

IN THE MATTER OF: )  
 )  
 WATER QUALITY STANDARDS AND )  
 EFFLUENT LIMITATIONS FOR THE )  
 CHICAGO AREA WATERWAY SYSTEM )  
 AND THE LOWER DES PLAINES RIVER: )  
 PROPOSED AMENDMENTS TO 35 Ill. )  
 Adm. Code Parts 301, 302, 303 )  
 and 304. )

No. R08-9

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STATE OF ILLINOIS  
Pollution Control Board

TRANSCRIPT OF PROCEEDINGS held in the  
 above-entitled cause before Hearing Officer Marie  
 Tipsord, taken before Tamara Manganiello, RPR, at  
 100 West Randolph Street, Room 9-040, Chicago,  
 Illinois, on the 8th day of September, A.D., 2008,  
 commencing at 9:08 a.m.

1 APPEARANCES

2 ILLINOIS POLLUTION CONTROL BOARD:

3 Ms. Marie Tipsord, Hearing Officer  
4 Ms. Alisa Liu, P.E., Environmental Scientist  
5 Mr. Anand Rao, Senior Environmental Scientist  
6 Mr. Tanner Girard, Acting Chairman  
7 Mr. Nicholas Melas  
8 Mr. Thomas Johnson

9 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

10 Ms. Stefanie Diers  
11 Ms. Deborah Williams  
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20 BY: MR. ALBERT ETTINGER  
21 MS. JESSICA A. DEXTER

22 Appeared on behalf of ELPC, Prairie Rivers  
23 Network and Sierra Club

24 THE CHICAGO LEGAL CLINIC  
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28 BY: MR. KEITH HARLEY

29 Appeared on behalf of the Southeast  
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## 1 APPEARANCES (CONTINUED)

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24 FRIENDS OF THE CHICAGO RIVER,  
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29 BY: MS. MARGARET FRISBIE

30

1 HEARING OFFICER TIPSORD: Good  
2 morning. My name is Marie Tipsord and I have  
3 been appointed by Board to serve as Hearing  
4 Officer in this proceeding entitled Water  
5 Quality Standards and Effluent Limitations  
6 For the Chicago Area Waterway System and  
7 Lower Des Plaines River: Proposed Amendments  
8 to 35 Ill. Admin. Code 301, 302, 303 and 304.  
9 The docket number is R08-9.

10 To my right is Dr. Tanner Girard,  
11 the lead Board member assigned to this  
12 matter. To his right is Board member  
13 Nicholas J. Melas. To my far left is Board  
14 member Thomas Johnson. To my immediate left  
15 is Anand Rao from our technical staff and his  
16 left, Alisa Liu, also from our technical  
17 staff.

18 This is the fourth set of hearings  
19 to be held in this proceeding. Today's  
20 hearing is to begin -- the purpose of today's  
21 hearing is to begin hearing testimony from  
22 participants other than the proponent, the  
23 Illinois Environmental Protection Agency.

24 At a prehearing conference on

1 August 26th, the participants agreed that we  
2 would begin this portion of the hearing with  
3 testimony from the Metropolitan Water  
4 Reclamation District of Greater Chicago.

5 We will follow the order of  
6 testifiers chosen by the District and filed  
7 with the Board on September 3rd. Thus, we  
8 will start with Richard Lanyon and we will go  
9 on from there.

10 After entering the testimony as an  
11 exhibit as if read, we will proceed to  
12 questions for the testifiers and the order of  
13 questioners will be, if they have pre-filed  
14 for that particular witness, we will start  
15 with the National Resource Defense Counsel,  
16 go to the IEPA, the People of the State of  
17 Illinois, Openlands and the Environmental  
18 Law & Policy Center, who are representing a  
19 whole host of people in this proceeding.

20 Anyone may ask a follow-up  
21 question and you need not wait until your  
22 turn to ask questions if your question  
23 follows what we're discussing at the time.

24 I do ask that you raise your hand,

1 wait for me to acknowledge you, after I have  
2 acknowledged you, please state your name and  
3 who you represent before you begin your  
4 questions.

5 Please speak one at a time. If  
6 you're speaking over each other, the court  
7 reporter will not be able to get your  
8 question on the record. I would also note  
9 that if you try to ask a question from the  
10 back of the room, you're probably going to  
11 have to come forward so we can hear you.

12 Please also note that any  
13 questions asked by a Board member or staff  
14 are intended to help build a complete record  
15 for the Board's decision and not express any  
16 preconceived notions or bias.

17 We will go until around 5:00  
18 o'clock today with a lunch break and we'll  
19 also have a couple breaks in the morning and  
20 the afternoon. I do note that there is  
21 someone here. Could you identify yourself,  
22 please, for the record?

23 MR. JOYCE: Tony Joyce. I work with  
24 Commissioner Frank Avila at the Water

1 Reclamation District.

2 HEARING OFFICER TIPSORD: Who has  
3 brought a video camera and would like  
4 permission to videotape the proceeding; is  
5 that correct?

6 MR. JOYCE: Correct.

7 THE COURT: Is there anyone who  
8 objects to videotaping of the proceeding?

9 Seeing none at this time, we will  
10 allow him to videotape. At any time if  
11 anyone does have an objection, I will ask him  
12 to turn the tape off. Dr. Girard, would you  
13 like to say something this morning?

14 DR. GIRARD: Good morning. On behalf  
15 of the Board, I welcome everyone to the  
16 hearing in this water rulemaking.

17 The Board is grateful for the time  
18 and effort invested by the participants who  
19 pre-filed testimony and questions. We look  
20 forward to a productive hearing. Thank you.

21 HEARING OFFICER TIPSORD: Thank you,  
22 Dr. Girard. With that, we'll have the court  
23 reporter swear in Mr. Lanyon.

24 (Witness sworn.)

1 MR. ANDES: Before we get started with  
2 Mr. Lanyon's testimony, there are some  
3 documents I'd like to introduce as exhibits,  
4 not to Mr. Lanyon's testimony, but into the  
5 record as a general matter. And I have  
6 copies here, there are copies on the table  
7 for everyone else.

8 HEARING OFFICER TIPSORD: Okay.

9 MR. ANDES: There are three documents  
10 in particular that will be referred to at  
11 some point in testimony or questions. One is  
12 a Reconnaissance Report on the Chicago  
13 Sanitary and Ship Canal from the U.S. Army  
14 Corps of Engineers dated June 2002.

15 HEARING OFFICER TIPSORD: Let's do  
16 them one at a time.

17 MR. ANDES: Okay.

18 HEARING OFFICER TIPSORD: Is this one  
19 copy?

20 MR. ANDES: Yes. I have more if  
21 they're needed.

22 HEARING OFFICER TIPSORD: Yes. I've  
23 been handed the Reconnaissance Report, Great  
24 Lakes Navigation System Review, Appendix D,



1 Chicago Sanitary and Ship Canal, dated  
2 June 2002.

3 If there's no objection, we're at  
4 Exhibit 57 and I will so mark that.

5 MS. WILLIAMS: I don't have an  
6 objection. Can I just ask a question? I  
7 don't have it in front of me yet. Is this  
8 attached to any of the testimonies? Can we  
9 refer to it as an attachment also to --

10 HEARING OFFICER TIPSORD: You need to  
11 speak up, Deb. There's no way they're going  
12 to be able to hear you in the back of the  
13 room.

