

15 MR. MEGINNES: Thank you.

16 HEARING OFFICER HALLORAN: Thank you, Mr. Meginnes.

17 MR. TOM EDWARDS: It's okay with me. Where was I?

18 Oh, mercury two percent of the total waste.
19 Well, that's a lot. About a ton of waste, that's 200
20 pounds of mercury, about, somewhere in there. And that
21 can add up. What happens to it if there is no testing
22 for mercury in the landfill? So where does it go? It's
23 cemented. Well, first of all, they store this waste
24 outside for a long time. Mercury is volatile as you all

1 know from chemistry class. And it's a nerve poison.
2 And I think we've got to start finding some way to keep
3 the mercury up over. We have a barrel trench out there,
4 the first section of the landfill that was put in.
5 35,000 cubic yards. And I don't think one of those
6 barrels is still standing. They are all rusted away.
7 I'm sure there is air pollution coming out of there.
8 And there has been testimony recently from Charles
9 Norris, a geohydrologist of Denver, Colorado, who was
10 hired by a local group here, that all of that landfill,
11 not just a barrel trench, everything in the 21 acres --
12 or 21 years it has been used is leaking to the bottom.
13 That bottom is over our aquifer, the water we drink,
14 that all the towns around here drink. This leaking
15 needs to be stopped.

16 Checking for leaks, testing the water samples
17 from monitoring wells formerly done quarterly would in
18 the new permit instead be collected semiannually and a
19 number only annually. Leaks into our water supply could
20 go on for six months or a year without even be detected.
21 No one has checked it. We are asking a quarterly
22 monitoring of this vital safeguard remain in effect.
23 This makes what has been done even more crucial with age
24 as the landfill ages and becomes more leaky as time goes

1 by.

2 We need better overall oversight from the
3 State. Its 1987 beginning permit, recommended for ten
4 years only, allowed PDC 2.63 million cubic yards of
5 toxic waste. Well, now we are in the 21st year and
6 going to wind up in the 22nd year, and they are still
7 saying they have space left in that 2.63 million cubic
8 yards.

9 That's 900,000 tons according to their own research.
10 However, it seems practically impossible that limit
11 hasn't already been exceeded over the now 21st year of
12 operation. Are we through that? Well, we've got to
13 find a way.

14 We are -- these are operated by public
15 enterprise -- in this case private enterprise, Peoria
16 Disposal Company, sitting back here. And how can we
17 trust -- waste comes to Peoria from 15 different states.
18 Toxic waste -- they aren't dumped in other states. They
19 come to our state. Not just our state, to our county
20 and right next to our city. That's where they are
21 dumping this waste. It's a -- an atomic waste, this is
22 the only hazardous waste that can't come here, atomic
23 waste. We go through all kinds of rigmarole. It has to
24 be taken to Arizona or Nevada. And they still can't get

1 a landfill approved out there. But We can approve one
2 right here in Illinois for 15 states in the entire
3 center of the nation for most all of the other toxic
4 waste. No restriction involved. No restriction permit.

5 MR. MEGINNES: Mr. Hearing Officer?

6 HEARING OFFICER HALLORAN: Yes, Mr. Meginnes?

7 MR. MEGINNES: I would just like to note for the
8 record, I'm not hearing anything from Mr. Edwards
9 regarding the thirteen points that he appealed the
10 permit on which, in my opinion, is the purpose of this
11 hearing. I know he doesn't care for the landfill, but,
12 I mean, the purpose of this hearing I think is for him
13 to address his thirteen appeal points. And I'd just
14 like the record to note my objection to the general
15 tenor of his comments.

16 HEARING OFFICER HALLORAN: Thank you, Mr. Meginnes.
17 The record will reflect that.

18 Mr. Edwards.

19 MR. TOM EDWARDS: Three of the points I made for
20 the thirteen points. We are just checking now in this
21 permit proceeding the 21 years were started in 1988.
22 That's when the EPA started issuing RCRA permits like
23 this. And in that 21 years that starts the barrel
24 trench and goes up to the one we are filling right now,

1 total of 1,2,3-- 7 different cells in the landfill all
2 of which have been reported to be leaking.

3 But there is no testing going for the
4 landfill that's 79 years old. There is no testing going
5 on for the previous 50 or 54 years I believe it is, 58
6 years. We need to test that section of the landfill.
7 And we need to bring that into it. No one is testing.
8 I asked the EPA why they aren't tested. They said they
9 aren't tested because it's prelaw, outside of our
10 jurisdiction. Well, let me remind you that Love Canal
11 was prelaw. And there has been all kinds of landfills
12 since then were prelaw. And the people in the Love
13 Canal area had to go down to Congress in mass to get any
14 action on that one. But now that we've finally broken
15 that loose, it's about time we got some investigation
16 into the 54 acres -- 58 acres of prelaw filling here on
17 the top of our hill out there over our aquifer. Let me
18 point out its the top of the hill, too. It's not being
19 buried in the ground. So it's more vulnerable to
20 breaking loose and filling up.

21 Sixteen landfills in 13 states, PDC is the
22 only one over an aquifer where the city and the suburbs
23 draw their drinking water. We even got wind in the
24 air --

1 HEARING OFFICER HALLORAN: Mr. Edwards, could you
2 raise your voice a tad, please? Thank you.

3 MR. TOM EDWARDS: Immediately upwind of the air the
4 population was there, and we are now just finding out
5 the air pollution is a major problem. And also it
6 adjoins a heavily populated, residential area. Also the
7 only one in the United States that does that. There is
8 one in Oregon, Ohio, that is near such a populated area,
9 but not in it like ours is. Also, they don't draw their
10 water anywhere near that landfill. They get it from
11 Lake Erie. Also it's downwind from the area, the
12 cities, not upwind as ours is.

13 The Federal EPA in 2002 reported that Peoria
14 County's toxic release inventory was by far the highest
15 in Illinois, 4.3 times higher than Cook County -- that's
16 Chicago area -- and 16th in the nation. It said that
17 PDC's operation contributed 21 million pounds that year
18 -- the year was 2002 -- of toxic pollutants compared to
19 under 1 million by the next highest polluter in Peoria
20 County. And that is a major industry, too.