14 MS. WILLIAMS: My question is whether  
15 or not this exhibit that's going to be 57 is  
16 also an attachment to one of the pre-filed  
17 testimonies?

18 MR. ANDES: It is not. It is  
19 referenced in some questions, but wasn't  
20 attached.

21 HEARING OFFICER TIPSORD: Then seeing  
22 no objection, we'll admit it as Exhibit 57.

23 (Whereupon, Exhibit  
24 No. 57 was received in

1 evidence.)

2 MR. ANDES: The second exhibit is the  
3 Settlement Agreement in the case of Natural  
4 Resources Defense Council versus US EPA dated  
5 August 7th, 2008.

6 HEARING OFFICER TIPSORD: If there is  
7 no objection, we will mark that as  
8 Exhibit 58.

9 Seeing none, it is Exhibit 58.

10 (Whereupon, Exhibit  
11 No. 58 was received in  
12 evidence.)

13 MR. ANDES: The last exhibit, dated  
14 September 5th, 2008, is a letter with  
15 attachments from Louis Kollias at the  
16 Metropolitan Water Reclamation District of  
17 Greater Chicago to Marcia Wilhite at Illinois  
18 EPA concerning errata sheet April 2008 dry  
19 and wet weather microbial risk assessment  
20 report.

21 HEARING OFFICER TIPSORD: If there is  
22 no objection, we'll mark this --

23 MS. WILLIAMS: Hang on. Hang on.  
24 This is -- I just want to make sure. This is

1           dated September 5th, 2008. I want to make  
2           sure that we've actually seen it.

3                       I think I'd like to object that we  
4           enter a letter to the Agency that the Agency  
5           has actually not reviewed or seen yet. It's  
6           probably in Ms. Wilhite's mailbox.

7                       HEARING OFFICER TIPSORD: So is your  
8           objection to relevance?

9                       MR. ANDES: It's been sent.

10                      MS. WILLIAMS: My objection is to  
11           foundation, actually, at this point. I mean,  
12           I don't know that this letter was actually  
13           sent because it hasn't actually been  
14           received.

15                      HEARING OFFICER TIPSORD: I think we  
16           can assume it was sent. I don't know that --

17                      MS. WILLIAMS: Can we go back to this  
18           one? Which testimony is it relating to?

19                      MR. ANDES: That would be relevant to  
20           Petropolou, Tolson & Gerba. We could have  
21           someone come and testify that they did send  
22           it, if that's needed.

23                      MS. WILLIAMS: I guess my -- you mean  
24           you said these are things that were referred

1 to in questions. I don't know how this  
2 letter could have been referred to in any  
3 questions.

4 MR. ANDES: The first two were  
5 referred to in questions. This concerns a  
6 report that is attached to three different  
7 pieces of testimony. This was just generated  
8 this week.

9 MS. WILLIAMS: Okay.

10 HEARING OFFICER TIPSORD: I'm going to  
11 enter it and I will enter it over your  
12 objections. And if it becomes problematic  
13 later on, Ms. Williams, you can raise it  
14 again.

15 MS. WILLIAMS: Okay.

16 HEARING OFFICER TIPSORD: This will be  
17 marked as Exhibit 59.

18 (Whereupon, Exhibit  
19 No. 59 was received in  
20 evidence.)

21 HEARING OFFICER TIPSORD: Do you have  
22 a copy of the testimony? We need to enter  
23 the testimony as if read.

24 MR. ANDES: Yes. We can get you a

1 cleaner copy. There are a few marks on that.

2 HEARING OFFICER TIPSORD: Okay. If  
3 there's no objection, we will mark  
4 Mr. Lanyon's testimony as Exhibit 60.

5 Seeing none, it's Exhibit 60.

6 (Whereupon, Exhibit  
7 No. 60 was received in  
8 evidence.)

9 HEARING OFFICER TIPSORD: Mr. Lanyon.

10 MR. LANYON: My name is Richard  
11 Lanyon. I am the general superintendent of  
12 the Metropolitan Water Reclamation District  
13 of Greater Chicago, which I shall refer to as  
14 the District.

15 I have been the general  
16 superintendent since June 2nd, 2006. I am  
17 responsible for the day-to-day operations of  
18 the District, overseeing the work of 2000  
19 employees and the administration of our  
20 statutory responsibilities and a \$1.4 billion  
21 budget.

22 Prior to becoming general  
23 superintendent, I was the director of  
24 research and development for seven years. My

1 career at the District began in 1963. I have  
2 served in managerial positions in the  
3 engineering and maintenance main and  
4 operations departments as well as in research  
5 and development.

6 HEARING OFFICER TIPSORD: Excuse me,  
7 Mr. Lanyon, could you please speak up?

8 MR. LANYON: Sure. I received a  
9 bachelor and master of civil engineering  
10 degrees from the University of Illinois at  
11 Urbana-Champaign. I received the American  
12 Society of Civil Engineer's national  
13 government civil engineer of the year award  
14 in 1999 and distinguished alumnus of the  
15 department of civil and environmental  
16 engineering at the UIUC in 2003.

17 I am also a past president of the  
18 Illinois section of the American Society of  
19 Civil Engineers and have been involved in a  
20 variety of technical activities for this  
21 society.

22 The Water Environment Federation,  
23 the Illinois Association of Wastewater  
24 Agencies, the U.S. Geological Survey and the

1 National Association of Clean Water Agencies.

2 Currently, I served on the board  
3 of directors of the National Association of  
4 Clean Water Agencies and I am chair of the  
5 National Biosolids Partnership's steering  
6 committee and chair of the Water Environment  
7 Federation's Sustainability Community of  
8 Practice.

9 My testimony provides an overview  
10 of the Chicago Area Waterway System,  
11 including its history and physical  
12 attributes, its current uses and past,  
13 present and future efforts by the District to  
14 improve conditions.

15 HEARING OFFICER TIPSORD: Excuse me,  
16 Mr. Lanyon, this is a summary of your  
17 testimony, correct?

18 MR. ANDES: Yes.

19 HEARING OFFICER TIPSORD: Okay. Just  
20 wanted to check.

21 MR. LANYON: Chicago Area Waterway  
22 System overview, history and physical  
23 attributes.

24 The evolution of the Chicago Area

1 Waterways, which I shall refer to as the  
2 CAWS, through the alteration of its natural  
3 rivers and the construction of artificial  
4 channels allowed Chicago to prosper and  
5 expand.

6 Construction of the Chicago  
7 Sanitary and Ship Canal was completed in  
8 1900, reversing the flow of the Chicago River  
9 and the South Branch away from Lake Michigan.

10 The river, which historically  
11 acted as an open sewer receiving the  
12 discharge of sewage from city sewers, flowed  
13 directly into Lake Michigan before the ship  
14 canal was built. During storms, water from  
15 the Chicago River would move further into  
16 Lake Michigan near the drinking water intakes  
17 for the City, threatening outbreaks of  
18 waterborne illness. During dry weather, it  
19 was a source of odors and a public nuisance.

20 The North Shore Channel and  
21 Wilmette Pumping Station and control gates  
22 were completed in 1910 through which Lake  
23 Michigan water was diverted to dilute and  
24 flush waste water downstream through the



1 North Branch of the Chicago River which was  
2 deepened to accommodate the additional flow.

3 The North Shore Channel also  
4 conveyed the discharge from the sewers in  
5 Evanston, formerly draining into Lake  
6 Michigan.

7 Upon completion of Calumet-Sag  
8 Channel and the Blue Island Lock in 1922, the  
9 Calumet River was also reversed to flow away  
10 from Lake Michigan. Attachments 1, 2 and 3  
11 respectively, provide a current map of the  
12 CAWS, a photograph showing construction of  
13 one of the channels and diagram of the flow  
14 reversal.

15 HEARING OFFICER TIPSORD: Excuse me,  
16 just to be clear, that's attachments to your  
17 testimony?

18 MR. LANYON: Yes, ma'am. I'll refer  
19 to this enlargement of Exhibit 1, which has a  
20 depiction of the current CAWS system.

21 HEARING OFFICER TIPSORD: I'm sorry to  
22 keep interrupting you, but you referred to  
23 this as Exhibit 1. Is that Attachment 1?

24 MR. LANYON: Attachment 1. I'm sorry.

1 HEARING OFFICER TIPSORD: That's  
2 alright. Just for the people who aren't --

3 MR. LANYON: Attachment 1 of  
4 Exhibit 60.

5 HEARING OFFICER TIPSORD: People who  
6 are reading the testimony won't be able to --  
7 reading the transcript won't be able to  
8 figure it out and follow this as clearly as  
9 we can. Thank you.

10 MR. LANYON: I referred to Chicago  
11 Sanitary and Ship Canal which began at Damen  
12 Avenue and all the way to Lockport, Illinois.  
13 I referred to the North Shore Channel, which  
14 begins at Wilmette at the Wilmette Pumping  
15 Station that flows down to its junction with  
16 the North Branch of the Chicago River near  
17 Foster Avenue. And I referred to the  
18 Calumet-Sag Channel, which was constructed  
19 from Blue Island where it connects with the  
20 Little Calumet River and westward to where it  
21 joins with the Chicago Sanitary and Ship  
22 Canal.

23 The Chicago River Controlling  
24 Works was built in 1938 and the Blue Island

1 Lock, which I referred to, was replaced by  
2 the O'Brien Lock and Dam on the Calumet River  
3 where it's name changes to the Little Calumet  
4 River.

5 Channel construction and  
6 modifications to the CAWS established a  
7 navigable connection between the Great Lakes  
8 and the Illinois River, making Chicago a  
9 commercial center. Today, most of the CAWS  
10 is part of the Illinois Waterway a federal  
11 navigation project under the oversight of the  
12 U.S. Army Corps of Engineers and the U.S.  
13 Coast Guard.

14 Constructing channels also allowed  
15 for the drainage of sewage before sewage  
16 treatment was employed and ultimately for the  
17 drainage of treated wastewater.

18 Most significantly, man-made  
19 channels facilitated the reversal of the  
20 Chicago and Calumet Rivers away from Lake  
21 Michigan so that Chicagoans could be provided  
22 safe and reliable drinking water.

23 At the time, the CAWS was not  
24 constructed or altered with recreational or

1           aquatic life use designations in mind. While  
2           other purposes have involved over its time,  
3           it is important to remember that, above all,  
4           the CAWS must still support these commercial  
5           navigation and urban drainage functions that  
6           are so crucial to the public health and  
7           commercial success of Chicago.

8                         Currently, the District manages  
9           the flow in the CAWS, which consists of  
10          78 miles of canals and serves the Chicago  
11          area to drain urban storm water runoff and  
12          treated municipal effluent and support  
13          commercial navigation.

14                        Approximately 57 of the 78 miles  
15          of waterways controlled by the District are  
16          man-made where no natural river channel  
17          previously existed. The other 21 miles have  
18          been deepened straightened and/or widened to  
19          such an extent that they no longer resemble a  
20          natural river channel.

21                        The flow of water in the CAWS is  
22          artificially controlled by hydraulic  
23          structures. While flow in the CAWS is  
24          managed by the District, it must meet the

1 requirements of a U.S. Supreme Court Decree  
2 concerning allowable diversions from Lake  
3 Michigan and federal regulations providing  
4 for the maintenance of navigable depths to  
5 support commercial navigation.

6 The Chicago River Controlling  
7 Works was constructed by the District in the  
8 late 1930's and was put into operation on  
9 January 1, 1939, in compliance with the U.S.  
10 Supreme Court Decree governing the diversion  
11 of Lake Michigan water.

12 This facility is currently  
13 maintained and operated by the U.S. Army  
14 Corps of Engineers and serves as one of three  
15 CAWS lakefront control structures.

16 The O'Brien Lock and Dam was  
17 constructed by the U.S. Army Corps of  
18 Engineers in 1960 as part of the Calumet-Sag  
19 Channel widening project.

20 This structure replaced the Blue  
21 Island Controlling Works located at the east  
22 end of the Calumet-Sag Channel. The O'Brien  
23 Lock and Dam controls the volume of water  
24 diverted from Lake Michigan and the flow in

1 the Calumet-Sag Channel.

2 The flow in the channel moves  
3 downstream into the ship canal where the flow  
4 is controlled by other lock and dam  
5 structures at Lockport. Operation of the  
6 control structures can result in wide  
7 fluctuations in flow velocity and depth in  
8 the channel. High flows can impair aquatic  
9 life uses when habitat is destroyed and  
10 aquatic organisms are swept downstream.

11 These fluctuations are not  
12 natural. Rather, they result from the  
13 District's operation of the waterway system  
14 to provide for navigation, urban drainage and  
15 flood damage reduction. During waterway  
16 drawdowns in anticipation of storm events,  
17 water levels and depth decreased with  
18 increased flow in the downstream reaches of  
19 the waterway system, whereas, in a natural  
20 river the water level will rise and depth  
21 will increase with an increase in flow.

22 Further, flow regime variations  
23 occur entirely within the restricted  
24 rectangular or trapezoidal prism of the

1 various reaches of this man-made channel  
2 system. There is no over-bank expansion of  
3 the waterway with flow increases which would  
4 occur in the floodway and floodplain of a  
5 natural river.

6 All outflow exits the CAWS at the  
7 Lockport Powerhouse and Lock and the Lockport  
8 Controlling Works. However, there are  
9 several sources of inflow to the CAWS. These  
10 include treated effluent from water  
11 reclamation plants, discretionary diversion  
12 from Lake Michigan water to operate the  
13 navigation locks, leakage through control  
14 walls, tributary streams, storm water runoff  
15 and combined sewer overflows.

16 Over 70 percent of the annual flow  
17 in the system is from the discharge of  
18 treated municipal wastewater effluent from  
19 the Calumet, Lemont, North Side and Stickney  
20 plants owned and operated by the District.

21 During dry weather periods, mainly  
22 in the winter months, virtually 100 percent  
23 of the flow is from these plants and other  
24 water reclamation plants on the tributary

1 streams. During wet weather periods and in  
2 the summer months when lake diversion is  
3 occurring, about 50 percent of the flow is  
4 from the water reclamation plants.