21 That toxic release inventory is, like I say,
22 probably the highest in Illinois. The EPA's closest air
23 pollution testing device is five miles away. It's at
24 the top of the Commercial National Bank building down

1 the street here. But EPA has been asserting there is no
2 air pollution. We have to get some testing right over
3 that landfill, not five miles away. Also those test
4 sites on some of the buildings, one here and one in
5 Peoria Heights, are just testing some of the air
6 pollutants, not all 843 that goes in that landfill. EPA
7 tests like, I want to say, 21. How do they do so few?
8 I don't know. But they are allowed to.

9 Currently overall virtually all required data
10 collection recorded by the EPA is left by the EPA to
11 PDC, Peoria Disposal Company itself. It goes out and
12 collects the data and gives it to the EPA on paper.
13 It's at their desk down in Springfield.

14 HEARING OFFICER HALLORAN: Would you please speak
15 up, Mr. Edwards?

16 MR. TOM EDWARDS: We are asking that the EPA take
17 more direct responsibility. They get out there on the
18 site. Also, they have been testing quarterly for the
19 water pollution monitoring wells. In those wells they
20 found some problems in the past and the city corrected
21 it. But PDC, Peoria Disposal Company, tells the EPA
22 what day to come, takes them around to give these tests.
23 I submit it is absurd of the EPA. PDC has tested those
24 wells already before the EPA gets there. EPA has to

1 take direct responsibility, and they've got to start
2 some surprise testing. They don't do any now. Just
3 come out there and grab some samples when PDC isn't
4 thinking about it in between the other testings.

5 And change the quarterly sampling. It's
6 insufficient. EPA says an inspector regularly visits
7 the landfill site. Let me underline this by saying, We
8 have inspectors present in road construction projects,
9 sidewalk construction projects around here all day long
10 making sure that concrete gets poured correctly and it's
11 the right kind of concrete. They take testing -- go up
12 and have the concrete itself tested. If it's not the
13 right kind of consistency, they have it torn up and have
14 to replace it. EPA sends somebody out there to the
15 landfill -- the most toxic landfill in the whole Midwest
16 seems to affect the lives of the citizens of Peoria
17 County for the next thousand years. They send somebody
18 out there once a month to do cursory visual checks. I'm
19 just saying they need to go out there -- once in a while
20 go out there twice month. So, basically, twice a month
21 and those are the only surprise checks that I know of
22 the actual water, but there is no real checking of the
23 air. Two of the most important elements are left out of
24 those monthly tests. We are asking that these be

1 increased and overall testing be done much more firmly.

2 In the denial of the air pollution, the EPA
3 was totally unaware of the vents that were out there
4 venting pollutants in the landfill. I went out there
5 one time and found them. Told the EPA. I hope there is
6 a log of those. But I can't tell which side they are on
7 sometimes. They are actually -- they are -- they've got
8 a lot of good people. They will come out.

9 I told the EPA inspection manager about the
10 inspection. He acknowledged to me personally he did not
11 know of it about where they are or that they existed.
12 EPA said there was some dust pollution around this
13 landfill. That's captured, taken away, no problem. But
14 research elsewhere shows gaseous toxic pollutants in
15 such landfills are very consequential -- remember what I
16 told you earlier -- to unborn babies and older people.
17 God knows who else.

18 Mercury needs to be banned. By the way, in
19 Europe they are banning -- they banned lead. The reason
20 they banned lead is because they find that it also
21 volatilizes to some extent. That heavy metal in certain
22 situations will volatilize into the air.

23 EPA says the flow rate of groundwater for the
24 aquifer -- for a sand and gravel -- this is a sand and

1 gravel aquifer. And this landfill is just slightly
2 under -- some as close as 50 feet to the surface.
3 Usually there are more, quite a bit more. But there are
4 about five or six wells in Peoria city out there, plus
5 the wells from the neighboring city which are closer.
6 EPA says the flow rate of the groundwater through the
7 aquifer for sand is only six feet per year. My gosh,
8 when they are drawing water out of the aquifer -- the
9 City of Peoria here some years in the summertime draw so
10 much out it stops from there. They have to take it from
11 river and other sources because it depletes the
12 groundwater that much. And that is documented over in
13 the Peoria Illinois Water Resources Department office
14 here in Peoria.

15 (Brief pause in proceedings.)

16 MR. TOM EDWARDS: Give me one moment here.

17 (Pause in proceedings.)

18 MR. TOM EDWARDS: I will repeat at the end of --
19 this landfill sits right over the sand and gravel
20 aquifer that serves this entire area. Is there anyplace
21 else for such a landfill in this area? Why isn't PDC
22 looking for another place? Why isn't the EPA asking
23 them to or telling them to? The EPA says they have no
24 authority to do that. All they can do is check the

1 landfill that's there and take some chemical tests of
2 it. No authority to move that. Well, they can move.
3 We have 100,000 acres of strip mine ground, practically
4 vacant ground in the three counties -- in Peoria County
5 and three counties surrounding. There is a couple
6 hundred thousand more. A lot near Springfield in this
7 state. We have strip mines all over, and they have them
8 in other states, too. There is other places besides
9 strip mines for landfills. This landfill is in the most
10 dangerous place to people in the United States of
11 America.

12 But there have been other landfills close to
13 cities, population areas with groundwater. They have
14 all been moved, moved out from that. I think the last
15 toxic waste landfill closest to New York City is 350
16 miles away. The one closest to Los Angeles is 70 miles
17 from the city.

18 We need -- recommendations are, we need to
19 have outside agencies doing the monitoring of the
20 landfill, not PDC itself. That's an incestuous
21 relationship. Would you trust somebody with the
22 automobile manufacturing doing your repairs on a car if
23 they alone were testing these cars? We have to have
24 outside testing. It has to be good testing. It has to

1 be outside the state because of a lot of
2 interrelationship between politicians and PDC. They are
3 very -- they give campaign donations.

4 MR. MEGINNES: Objection, Your Honor. Objection.
5 I have to object to this comment. It has nothing to do
6 with this hearing. It casts dispersions on my client.