5 A comprehensive description of the  
6 CAWS's operations, facilities and individual  
7 waterways can be found in Attachment 4 of  
8 this testimony.

9 Features of a natural river such  
10 as gradually sloping banks, varying sediment  
11 size, bends, aquatic vegetation, riffles and  
12 a mix of shallows and deep pool areas are  
13 absent in most of the CAWS.

14 The physical characteristics of  
15 the CAWS present safety issues that may  
16 render activities such as swimming, wading  
17 and hand-powered boating hazardous to  
18 individuals. The man-made waterways do not  
19 have a shallow area along the banks, the  
20 depth drops off very rapidly, sediments are  
21 soft and unstable, many bangs are lined with  
22 high walls consisting of vertical sheet  
23 piling, concrete, wood or large limestone  
24 rocks, periodic drawdowns of water levels



1           cause unexpected rapid increases in stream  
2           velocity and there is frequent barge and  
3           large powerboat traffic.

4                   A rapid drawdown of water levels  
5           in the CAWS before or during a large storm is  
6           a necessary action for draining storm runoff  
7           to protect streets and basements in Cook  
8           County from flooding.

9                   A diagram comparing the  
10          characteristics of a natural river versus the  
11          CAWS can be found in Attachment 5 of this  
12          testimony.

13                   This is an enlargement of the  
14          exhibit -- the attachment I referred to and  
15          it shows in the first sketch at the top of  
16          the exhibit what a typical cross section of  
17          the rectangular section in the canal system  
18          looks like with barges on the water level.

19                   On the bottom is a depiction of  
20          what a natural river would look like with  
21          less depth, a wider surface area, shallow  
22          areas along the banks with emergent  
23          vegetation.

24                   Also, to the right-hand side of

1           that attachment shows a typical straight line  
2           section of the canal system versus a  
3           meandering section of a natural river.

4                         Further impacting the CAWS is the  
5           extremely high percentage of impervious  
6           surfaces in the watershed area. Aquatic  
7           environments, including the CAWS, are  
8           negatively impacted by the abundance of  
9           impervious surfaces, ground that does not  
10          absorb rain water, in their drainage areas as  
11          well as the lack of riparian zone area  
12          immediately surrounding the waterway habitat.

13                        Several literature sources suggest  
14          that there is a sharp decrease in aquatic  
15          habitat quality and a strong correlation to  
16          decreased aquatic diversity when impervious  
17          surfaces cover greater than 10 to 15 percent  
18          of the watershed.

19                        Percent watershed imperviousness  
20          beyond 30 percent results in severely  
21          degraded conditions for aquatic life in the  
22          form of either reduced benthic communities or  
23          the absence of fish life.

24                        The 2001 natural -- sorry, the

1           2001 National Land Cover Data Set, which is  
2           presented in Attachment 6 of this testimony,  
3           indicates that impervious surfaces cover  
4           about 42 percent of Cook County.

5                         In a U.S. report, imperviousness  
6           was related to the use attainability of  
7           streams as follows: Recently, the  
8           imperviousness of the watershed has been  
9           suggested as an indicator that the correlated  
10          with use attainability. If the frequency  
11          cited threshold -- I'm sorry, if the  
12          frequently cited threshold of 25 percent  
13          impermeability is used, streams in watersheds  
14          with greater than this value could be  
15          considered unlikely to ever attain a  
16          beneficial use regardless of site- and  
17          reach-specific factors.

18                         Furthermore, vertical limestone or  
19          sheet piling walls do not provide shallow  
20          habitat along the channel banks where light  
21          can penetrate and aquatic plants can grow.  
22          This lack of stream cover and protection  
23          limits fish spawning, diversity and abundance  
24          and growth of larval fish.

1                   By definition, channels are void  
2 of sinuosity, that is, bends, a property  
3 essential for normal sediment transport and  
4 the development of riffle, run and pool  
5 sequences found in natural streams.

6                   CAWS Current Uses: Other factors  
7 in the Chicago area, like industrial land use  
8 and commercial barge traffic, also impact the  
9 safety of activities such as wading and small  
10 hand-powered boating. Much of the CAWS  
11 consists of man-made, deep,  
12 trapezoidal-shaped channels that experience  
13 heavy barge traffic.

14                   Approximately 17,000 barges locked  
15 through the Lockport Lock and Dam and over  
16 9,000 barges locked through the O'Brien Lock  
17 and Dam in 2006.

18                   The United States Army Corps of  
19 Engineers data indicates that 8,792 barges  
20 traveled along the Calumet-Sag Channel in  
21 2006. Attachment 7 presents barge statistics  
22 for various waterways. In addition to this  
23 barge traffic, there is a high volume of  
24 associated commercial off-loading throughout

1 the CAWS.

2 Finally industrial riparian land  
3 use is common along the CAWS, which is no  
4 surprise for a system designed for the  
5 conveyance of treated wastewater effluent and  
6 storm water and commercial navigation.

7 District Efforts to Protect and  
8 Improve Water Quality in the Caws Since its  
9 Creation: From the 1930s to the latter part  
10 of the 19th century, the rapidly growing city  
11 of Chicago was beleaguered with numerous  
12 epidemics of waterborne diseases. During  
13 that time, the City's mortality rate was  
14 among the highest in the world.

15 This contributed to the creation  
16 of the District along with the desire to  
17 eliminate the nuisance of the odorous Chicago  
18 River and develop a navigation link with the  
19 Illinois River. Initially, the main role of  
20 the District was to protect Lake Michigan as  
21 the primary source of drinking water for the  
22 Chicago area. This was accomplished by  
23 building the channel from Chicago to Joliet  
24 and using Lake Michigan water to dilute the

1 sewage.

2 By the close of the District's  
3 canal building era in 1922, sewage treatment  
4 was already underway with the construction of  
5 the intercepting sewer system and sewage  
6 treatment plants. Construction of the  
7 Calumet, North Side and Stickney water  
8 reclamation plants was completed in the '20s  
9 through the 1940s.

10 Since the District's inception in  
11 1889, there have been a number of  
12 improvements and advancements in the  
13 protection of water quality that the District  
14 has pioneered and introduced, not the least  
15 of which is the construction and operation of  
16 its seven water reclamation plants.  
17 Consequently, there have been dramatic  
18 improvement in the water quality and the  
19 public health in the Chicago area.

20 The District's efforts to protect  
21 and improve the water quality of the CAWS  
22 since its creation are described in  
23 Attachment 8.

24 The District's water reclamation

1 plants are a well-engineered system that  
2 combines primary treatment, that is,  
3 settleable and floatable solids removal, and  
4 secondary treatment, that is, activated  
5 sludge and clarification, to achieve a high  
6 level of treatment with consistently good  
7 performance meeting all NPDES permit limits.

8 Furthermore, degradation and  
9 assimilation processes occur in the CAWS  
10 which help to reduce the remaining organic  
11 constituents in storm water and treated  
12 effluent without harm to freshwater aquatic  
13 life.

14 The District's treated wastewater  
15 has been demonstrated to have relatively low  
16 levels of pathogenic microorganisms.  
17 Moreover, pathogenic microorganisms do not  
18 thrive well outside the human body and the  
19 freshwater's natural disinfection process is  
20 aided by exposure to indigenous bacteria and  
21 sunlight.

22 In addition to management of the  
23 reclamation plants, the District is also  
24 responsible for the completion and operation

1 of the Tunnel and Reservoir Plan, which I'll  
2 refer to as TARP. Construction of the first  
3 TARP tunnel began in 1975 and construction of  
4 all 109 miles of the tunnels was completed in  
5 March 2006.

6 One of three reservoirs, the  
7 O'Hare Chicago Underflow Plan Reservoir, has  
8 been completed and has been in operation  
9 since 1998.

10 Construction of the two remaining  
11 reservoirs is underway. The Thornton  
12 Reservoir is expected to be completed by  
13 2014. Stage 1 of the McCook Reservoir is  
14 expected to be complete by 2015 and Stage 2  
15 by 2024.

16 TARP has significantly reduced the  
17 number of combined sewer overflows to the  
18 CAWS and backflows to Lake Michigan. As of  
19 2006, TARP cumulatively captured 885 billion  
20 gallons of combined sewage that would  
21 otherwise have discharged to the CAWS. All  
22 captured combined sewage was given complete  
23 secondary treatment.

24 Between 2002 through 2006, the



1 District was averaging 43 days of CSO  
2 discharges, less than half the number  
3 experienced prior to the tunnels being placed  
4 in operation in 1985.

5 It is expected that the completion  
6 of the TARP reservoirs will further reduce  
7 the frequency of combined sewer overflows to  
8 the waterways and lower the accompanying  
9 risks.

10 Furthermore, capital improvements  
11 for the District's three largest plants,  
12 which are nearly 80 years old, and investment  
13 for the construction of TARP have to be  
14 implemented in the next 20 years to maintain  
15 the high quality of the treated wastewater  
16 from the region and to protect the drinking  
17 water source. These capital improvement  
18 investments will cost billions of dollars to  
19 implement.

20 The District's leadership role is  
21 described by Blatchely, et al., in an article  
22 published in Water Environment Research in  
23 2007: Leadership within the Metropolitan  
24 Water Reclamation District of Greater Chicago

1 has often challenged conventional thinking on  
2 topics relating to municipal wastewater  
3 treatment. In several cases, the approaches  
4 taken by the MWRDGC to solve wastewater  
5 treatment and water quality problems have  
6 resulted in important innovations that have  
7 subsequently been adopted by other  
8 municipalities.

9 In addition, the 2003 report of  
10 the Environmental Law & Policy Center attests  
11 to the substantial improvement trends in  
12 water quality since 1972. Furthermore, U.S.  
13 EPA Region 5 published a State of the Waters  
14 2002 Report, which stated that water quality  
15 trends indicate a general improvement in  
16 Illinois streams and rivers.

17 While the District's efforts have  
18 brought about substantial improvements in  
19 water quality, which now largely meets  
20 general use standards, there is a  
21 misconception that the waterways have become  
22 the equivalent of natural general use river  
23 systems and have the potential to support  
24 unlimited recreational and aquatic life uses.

1                   However, the physical  
2                   configuration and properties of the system,  
3                   which was not designed to support recreation  
4                   or aquatic life, are now the primary  
5                   limitation to further use attainment in the  
6                   system.

7                   The District is proud of what it  
8                   has accomplished over its 119-year history  
9                   and is pleased that the CAWS that it created  
10                  is now viewed as an asset and source of pride  
11                  for the community.

12                 However, we must caution that any  
13                 serious attempt to assess the use potential  
14                 of the system must look beyond current or  
15                 anticipated future water quality and must  
16                 realistically consider the substantial and  
17                 widespread modifications to the existing  
18                 physical configuration and properties of the  
19                 system that would be necessary to actually  
20                 enable recreation uses to safely flourish or  
21                 life uses to significantly improve.

22                 As has been our proud tradition,  
23                 the District is prepared to take on new  
24                 challenges to further improve our treatment

1 plant effluent quality and water quality in  
2 the CAWS if sound scientific and engineering  
3 studies demonstrate feasibility, significant  
4 benefit and economic reasonableness.

5 As it currently stands, we do not  
6 see that the IEPA's proposal has clearly  
7 demonstrated any of these important criteria.  
8 In order to assist the IEPA and the Board in  
9 completing the UAA study, the District has  
10 undertaken numerous landmark studies that  
11 will provide a sound basis for evaluating  
12 feasibility, benefit and economic  
13 reasonableness.

14 A list of these studies is  
15 included as Attachment 9. Some of the  
16 studies are complete and will be presented in  
17 testimony to follow. Others are underway and  
18 will be completed within the next two years.

19 I am confident that you will  
20 understand the significance of these studies  
21 and the implications of moving ahead with a  
22 rulemaking in the absence of their results as  
23 the following testimony is presented.

24 I thank you for the opportunity to

1 present this testimony and I am hopeful that  
2 we will proceed with the best interests of  
3 all the District's constituents in mind.

4 HEARING OFFICER TIPSORD: Thank you,  
5 Mr. Lanyon. Before we go to questions from  
6 the IEPA, I want to revisit Exhibit 59 for  
7 just one second. Ms. Williams, while I'm not  
8 willing to challenge whether or not it was  
9 mailed, I will agree that we can agree for  
10 the record that the IEPA has not yet received  
11 it. Since it was mailed on Friday and today  
12 is Monday, it's pretty unlikely you got it by  
13 U.S. Mail unless U.S. Mail got a lot better  
14 this week.

15 With that, I note that my records  
16 show that the Natural Resources Defense  
17 Council did not pre-file questions for  
18 Mr. Lanyon.

19 MS. ALEXANDER: That's correct.

20 HEARING OFFICER TIPSORD: So we will  
21 proceed to IEPA.

22 MS. WILLIAMS: Before we start, I  
23 guess I would just like to ask the Hearing  
24 Officer, our questions primarily follow

1 Mr. Lanyon's testimony, there are a couple  
2 that cross to very general aquatic life use  
3 questions, but he doesn't appear twice on the  
4 list, so I was assuming I would ask all of  
5 these questions and get them done today, but  
6 if -- if there's no objection from counsel?

7 MR. ANDES: That's fine. In some  
8 cases, he may not be the person to answer the  
9 question, but go ahead and ask him.

10 MS. WILLIAMS: Good morning,  
11 Mr. Lanyon.

12 MR. LANYON: Good morning.

13 MS. WILLIAMS: I will start with  
14 number one. You state on Page 3 of your  
15 testimony that of the 78 miles of the Chicago  
16 Area Waterway System, 57 of those miles are  
17 man-made and the other 21 have been deepened,  
18 straightened and/or widened to such an extent  
19 that they no longer resemble a natural river  
20 or channel.

21 Question A: Do you see a  
22 difference in the biological potential of the  
23 57 miles of man-made channels versus 21 miles  
24 of altered channels? Why or why not?

1 MR. LANYON: No.

2 MS. WILLIAMS: Can you explain why or  
3 why not -- or can you explain why not?  
4 Sorry.

5 MR. LANYON: Because they're all part  
6 of the same basic system of man-made or  
7 significantly altered channels conveying a  
8 large degree of urban drainage and treated  
9 wastewater effluent.