7 HEARING OFFICER HALLORAN: I will sustain your
8 objection, Mr. Meginnnes.

9 MR. TOM EDWARDS: Okay. I take that back. But we
10 have had outside people do monitoring. And EPA must
11 start doing some of the testing itself. It does not now
12 do it. It leaves that up to PDC. I'm saying what I
13 want, what we want, the people I'm associated with, is
14 for PDC to become the best operation in the United
15 States. Find a landfill that it can operate and do it.
16 And get the federal government involved and the state
17 government involved with it. And close this landfill
18 off and save it as soon as possible. And they can do
19 that. They have the expertise. There is the expertise
20 right back there. I think that's probably enough for me
21 today.

22 HEARING OFFICER HALLORAN: Thank you, Mr. Edwards.
23 You have rested your case in chief? You have no further
24 testimony you would like to give or statements, excuse

1 me.

2 MR. TOM EDWARDS: Let me just check my --

3 HEARING OFFICER HALLORAN: I do want the record to
4 reflect that, again, that Mr. Edwards elected not to be
5 sworn in prior to giving his statements.

6 MR. TOM EDWARDS: But I will have my brief sworn.
7 I will say that the county board took a huge and vital
8 step. I think the first one in the United States, the
9 first county board in the United States to deny a new
10 permit for such a landfill. Over in Oregon, Ohio, they
11 don't have that authority. They can't do it. They are
12 going to court to try to close that landfill. They
13 can't say no to a new permit. They wish they had our
14 authority. That's new for a little town to have that.
15 So that's a very important step. And we are making some
16 progress and hope we continue to make progress and hold
17 the situation of this landfill. Thank you.

18 HEARING OFFICER HALLORAN: Mr. Meginnnes?

19 MR. MEGINNES: Yes, two points. One, again, I want
20 for the record to note that Mr. Edwards gave public
21 comment and not testimony. And, number two, I would ask
22 the Board to disregard any portion of his public comment
23 to the extent it reflected documents or matters that
24 weren't in the record because what's important here on

1 this permit appeal is what's in the record. And
2 anything else needs to be disregarded as part of this
3 process.

4 HEARING OFFICER HALLORAN: Thank you. And I ask
5 the Board to so note Mr. Meginnes's objections.

6 MR. TOM EDWARDS: Everything I have referred to has
7 been sent to the EPA previously and also to the county
8 board.

9 HEARING OFFICER HALLORAN: At this point
10 Mr. Edwards has indicated he has rested his case in
11 chief. Anyone who would like to stand up here -- you
12 can sit next to me and Gale, the court reporter, to give
13 public comment or oral statement. Public comment you
14 don't have to get sworn in. You can just stand up here
15 and speak. And an oral statement you must get sworn in
16 and subject to cross-examination. Depending on which
17 you choose, the Board will weigh that accordingly. So
18 any takers?

19 Yes, sir?

20 (Brief pause in proceedings.)

21 HEARING OFFICER HALLORAN: Sir, you can sit next to
22 me up here. It might be easier for all. Are you going
23 to get sworn in?

24 MR. COOK: No.

1 HEARING OFFICER HALLORAN: Okay. Your name and
2 proceed, please.

3 MR. COOK: Bill Cook. I'm a Peoria County
4 resident, 6618 West Tuscarora Road in Mapleton, situated
5 just due south of the PDC landfill. And over the last
6 couple of years, you know, I have been to many of these
7 public forums and the Peoria County Board meetings and
8 spoke with several of the homeowners associations around
9 Peoria. And I'm a former chemist with the State Water
10 Survey and a former chemist with Daley Laboratories
11 which is now associated with PDC Laboratories. And I
12 have had an opportunity to work with many of the
13 chemists that work at PDC Laboratories currently. And I
14 always preface these statements by mentioning that this
15 is really the finest collection of scientists that you
16 could put together for a landfill. And I have always
17 said that if I ever wanted to pick my own crew to watch
18 over my groundwater, that's the crew that I would pick.

19 The problem, though, is like with any other
20 business, a hazardous waste landfill is -- the three
21 secrets to success are location, location, location.
22 And, unfortunately, that's the one thing that PDC does
23 not have going for it. It sits right over -- it's
24 already been established it sits over an outwash of the

1 San Koty aquifer. And when this begins to leak -- not
2 "if," but when it eventually leaks some hexavalent
3 chrome or some mercury or PCB waste into that water
4 stream it's going to plume right under the city. Now
5 there has been debate as to how fast that would migrate,
6 whether that would be a couple feet a year, or if there
7 are channels in that aquifer, it could happen very
8 suddenly and show up in those downgradient wells. And
9 the problem is that those chemists that are out of PDC
10 will notice that immediately because, like I said, this
11 is a good crew. They are going to see that mercury.
12 They are going to see that hexavalent chrome. The
13 problem is you can't whistle and call it back. Once
14 it's loose, it's out. There is no way to just bring
15 that back in. So, consequently, then the water supply
16 in Peoria is pretty much gone. And you might as well
17 buy the tumbleweed concession for downtown Peoria
18 because no business is going to come to a county where
19 there is no fresh water.

20 So it seems as though -- you know, as I have
21 talked to other groups about this, at every turn PDC has
22 been stopped. The Peoria County Board has denied their
23 application. Even the Pollution Control Board denied
24 the original application. And so I get the feeling that

1 they believe that they may have the resources to just
2 outlast the opposition, but I don't think that's true.
3 I think that we will pretty much stand firm on this,
4 that the potential for disaster is here.

5 When I teach my classes out at ICC -- and I
6 said this countless times before -- that whenever
7 financial interests clash with environmental concerns
8 that more often than not it boils down to just an
9 analysis of benefit versus risk. And I said this over
10 and over again, that this is another situation where
11 privatizing the benefit only a few people benefit from
12 the operation of this landfill yet we seem to be
13 socializing the risk over hundreds of thousands of
14 people who draw their drinking water supplies from this
15 aquifer.

16 Now to me that's no contest. And so,
17 consequently, not only do I feel that the Illinois
18 Pollution Control Board should deny this extension of
19 their application which is just an end run around the
20 rules, but should go a step further and begin an
21 investigation of some of the extinct areas in the
22 landfill. There are some of the old barrel pits that
23 really need to be resampled. The rumors of PCB waste in
24 some of these unlined barrel pits could pose an enormous

1 threat to the water supply. And so my feeling is not
2 only should the Pollution Control Board deny this
3 application, but they should mount an investigation into
4 older parts of the landfill and take some core samples
5 and start a partial exhumation of some of those older
6 parts of the landfill. That's all I have.

7 HEARING OFFICER HALLORAN: Thank you, Professor.

8 Anybody else?

9 (Brief pause in proceedings.)

10 HEARING OFFICER HALLORAN: State your name and
11 address, please.

12 MS. BLUMENSHINE: My name is Joyce Blumenshine, and
13 the address 2419 East Reservoir in Peoria. I want to
14 thank Hearing Officer Halloran and the Illinois
15 Pollution Control Board for holding this hearing. I am
16 a volunteer with the Heart of Illinois Sierra Club here
17 in Peoria. We appreciate the Illinois Pollution Control
18 Board coming to Peoria to listen to our concerns about
19 this landfill. Heart of Illinois Sierra Club respects
20 the efforts of Tom Edwards. He has raised questions
21 about this operating permit. We also have questions.
22 We do see that there are issues regarding the permit,
23 and I will raise several questions in my comments.

24 I believe the IEPA says the renewal of the

1 permit for PDC addresses its continued operation of the
2 facility until it reaches its design capacity for
3 containing waste. We would like to raise the question
4 to the Illinois Pollution Control Board that we wonder
5 if this facility has reached its design capacity. The
6 permit application has tables for closure in it. As
7 Mr. Edwards mentioned previously, the closure was
8 anticipated in 2006; now it's 2009. Well, for the
9 general public it is difficult to look at this and feel
10 assured about what will happen to our future here in
11 Peoria. There is a table in the permit application for
12 closure of the waste stabilization building and the
13 storage silos. This schedule appears to be virtually
14 meaningless to us. We know that that waste
15 stabilization plant can continue operating perhaps
16 forever or at least until PDC decides they wish it
17 closed because there is nothing in the operating permit
18 to trigger its closure. PDC owns numerous municipal
19 waste landfills and trucking companies and has been
20 sending lead and PCB waste to their Indian Creek
21 municipal waste landfill near Hopedale in Tazewell
22 County.

23 The citizens of Peoria are faced with the
24 continued trucking of toxic waste into PDC with the

1 processing and handling of the waste upwind of family
2 residences, senior citizens homes, playgrounds and
3 public streets. We ask the Illinois Pollution Control
4 Board's consideration for stronger protection for our
5 community and for our aquifer.

6 And I will abbreviate a few of these things.
7 I want to just list the questions that we are turning in
8 today. Number one, we question why there is no
9 mechanism to provide air monitoring of the perimeter of
10 the landfill and in adjacent residential areas that
11 Mr. Edwards asked.

12 In the RCRA permit of October 2007, number
13 18, it states, and I quote, "No person shall cause or
14 allow operation of the landfill so as to cause or
15 threaten or allow discharge or emission of any
16 contaminant into the environment in any state so as to
17 cause or tend to cause air pollution in Illinois either
18 done or in combination of contaminants from other
19 sources." We question how can this be monitored if
20 there is no air monitoring at the perimeter or outside
21 the landfill.

22 Question number two Mr. Edwards also had was
23 the concern for no monitoring of mercury in the
24 wastewater -- in the samples of waters or at least water

1 samples of the test water.

2 Question number three was in the permit.

3 Since it appears that the Agency, EPA, is allowing PDC
4 to continue to explain nickel exceedances due to
5 leaching of nickel from the stainless steel screens, we
6 would like to ask, Could some additional PBC wells be
7 added so that some coverage for nickel monitoring in
8 these areas can be done if the Agency is continuing with
9 this exemption? And I list the wells from the permit.
10 There are five wells that are to be exempted from nickel
11 exceedances. This was established first in April of
12 1993 when the Agency accepted PDC's explanation of
13 nickel exceedances due to the stainless steel.

14 Number four, we ask, as Mr. Edwards also did,
15 Can downgradient monitoring wells be added for the
16 barrel trench? There are five upgradient wells and we
17 think that additional downgradient monitoring wells
18 should be added.

19 Question number five, since this landfill has
20 stated it expects to be closing in 2009, why is it
21 necessary for the permit sections allowing the
22 construction of a solid storage building with nine
23 hazardous waste storage tanks, construction of two
24 proposed storage silos and a concrete vault and the

1 option for storing up to ten roll-off containers in the
2 container storage or staging area? Could these sections
3 at least be given an end-of-option date tied to when the
4 landfill closes? It is our concern obviously that these
5 facilities could be added to expand the waste
6 stabilization plant which would mean more hazardous
7 waste trucked into the area.

8 Question number --

9 MR. MEGINNES: Mr. Hearing Officer, I have to
10 object. She is testifying or giving public comment on
11 issues that have nothing to do with the thirteen points
12 that we are here today and were raised by Mr. Edwards in
13 the permit appeal. I mean, that's what we are here for
14 today. She is making points, but she didn't file an
15 appeal and raise those issues. So the only thing we are
16 really here today for are the thirteen points raised by
17 Mr. Edwards in his appeal. And much of what she is
18 saying has nothing to do with his appeal points.

19 HEARING OFFICER HALLORAN: Well, I ask the Board to
20 so note your objection, but I am going to allow her to
21 give her statement. Thank you.

22 MS. BLUMENSHINE: And I will move forward as
23 quickly as I can. Thank you very much, sir.

24 These questions pertain to the operating

1 permit which I think is a major part of what I
2 understood the concerns today. Number six is the stated
3 semiannual detection of monitoring which Mr. Edwards
4 mentioned of upgradient and point of compliance wells
5 does not seem to be a change that is as protective of
6 public health and safety for the aquifer. And we also
7 ask that this could be returned to a quarterly basis.