10 MS. DEXTER: Can I ask a follow-up?

11 HEARING OFFICER TIPSORD: Sure.

12 MS. DEXTER: Mr. Lanyon --

13 HEARING OFFICER TIPSORD: Can you  
14 identify yourself for the record?

15 MS. DEXTER: Jessica Dexter from the  
16 Environmental Law & Policy Center.

17 Are you an aquatic ecologist?

18 MR. LANYON: No.

19 MS. DEXTER: Are you a fisheries  
20 biologist?

21 MR. LANYON: I beg your pardon?

22 MS. DEXTER: Are you a fisheries  
23 biologist?

24 MR. LANYON: No.

1 MS. DEXTER: Thank you.

2 MS. WILLIAMS: Moving on to Question  
3 B: Do you see a difference in the  
4 recreational use potential between the  
5 57 miles of man-made channels and 21 miles of  
6 altered channels?

7 MR. LANYON: No.

8 MS. WILLIAMS: Why not?

9 MR. LANYON: Same reason as I stated  
10 in the previous answer.

11 MS. WILLIAMS: Question C: In your  
12 opinion, is the aquatic life and recreational  
13 use potential of the Sanitary and Ship Canal  
14 different from that of the South Branch  
15 Chicago River, South Fork? Is your answer no  
16 then I guess based upon your previous answer?

17 MR. LANYON: Well, I really didn't get  
18 into this in my testimony and I believe other  
19 District witnesses will do so.

20 MS. WILLIAMS: Can you tell us which  
21 ones you think?

22 HEARING OFFICER TIPSORD: You need to  
23 speak up, Deb. There's no way the people in  
24 the back of the room --



1 MS. WILLIAMS: Which witnesses would  
2 be better to answer this question?

3 MR. ANDES: Let me answer that. I  
4 think that there are a large number of  
5 witnesses who speak to the either aquatic  
6 life or recreational use potential of those  
7 water bodies. On recreational use we have at  
8 least Mr. Stuba and Mr. Dennison who'll talk  
9 about recreational use.

10 And then others deal with it more  
11 indirectly through risk assessment. On  
12 aquatic life, Mr. Mackey, Mr. Freedman,  
13 Mr. Melching and other witnesses all speak to  
14 aquatic life potentials. So these are issues  
15 that are touched on by a broad list of later  
16 witnesses.

17 MS. WILLIAMS: So, obviously, we'll  
18 come back to this if we need to.

19 MR. RAO: May I ask a follow-up?

20 HEARING OFFICER TIPSORD: Before you  
21 do that, I would note that you only asked  
22 half -- you only asked about the South Branch  
23 and the South Fork. You stopped and didn't  
24 ask about the remainder of the question.

1 MS. WILLIAMS: Would the answer be the  
2 same for the Cal-Sag Channel, that other  
3 witnesses would be better --

4 MR. ANDES: Yes.

5 HEARING OFFICER TIPSORD: Thank you.

6 MR. RAO: Mr. Lanyon, just for the  
7 record, could you please explain the  
8 similarities between the man-made channels  
9 and the altered channels? How are they  
10 similar?

11 MR. LANYON: Well, they're similar in  
12 that they're all very straight, they're all  
13 very deep and they have the same type of  
14 sediments and they're all contained within  
15 the rectangular -- the water is all contained  
16 within the rectangular or trapezoidal prism  
17 of the channel over all ranges of flows, that  
18 is, there is no over-bank areas.

19 MR. RAO: And is the flow properties  
20 very similar in both the man-made and altered  
21 channels.

22 MR. LANYON: Yes, they are.

23 MR. RAO: Thank you.

24 MR. ETTINGER: Excuse me, is it your

1 testimony --

2 HEARING OFFICER TIPSORD:

3 Mr. Ettigner, you need to identify yourself.

4 MR. ETTINGER: This is Albert  
5 Ettinger. Is it your testimony that the  
6 banks are functionally similar throughout the  
7 entire Chicago Area Waterway System?

8 MR. LANYON: I'm not sure what you  
9 mean by functionally similar, but the banks  
10 do contain the water.

11 MR. ETTINGER: That's true. Are you  
12 saying that the North Branch of the Chicago  
13 River has the same sort of banks as the  
14 Sanitary and Ship Canal?

15 MR. LANYON: Well, no, some are  
16 sloping banks, some --

17 MR. ETTINGER: Yeah, some are sloping  
18 banks.

19 MR. LANYON: -- are vertical banks and  
20 some are --

21 THE COURT REPORTER: I can only get  
22 one person at a time.

23 HEARING OFFICER TIPSORD:

24 Mr. Ettinger, you need to let him answer the

1 question. Go ahead, Mr. Lanyon.

2 MR. LANYON: Some are made out of  
3 different materials.

4 MR. ETTINGER: Are there points in  
5 which people can walk into the river on the  
6 North Branch of the Chicago River?

7 MR. LANYON: I believe there are.

8 MR. ETTINGER: Is that true of the  
9 Sanitary and Ship Canal?

10 MR. LANYON: Yes.

11 MS. WILLIAMS: On that, I'd also, I  
12 guess, follow up. Do all the reaches of the  
13 CAWS have commercial barge traffic occurring?

14 MR. LANYON: No, they don't.

15 MS. WILLIAMS: Do you know which ones  
16 don't?

17 MR. LANYON: Generally, above Webster  
18 Street on the North Branch of the Chicago  
19 River you don't find commercial navigation.

20 MS. WILLIAMS: Is that all?

21 MR. LANYON: Well, I could say  
22 above -- upstream of 35th Street on the  
23 Bubbly Creek or the South Fork, but that's a  
24 very short segment. That's about all.

1 MS. MEYERS-GLEN: I actually have one  
2 follow-up on that. Stacy Meyers-Glen,  
3 Openlands. When you say that --

4 MR. LANYON: Wait a minute, who are  
5 you?

6 MS. MEYERS-GLEN: Stacy Meyers-Glen of  
7 Openlands. Good morning. I was wondering  
8 whether or not -- you had mentioned that the  
9 flow is similar for the man-made channels as  
10 it would be to the altered channels. Are you  
11 saying that the flow in a waterway like  
12 Bubbly Creek is the same as like the North  
13 Branch of the Chicago River? Are you  
14 equating those two?

15 MR. LANYON: In that the flow is  
16 controlled -- artificially controlled by  
17 various structures, yes.

18 MS. MEYERS-GLEN: Don't those two  
19 bodies of water have very different flow  
20 rates?

21 MR. LANYON: Did you say various flow  
22 rates?

23 MS. MEYERS-GLEN: Different.

24 MR. LANYON: Pardon?

1 MS. MEYERS-GLEN: Very different flow  
2 rates.

3 MR. LANYON: Very different flow  
4 rates?

5 MS. MEYERS-GLEN: Yes.

6 MR. LANYON: Well, you can find  
7 different flow rates throughout the system.

8 MS. MEYERS-GLEN: And there are  
9 different dynamics for each system; is that  
10 correct?

11 MR. LANYON: Different dynamics?

12 MS. MEYERS-GLEN: The amount of water  
13 flowing into Bubbly Creek on dry and wet  
14 weather is significantly different in how the  
15 wet weather and dry weather would affect flow  
16 into say the North Shore Channel or the North  
17 Branch of the Chicago River; is that correct?  
18 They're significantly different?