8 Number seven, we know, as the public does
9 from the hearings of 2006, that there are problems
10 regarding the integrity of liners of cell C1. And I
11 provided the full testimony or comments written from
12 Chuck Norris, hydrologist. There are sand bunches under
13 cell C1 and we question that added weight, added
14 compaction on top of cell C1 for the growth of the
15 height of the landfill could threaten the functioning of
16 this cell. Also in the permit are five
17 microencapsulation vaults in cell C4. There is a
18 question in there that they should not be deeper than 83
19 feet from the final permitted elevation. We ask the
20 Illinois Pollution Control Board how this can be
21 carefully monitored and is the addition of height and
22 weight of the landfill over these microencapsulation
23 units necessary and in the best interests for the
24 long-term viability of these hazardous debris

1 containers.

2 Question number nine -- almost done -- why
3 does the landfill redesign which is adding -- fairly
4 significant I would say, very significant -- heights
5 over cell C1, C2, 3-- C3 and C4 not constitute an
6 expansion requiring local siting approval?

7 Reconfiguration of the landfill to add height
8 is not in the interest of the public health, safety and
9 welfare. It could be argued that it is not compatible
10 with the surrounding neighborhoods and is ultimately an
11 alternate means for Peoria Disposal to continue waste
12 when the basic landfill design is filled. PDC has tried
13 other attempts to expand their landfill by various
14 means. The county board voted them down in 2006 by a
15 resounding vote of 12 to 6. And in 2007 the Agency
16 denied their class three operating permit attempt for
17 expansion. Both of these denials were affirmed by the
18 Illinois Pollution Control Board. While the
19 explanations given that the capacity is not yet at the
20 allowable limit and the maximum height limit is still
21 met by this redesign, I would like to suggest that this
22 is inappropriate.

23 How much hazardous waste should be allowed to
24 be squeezed in effect onto the existing cells? The

1 additional height will be added over cells with already
2 known compromised liners. We are concerned that there
3 are children playing in the neighborhood playgrounds
4 with an easy view of this landfill. The height will be
5 exceeding what was previously the anticipated closure
6 height. The original capacity limit was determined long
7 ago. We question how that number can be treated as a
8 guarantee. We also question that that capacity may not
9 actually be close to being reached. PDC has made it
10 clear that they will push the limits in their every
11 attempt to expand their landfill. We feel that they are
12 now pushing the limits of this existing site, and we ask
13 the Illinois Pollution Control Board's review of this
14 reconfiguration of their landfill. We sincerely believe
15 this landfill can cause injury to persons and our water
16 resources. There are many of us who feel our private
17 rights to peace of mind have been invaded by this
18 hazardous waste landfill. Thank you very much.

19 HEARING OFFICER HALLORAN: Thank you so much. I do
20 want the record to reflect that Professor Cook handed me
21 a written comment. I will take that as well as the
22 comments from the last speaker. Anybody else? The last
23 speaker was Ms. Blumenshine.

24 MS. FOX: My name is Tracy Fox. I live at 15215

1 North Ivy Lake Road in Chillicothe, Peoria County.

2 I want to talk today about what's in the
3 record but what's not in the permit. I find this permit
4 renewal somewhat troubling. I believe that it's great
5 that the Illinois EPA and PDC have a good working
6 partnership. And I know in the past that has provided a
7 measure of protection to the citizens of Peoria County,
8 but I question whether this permit expansion really
9 represents the best interests in the long-term health
10 and safety of the citizens of the area.

11 I have three major things that I would like
12 to ask the Illinois Pollution Control Board to do. I
13 would like them to kick the permit back to the Illinois
14 EPA and ask them to ensure that there are no capacity
15 expansions, that there is no closure and that monitoring
16 is not less than but, in fact, more than in the previous
17 permit. I think those are reasonable things to ask for
18 in light of the extensive public hearings that have been
19 held in Peoria County both on PDC expansion and on this
20 very permit.

21 I know that PDC is an outlier in the Illinois
22 EPA's regulatory landscape. They are the only hazardous
23 waste landfill in the state. And the Illinois EPA, in
24 meetings that I sat in with them two years ago,

1 characterized it as a great working relationship and
2 said it really wasn't an undue burden on resources.
3 Well, I think that's all well and good. But I also
4 think the very fact that the PDC landfill is exceptional
5 means that the Illinois EPA should perhaps go above and
6 beyond just a thirteen-point review as dictated by the
7 U.S. EPA in its courageous proindustry; let's get the
8 permits pushed through and renewed stance might have
9 dictated to them. I ask the Illinois Pollution Control
10 Board to step back and tell the Illinois EPA, Look at
11 your mission and make sure that the needs of the
12 citizens of Peoria County rather than the needs of the
13 U.S. EPA and its need to renew permits are primarily
14 what you focus on.

15 In the past it is difficult for me as a
16 citizen to even understand how it is that the permit
17 renewal was only granted this year. I have looked on
18 the Internet. I can't exactly determine when the
19 original permit was granted, whether it was 1987 or
20 1989. There is no public record available at least on
21 the Internet to tell me the sequence of extensions that
22 brought us to the fact that we have a permit that just
23 now is being renewed January 1st, 2008. That does not
24 give me a lot of confidence in the process. I think

1 that having something that obviously can pose a grave
2 threat to health and safety, letting it go on ten years
3 without any public input whatsoever and then pushing
4 through a permit renewal that does not address the firm
5 need for capacity limits and the firm need for closure
6 dates is irresponsible at best.

7 I know that Peoria Families Against Toxic
8 Waste and Heart of Illinois Sierra Club have attempted
9 to go through the permit. We have looked at capacity
10 reports and we fail to understand how it can be that PDC
11 has not already used the allocated capacity, why the new
12 permit isn't solely focused on closure activities. We
13 have also looked at and compared schedules of closure
14 dates in past permits and permit extensions to what is
15 available today. We do not have any confidence that the
16 dates listed in the current permit expiring in 2018
17 will, in fact, be reached by 2018. We ask the Illinois
18 Pollution Control Board to please send the permit back,
19 instruct the Illinois EPA to set firm closure dates, not
20 closure dates tied to capacity.

21 And, thirdly, I'm very concerned about the
22 level of monitoring. In the general technological
23 landscape for any kind of monitoring if you look at
24 where manufacturing technology has gone in the past 25

1 years, if you look at where wastewater treatment has
2 gone in the past 25 years, it's toward continuous
3 process monitoring not towards annual sampling and
4 reduced amounts of monitoring. I find it difficult to
5 believe that there would be any scenario under which
6 older parts of the landfill that are subjected to more
7 and more stress would be monitored more infrequently
8 rather than more frequently. To me that is -- there is
9 no explanation that will satisfy me that that is in the
10 interest of public health and safety.

11 Furthermore, although I have no reason or
12 evidence to doubt the integrity of PDC's labs, and I
13 would hope that they would continue to operate their
14 labs and analyze things on the ground as they need to.
15 I don't think it represents good public policy to allow
16 PDC to test all of this information in their own labs.
17 I believe that there need to be strictly laid-out
18 provisions for independent laboratory analysis. That
19 isn't saying anything against PDC or their integrity;
20 that's just common sense. That's the same reason why we
21 have a whole accounting structure that's supposed to use
22 independent public auditors to look at the books. And
23 when you rely on voluntary things, you can see what
24 happens. It doesn't always work out well.

1 The final thing that I'm really concerned
2 about is the waste stabilization plant. I believe that
3 the failure of the permit renewal to address the ongoing
4 operation of the waste stabilization plant perverts what
5 was originally intended when PDC was grandfathered in
6 when the first permit was written. I cannot believe
7 that they can operate the plant independent of any kind
8 of RCRA permitting with toxic waste coming in, with them
9 having construction for additional waste storage and
10 then treating it through cement stabilization and
11 trucking it back throughout central Illinois. I would
12 ask the Illinois EPA to please look over its mandates,
13 look over the permits and find a way to provide better
14 regulation on this. Thank you for your time.

15 HEARING OFFICER HALLORAN: Thank you so much,
16 ma'am.

17 MR. MEGINNES: Mr. Hearing Officer, again, I would
18 like to object for the record to any part of Ms. Fox's
19 comment which doesn't relate to the thirteen issues
20 raised by Mr. Edwards in his appeal.

21 HEARING OFFICER HALLORAN: Thank you. And I ask
22 the Board to so note as well.

23 Anyone else? Yes, ma'am.

24 MS. HARANT: My name is Joyce Harant. I live at

1 3914 North Donna Lane which is probably within a mile of
2 the landfill. And I am just going to address one issue
3 that -- it's related to the EPA response to public
4 comments on the permit renewal of November 2007, Health
5 Issues, page 35. And it's comment three within that
6 regarding the barrel trench PCB's and hazardous waste
7 that are already contained and that there is, of course,
8 concern about leaching.

9 Under the response, the second paragraph, it
10 says, "The PDC facility is required by the renewal
11 permit to, at a minimum, monitor the groundwater by
12 conducting semiannual groundwater sampling and analysis
13 at the point of compliance downgrade edge of the
14 landfill. Should a release occur from the landfill and
15 migrate down to the lower sand aquifer" -- which I
16 assume is the San Koty? Would that --

17 HEARING OFFICER HALLORAN: I don't know.

18 MS. HARANT: You don't know. That's my assumption.
19 "The downgradient wells would eventually intersect
20 contamination." And then it goes on to state that
21 compliance would have to occur and blah, blah, blah.

22 Previous testimony this morning has said
23 that -- and I would agree with, that once contamination
24 gets into the aquifer, it's there and it's gone. It's

1 in the water. And when I have my state EPA making a
2 statement that the groundwater release would eventually
3 be intercepted and be noticed provides me great concern
4 that if there is not more specificity to how much
5 release? How long does it take? How long does it take
6 to correct the problem once it's been identified? How
7 much can actually get into our water before a corrective
8 action is even effective?

9 As I said, I live very close to the landfill,
10 but we all share the water supply. So it's not just my
11 concern. So I would ask the EPA to be more specific in
12 that area. And if, in fact, you cannot guarantee that
13 heavy metals, PCB's, are not going to get into our water
14 supply, that we look into Mr. Edwards' suggestion that
15 you move the barrel trench contaminants to a safer
16 place. Thank you.

17 HEARING OFFICER HALLORAN: Thank you, ma'am. All
18 right. Just a reminder, we will set a public comment
19 written date due when we discuss the briefing dates.

20 Anyone else?

21 (Brief pause in proceedings.)

22 HEARING OFFICER HALLORAN: I see no takers. So
23 right now we will rest on the public comment.

24 The Respondents, do you want to take a quick

1 break, or do you just want to proceed into your --

2 MR. MEGINNES: I think we are ready to proceed.

3 HEARING OFFICER HALLORAN: Okay. Thank you so
4 much.

5 MS. NAIR: Mr. Hearing Officer, we would like to
6 present one witness today, George Armstrong.

7 HEARING OFFICER HALLORAN: Terrific.
8 Mr. Armstrong.

9 (Witness sworn.)

10 GEORGE ARMSTRONG,
11 called as a witness, after being first duly sworn, was
12 examined and testified upon his oath as follows:

13 DIRECT EXAMINATION

14 BY MS. NAIR:

15 Q Please state your name and spell your last
16 name for the record, sir.

17 A George L. Armstrong, A-r-m-s-t-r-o-n-g.

18 Q Could you briefly describe your educational
19 background?

20 A Yes. I have earned a bachelor of science
21 degree in civil engineering from the University of
22 Illinois at Urbana-Champaign in 1980 and a master of
23 science degree in geotechnical engineering from the
24 University of Illinois at Urbana-Champaign in 1981.

1 Also, I have -- I earned a management certificate from
2 the University of California at Irvine in 1985. Plus, I
3 have completed numerous continuing education courses,
4 seminars, symposiums, throughout my career.

5 Q Could you please briefly describe your
6 professional licensing?

7 A I'm a licensed professional engineer in
8 Illinois and six other states. I'm also a registered
9 geotechnical engineer in California.