19 MR. LANYON: Well, they are different  
20 depending upon the tributary areas that feed  
21 flow into these reaches of the system. I  
22 don't know what significant differences, but  
23 they are different.

24 MS. MEYERS-GLEN: Thank you.

1 MS. DEXTER: Can I ask one follow-up?  
2 Mr. Lanyon, do you know whether there is  
3 barge traffic on the North Shore Channel?

4 MR. LANYON: Today? In current times?

5 MS. DEXTER: Yes.

6 MR. LANYON: I haven't seen a barge up  
7 there in years.

8 MS. DEXTER: Okay. Thank you.

9 MS. WILLIAMS: Moving on to number  
10 two, you describe the features of a natural  
11 river on Page 5, Paragraph 2 of your  
12 testimony and explain that the CAWS does not  
13 have these natural features. How far  
14 downstream, in your opinion, does this  
15 condition extend?

16 MR. LANYON: Downstream to the O'Brien  
17 Lock and Dam. I'm sorry, I misspoke.  
18 Downstream to the Brandon Road Lock and Dam.

19 MS. WILLIAMS: I would like to kind of  
20 combine --

21 MR. LANYON: For the purpose of the --  
22 B-R-A-N-D-O-N.

23 THE COURT REPORTER: Thank you.

24 MS. WILLIAMS: Moving on to number

1 three, I'm going to combine three with five,  
2 if that's okay. I think they're similar and  
3 it would flow more logically to combine those  
4 two.

5 On Page 5 of your testimony you  
6 state that 70 percent of the annual flow in  
7 in this system is from the four MWRDGC sewage  
8 treatment plants and that dry weather, or  
9 winter months, flow is virtually 100 percent  
10 from these four plants and other sewage  
11 treatment plants located on tributaries to  
12 the system.

13 In addition, on Page 5 you  
14 testified that the wet weather/summer season  
15 flow in the CAWS is made up of 50 percent  
16 sewage treatment plant effluent. Of the  
17 other 50 percent of the CAWS flow in the  
18 summer or the 30 percent averaged over the  
19 year, what portion is made up of  
20 discretionary diversions?

21 HEARING OFFICER TIPSORD:

22 Ms. Williams, if I may?

23 MS. WILLIAMS: Do you want me to  
24 clarify?



1 HEARING OFFICER TIPSORD: No.

2 Actually, it might make more sense if we  
3 first explain what the summer discretionary  
4 diversions are before we --

5 MS. WILLIAMS: That's fine.

6 HEARING OFFICER TIPSORD: -- do the  
7 more specific question.

8 Could you explain what the summer  
9 discretionary diversions from Lake  
10 Michigan -- could you explain those to us,  
11 what those are and how those come about.

12 MR. LANYON: Discretionary diversion  
13 is an allocation granted to the District by  
14 the Illinois Department of Natural Resources  
15 Office -- I'm sorry, the Illinois Department  
16 of Natural Resources Office of Water  
17 Resources.

18 And the current allocation is an  
19 average of 270 cubic feet per second. We use  
20 that water for -- to maintain the water  
21 quality conditions and we use it primarily  
22 during the warm weather months, May through  
23 October.

24 MS. WILLIAMS: So can you help us

1 translate that 270 CFS to a percentage of the  
2 flow?

3 MR. ANDES: During the summer months.

4 MR. LANYON: Well, okay, it varies  
5 depending upon the month of the year. And  
6 during the summer months it varies from --  
7 well, if you consider the summer months to be  
8 June through September, it varies  
9 approximately 14 percent in June and  
10 24 percent in July through September.

11 And when I say percent, I'm  
12 referring to a percent of the total flow at  
13 Lockport.

14 DR. GIRARD: Could I ask a quick  
15 follow-up here that goes along with this?

16 Mr. Lanyon, when you talk about  
17 water quality parameters that you're  
18 maintaining with these diversions, which  
19 water quality parameters do you manage for  
20 and how do you prioritize which ones are  
21 given a top priority in terms of maintaining?

22 MR. LANYON: We primarily use  
23 dissolved oxygen as the target water quality  
24 measurement to maintain with discretionary

1 diversion.

2 DR. GIRARD: How about flow rates or  
3 temperature, are those managed?

4 MR. LANYON: We don't regulate or we  
5 don't manipulate the flows for temperature.  
6 We do manipulate the flow in order to achieve  
7 the required navigational depth in the  
8 system.

9 DR. GIRARD: Thank you.

10 MS. WILLIAMS: So you've explained the  
11 percentages of flow in the summer months. Is  
12 it possible to translate that to an annual  
13 percentage? What part of the 30 percent  
14 annual flow that's not sewage treatment plant  
15 effluent is discretionary diversion?

16 MR. LANYON: On an annual basis, it  
17 would be around 10 percent.

18 MS. WILLIAMS: So would the remaining  
19 20 percent be wet weather?

20 MR. LANYON: Yes, wet weather and  
21 tributary inflows.

22 MS. WILLIAMS: Do you know what the  
23 breakdown is of wet weather versus tributary  
24 inflows?

1 MR. LANYON: Offhand, I don't have an  
2 estimate of that.

3 MS. WILLIAMS: I'm going back up to  
4 the last part of question three. Can the  
5 entire discretionary diversion allotment be  
6 diverted in one week?

7 MR. LANYON: No way.

8 MS. WILLIAMS: How is that? Why not?  
9 Explain why not.

10 MR. LANYON: Well, there's several  
11 reasons. That would calculate to a flow of  
12 about over 14,000 cubic feet per second for  
13 that week.

14 And with the lake conditions being  
15 what they are, we can't divert that quantity  
16 by gravity through the three intake control  
17 structures.

18 That would exceed the design  
19 capacity of the Sanitary and Ship Canal and  
20 the high velocities resulting from such a  
21 flow rate would cause a major disruption to  
22 navigation and would be contrary to the rules  
23 by the Corps of Engineers for operating the  
24 system.

1 MS. WILLIAMS: Are there any  
2 requirements in those rules that affect when  
3 during the year an allotment can be taken?

4 MR. LANYON: There is not.

5 MS. WILLIAMS: And what happens to the  
6 allotment in 2015?

7 MR. LANYON: Currently, it's scheduled  
8 to be reduced to 101 cubic feet per second.

9 MS. WILLIAMS: Moving on to number  
10 four --

11 MR. ANDES: Excuse me, can I follow-up  
12 on that for a moment?

13 HEARING OFFICER TIPSORD: Sure.

14 MR. ANDES: Mr. Lanyon, when the  
15 District has to take its allotment down to  
16 101 CFS, what do you expect the effects of  
17 that will be in terms of dealing with water  
18 quality issues?

19 MR. LANYON: Well, it will be a little  
20 bit more difficult for us to meet dissolved  
21 oxygen standards for the waterway system.

22 MR. ANDES: Why is that?

23 MR. LANYON: Well, the additional flow  
24 during the summertime provides a resource of

1 oxygen that's in the lake water because  
2 that's at a relatively high dissolved oxygen  
3 concentration and the additional flow aids  
4 re-aeration as the water flows through our  
5 system.

6 MR. ANDES: Thank you.

7 MR. RAO: Can I ask a follow-up?  
8 Mr. Lanyon, can you describe or explain to us  
9 why the flow from the lake is being reduced  
10 to 101 cubic feet per second by 2015?