10 Q What is your current occupation?

11 A I am vice president of engineering and
12 consulting services for PDC Technical Services,
13 Incorporated.

14 Q And prior to that, what was your occupation?

15 A I was the environmental engineer for Harding,
16 Lawson & Associates.

17 Q Is that also an engineering firm?

18 A Yes.

19 Q Could you briefly describe any other work
20 experience in this line?

21 A That's my experience throughout my 25-plus
22 years.

23 Q Could you briefly describe any professional
24 affiliations or committees of which you are member?

1 A I'm a member of the American Society of Civil
2 Engineers which I am past president of the Illinois
3 Valley Branch and also the Central Illinois section.
4 I'm also a member of the National Society of
5 Professional Engineers, Illinois Society of Professional
6 Engineers and the Solid Waste Association of North
7 America.

8 MS. NAIR: May I approach the witness, sir?

9 HEARING OFFICER HALLORAN: Yes, you may.

10 MS. NAIR: Thank you, sir.

11 Q I am going to hand you what we have
12 previously marked PDC Exhibit 1. And I am tendering a
13 copy to Mr. Edwards as well. Do you recognize this
14 document, Mr. Armstrong?

15 A Yes, I do.

16 Q What is this?

17 A This is my resume.

18 Q And did you prepare this document?

19 A Yes, I did.

20 Q Is it true and correct?

21 A Yes.

22 Q Is it the most updated version of this
23 document?

24 A Yes.

1 MS. NAIR: Mr. Hearing Officer, we would tender
2 Exhibit 1 into evidence.

3 HEARING OFFICER HALLORAN: Mr. Edwards, any
4 objection? Sir, could you sit back up at your table?
5 Normally the parties stay at their table.

6 So Mr. Edwards, you have no objection to
7 PDC's Exhibit Number 1?

8 MR. TOM EDWARDS: No.

9 HEARING OFFICER HALLORAN: Okay. Admitted. Thank
10 you.

11 MS. NAIR: And Mr. Hearing Officer, we would tender
12 Mr. Armstrong as an expert witness in the areas of
13 environmental engineering and compliance with the IEPA
14 Act and regulations relating to landfills and hazardous
15 waste management.

16 HEARING OFFICER HALLORAN: Mr. Edwards, any
17 objection?

18 MR. TOM EDWARDS: No. I wasn't listening. Tell me
19 again. What did you say?

20 MS. NAIR: I can repeat it.

21 HEARING OFFICER HALLORAN: Thank you.

22 MS. NAIR: We are submitting Mr. Armstrong as an
23 expert on environmental engineering and on compliance
24 with the Illinois Environmental Protection Act and

1 regulations regarding landfills and hazardous waste
2 management.

3 MR. TOM EDWARDS: (Inaudible.)

4 HEARING OFFICER HALLORAN: I'm sorry?

5 MR. TOM EDWARDS: Yes.

6 HEARING OFFICER HALLORAN: That's fine. Okay. The
7 record will so note.

8 Q I am going to hand you what was previously
9 marked Exhibit 2. Do you recognize this document?

10 A Yes, I do.

11 Q I'm tendering a copy to Mr. Edwards.

12 What is this document?

13 A This is the lifetime operating permit. It's
14 an air permit issued by the Illinois EPA to the PDC
15 number one facility.

16 Q In what capacity are you familiar with this
17 document?

18 A Well, as an engineering consultant to Peoria
19 Disposal Company, I'm just generally aware of all the
20 permits the facility has.

21 MS. NAIR: We would move for entry into evidence of
22 PDC Exhibit 2.

23 HEARING OFFICER HALLORAN: Mr. Edwards, any
24 objection?

1 MR. TOM EDWARDS: No.

2 HEARING OFFICER HALLORAN: Thank you. So admitted.

3 Q I'm going to hand you what has previously
4 been marked PDC Exhibit 3. Do you recognize this
5 document?

6 A Yes, I do.

7 Q And what is the document?

8 A This is the State of Illinois certification
9 to PDC Laboratories to provide environmental analysis.

10 Q Is this the most recent version of the
11 document?

12 A It's the current version, yes.

13 Q And in what capacity are you familiar with
14 this?

15 A I'm familiar with this certification just in
16 my experience and role as environmental engineer.

17 MS. NAIR: Thank you. We would move to have PDC
18 Exhibit 3 admitted into evidence.

19 HEARING OFFICER HALLORAN: Mr. Edwards, any
20 objection?

21 MR. TOM EDWARDS: No.

22 HEARING OFFICER HALLORAN: So admitted.

23 Q Mr. Armstrong, are you a signator on the
24 application for the permit that's at issue in this case?

1 A Yes, I am.

2 Q In what capacity did you sign the application
3 of the subject permit?

4 A I signed the application as the professional
5 engineer of record on form LPCPA1. And that affirms
6 that the information contained in the application was
7 true and accurate to the best of my knowledge and
8 belief. In addition, I signed the licensed professional
9 engineer technical certifications for all of the
10 technical information that was prepared directly by me
11 or under my direction or supervision that were included
12 in the application as required by 35 Illinois
13 Administrative Code 703.182.

14 Q What was the approximate volume of the
15 application?

16 A The approved application is 17 volumes, which
17 is roughly 5,000 pages.

18 Q And what in general terms is included in the
19 application?

20 A The application includes all applicable
21 information required by 35 Illinois Administrative Code,
22 part 703, subpart D. This includes detailed technical
23 and regulatory information regarding the design,
24 operations, environmental monitoring, closure and post

1 closure care of the entire PDC 1 facility.

2 Q When was the application initially filed?

3 A May 7, 1997.

4 Q And was that filing timely?

5 A Yes, it was. It was filed more than 180 days
6 prior to the expiration of the effective permit. And
7 according to 35 Illinois Administrative Code, part
8 703125, a application for a permit renewal is deemed
9 timely if it's filed at least 180 days prior to the
10 expiration of the effective permit.

11 Q Was the application subsequently added to and
12 updated?

13 A Yes. The updates and additional information
14 primarily were in response to questions or comments by
15 the Illinois EPA, but also to incorporate permit
16 modifications that had been approved by the Agency while
17 the renewal permit application was being renewed. These
18 are all considered part of the application as well.

19 Q Were you familiar with the draft permit that
20 was promulgated by the IEPA in this matter?

21 A Yes.

22 Q And have you familiarized yourself now with
23 the final permit as issued?

24 A Yes.

1 Q Have you familiarized yourself with the
2 changes between the draft permit and the final permit as
3 issued?

4 A Yes.

5 Q Do you have an expert opinion regarding
6 whether the permit as issued will violate the Illinois
7 Environmental Protection Act or Board regulations?

8 A Yes.

9 Q What is that opinion?

10 A It is my professional opinion that the permit
11 as issued will not violate the Illinois Environmental
12 Protection Act or Board regulations.

13 Q Is that opinion based on your knowledge of
14 the permit and your expertise in the fields of
15 environmental engineering and compliance with the
16 Illinois Environmental Protection Act and regulations
17 regarding landfills and hazardous waste management?

18 A Yes, it is.

19 Q Have you reviewed the documents submitted by
20 Petitioner, Mr. Tom Edwards, to the Pollution Control
21 Board on March 3rd, 2008?

22 A Yes.

23 Q For shorthand purposes I am going to refer to
24 that document as the amended petition though, again, we

1 have reserved our objections to the filing of that
2 document.

3 Have you reviewed the 13 bases stated for
4 Mr. Edwards' request for review of the permit in his
5 amended position?

6 A Yes.

7 Q Do you have an expert opinion regarding
8 whether any of the bases stated in Mr. Edwards' amended
9 position provide a reasonable basis for a finding that
10 the permit as issued will violate the Illinois
11 Environmental Protection Act or Board regulations?

12 A Yes.

13 Q What is that opinion?

14 A It is my professional opinion that
15 Mr. Edwards' amended petition provides no reasonable
16 basis for finding that the permit as issued would
17 violate the Illinois Environmental Protection Act or
18 Board regulations.

19 Q Is your opinion based on your knowledge of
20 the permit, the amended petition and your expertise in
21 the fields of environmental engineering and compliance
22 with the Illinois Environmental Protection Act and
23 regulations regarding landfills and hazardous waste
24 management?

1 A Yes.

2 MS. NAIR: We have nothing further, sir.

3 HEARING OFFICER HALLORAN: Thank you, Counsel.

4 Mr. Edwards, any cross of Mr. Armstrong?

5 MR. TOM EDWARDS: No.

6 HEARING OFFICER HALLORAN: Thank you. You may step
7 down, sir.

8 So I assume PDC has rested their case in
9 chief?

10 MR. MEGINNES: Yes, sir.

11 HEARING OFFICER HALLORAN: Thank you.

12 Ms. Ryan, you are up.

13 MS. RYAN: The Illinois EPA will not call any
14 witnesses today.

15 HEARING OFFICER HALLORAN: Thank you.

16 Mr. Edwards, any rebuttal?

17 MR. TOM EDWARDS: No.

18 HEARING OFFICER HALLORAN: Thank you.

19 What we will do is go off the record
20 momentarily and talk quickly about the briefing schedule
21 and make sure everybody is in agreement. And we will
22 come back on the record in about four minutes. Thank
23 you.

24 (Discussion off the record.)

1 HEARING OFFICER HALLORAN: We are back on the
2 record. It is approximately 11:16. Before we go into
3 the agreed briefing schedule, I do want to ask if any
4 members of the public that are left -- it looks like
5 there are about 15 left -- would anybody like to get up
6 and make a statement or a comment?

7 (Brief pause in proceedings.)

8 HEARING OFFICER HALLORAN: Okay.

9 MR. TOM EDWARDS: May I?

10 HEARING OFFICER HALLORAN: I'm sorry?

11 MR. TOM EDWARDS: May I as a witness make one more
12 comment? Can I be a member of the public? I am giving
13 public testimony.

14 HEARING OFFICER HALLORAN: You have more to add?

15 MR. TOM EDWARDS: One sentence.

16 HEARING OFFICER HALLORAN: You may do so,
17 Mr. Edwards.

18 MR. TOM EDWARDS: Mr. George Armstrong is a paid
19 witness by the Peoria Disposal Company. He is not an
20 objective observer of the situation.

21 HEARING OFFICER HALLORAN: Thank you, Mr. Edwards.

22 I do want to -- before I forget, I do want to
23 note that I find no issues of credibility with the one
24 witness that testified here today.

1 On April 2nd, Ms. Webb, the hearing officer
2 that has been handling this case, sent out an agreed
3 briefing schedule. The Complainant's brief is due -- by
4 the way, this is an expedited transcript. So in any
5 event, the Complainant's brief is due -- actually,
6 Petitioner's brief is due May 5th, 2008. That's you,
7 Mr. Edwards. And Respondents' brief are due by May
8 19th, 2008. The mailbox rule will not apply. In other
9 words, the Board has to have it in their hands on those
10 respective dates. And I do want to set the public
11 comment due date for May 7, 2008. The decision deadline
12 is June 19th, 2008. So what that means the Board has to
13 rule by that date.

14 Any further questions or things I have left
15 out?

16 MR. TOM EDWARDS: When is the final date for their
17 response to my brief?

18 HEARING OFFICER HALLORAN: Ms. Webb did not set --
19 and that's just usually replies -- you have to file a
20 motion for me to file a reply. The record closes May
21 19th. I'm sorry, their response brief is due May 19th,
22 and the record closes that very same day.

23 MR. TOM EDWARDS: How about the public comments in
24 by May 7th, is that rule that you said --

1 HEARING OFFICER HALLORAN: The mailbox rule, no.

2 MR. TOM EDWARDS: Doesn't apply to that. So they
3 can send it in May 7th and it will still --

4 HEARING OFFICER HALLORAN: They can put it in the
5 U.S. mail on May 7th. And I think that will give the
6 Respondents some time to respond if they so choose.

7 MR. MEGINNES: That's fine.

8 MR. TOM EDWARDS: Thank you.

9 HEARING OFFICER HALLORAN: Thanks a lot for all
10 your civility and professionalism and have a safe drive
11 home. Thank you.

12

13 (Whereupon, the proceedings concluded
14 at 11:20 a.m.)

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1 STATE OF ILLINOIS)
)
2 COUNTY OF PEORIA)

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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 57, 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 Bradley P. Halloran, in Peoria,
13 Illinois, on the 16th of April, 2008.

14

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Dated this 20th day of April, 2008.

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