11 MR. LANYON: Under the Illinois  
12 Supreme Court Decree, all users of lake water  
13 have to pursue means of conservation.

14 And I believe there was a 1996  
15 memorandum of understanding with the state of  
16 Illinois, the other Great Lakes states and  
17 the U.S. Department of Justice which it  
18 strengthened the requirements of water  
19 conservation and basically said that with  
20 TARP and other water quality improvements in  
21 the Chicago area, the state of Illinois  
22 should not be using discretionary diversion  
23 for the purpose of water quality maintenance.

24 MR. RAO: Thank you.

1 MS. WILLIAMS: So it's your testimony,  
2 Mr. Lanyon, that the construction of TARP was  
3 taken into account when it was determined  
4 that the discretionary diversion would go  
5 down in 2015?

6 MR. LANYON: Yes.

7 MR. ANDES: Can I follow up?

8 DR. GIRARD: Well, I've just got a  
9 quick question. Mr. Lanyon, when you talk  
10 about diversion of Lake Michigan water, is  
11 this accomplished by gravity or do you have  
12 to actively pump the water depending on the  
13 level of the lake?

14 MR. LANYON: For the most part, it is  
15 accomplished by gravity through sluice gates  
16 at the O'Brien Lock and Dam and the Chicago  
17 River Controlling Works.

18 At the Wilmette Pumping Station we  
19 do have the option of pumping, however,  
20 currently our pumping capacity is compromised  
21 by the age of the equipment and we have to  
22 use either portable pumping equipment at  
23 Wilmette or, if the lake is high enough, we  
24 can divert by gravity.

1 MR. ANDES: I had one follow-up  
2 question, Mr. Lanyon. The allotment  
3 decreases in 2015. When will TARP be  
4 complete at the current schedule?

5 MR. LANYON: Well, as I have  
6 testified, we anticipate the Thornton  
7 Reservoir, which would benefit the Little  
8 Calumet River and the Calumet-Sag Channel, is  
9 scheduled to be completed in 2014 and the  
10 McCook Reservoir, stage one, is scheduled to  
11 go online in 2015.

12 Stage two of McCook Reservoir will  
13 not go online until 2024. It's my  
14 understanding when the allocation order was  
15 issued, it would generally plan that McCook  
16 Reservoir would be completed by 2014.

17 MR. ANDES: Thank you.

18 MS. WILLIAMS: Question four, you  
19 state in your testimony at the bottom of Page  
20 4 that all outflow exits the CAWS at the  
21 Lockport Powerhouse and Lock and Lockport  
22 Controlling Works. Does water ever flow out  
23 to Lake Michigan?

24 MR. LANYON: Rarely.



1 MS. WILLIAMS: When does that happen  
2 or why does that happen?

3 MR. LANYON: Is that an either/or or  
4 can I answer both?

5 MS. WILLIAMS: Go ahead.

6 MR. LANYON: The last occurrence was  
7 August 23rd, 2007. A discharge at Wilmette  
8 Pumping Station was necessary due to extreme  
9 wet weather and it -- that's the only  
10 occasion when we discharged to the lake  
11 because of extreme wet weather.

12 MS. WILLIAMS: The only occasion in  
13 2007 or the only --

14 MR. LANYON: The only occasion at any  
15 time that we discharged to the lake was  
16 because of extreme wet weather.

17 MS. WILLIAMS: And about how  
18 frequently does that occur?

19 MR. LANYON: Well, prior to August  
20 of 2007 we discharged also at Wilmette in  
21 August of 2002, so about once every  
22 five years.

23 MS. WILLIAMS: We will skip now to  
24 Page 6 -- I mean to question six. And on

1 Page 6 you site four texts related to the  
2 impact of impervious surfaces in the  
3 watershed on habitat quality and use  
4 attainability and you testify that Cook  
5 County has about 42 percent impervious  
6 surfaces.

7 How does that compare to the  
8 surrounding counties of DuPage, Lake,  
9 McHenry, Kane, Kendall and Will?

10 MR. LANYON: I don't know.

11 MS. WILLIAMS: What impact will the  
12 City of Chicago's plans for green  
13 infrastructure projects have on these  
14 figures?

15 MR. LANYON: I would say it would have  
16 little or no value -- impact for the  
17 foreseeable future.

18 MS. MEYERS-GLEN: May I ask a  
19 follow-up question?

20 HEARING OFFICER TIPSORD: Sure.

21 MS. MEYERS-GLEN: Mr. Lanyon, you  
22 stated in your testimony that over the last  
23 30 years the District has done a lot in order  
24 to dramatically improve water quality in the

1 CAWS and this is despite the fact that there  
2 is a high rate of impervious surface along  
3 those waterways, correct, that the water  
4 quality has improved?

5 MR. LANYON: Yes, that's my testimony.

6 MS. MEYERS-GLEN: Thank you.

7 HEARING OFFICER TIPSORD:

8 Ms. Williams.

9 MS. WILLIAMS: Question B: Is it your  
10 testimony that 42 percent of all runoff to  
11 the CAWS originates from impervious surfaces?

12 MR. LANYON: No.

13 MS. WILLIAMS: What -- do you know  
14 what percentage of runoff to the CAWS  
15 originates from impervious surfaces?

16 MR. LANYON: I don't know the answer  
17 to that.

18 MS. WILLIAMS: So it's correct that  
19 impervious surfaces located in combined sewer  
20 areas do not reach the CAWS without treatment  
21 unless there are overflows?

22 MR. ANDES: Can you repeat that  
23 because that's not quite the question here?

24 MS. WILLIAMS: Sure. Let me read it.

1 I mean, it would make more sense -- I can  
2 read the question as written. I was trying  
3 to follow off your answer.

4 The question as written was does  
5 the 42 percent take into account the  
6 impervious surfaces that are located in  
7 combined sewer areas where wet weather  
8 discharges do not reach the CAWS without  
9 treatment unless there are combined sewer  
10 overflows?

11 MR. LANYON: Well, the phenomena of  
12 runoff is rather complex. The 42 percent is  
13 simply a land cover statistic. It means that  
14 42 percent of the land surface is covered  
15 with impervious surfaces that obstruct the  
16 otherwise natural infiltration of rain water  
17 and snow melt into the soil.

18 Water from impervious surfaces is  
19 expeditiously conveyed to waterways or  
20 treatment plants by sewers or other drainage  
21 structures. It does not percolate through  
22 the soil, does not nourish vegetative cover,  
23 is not cleansed by natural filtering and  
24 microbial action.

1                   The impervious surfaces disrupt  
2                   these natural functions and have a  
3                   detrimental impact on streams.

4                   MS. WILLIAMS: But you're not relying  
5                   on any data that characterizes the actual  
6                   impervious component of runoff to the CAWS in  
7                   your testimony?

8                   MR. LANYON: I'm not relying on any  
9                   data. One would have to perform some  
10                  modeling of the system.

11                  MS. WILLIAMS: You testify on Page 8  
12                  as follows: The District's treated  
13                  wastewater has been demonstrated to have  
14                  relatively low levels of pathogenic  
15                  microorganisms. What is the basis for this  
16                  statement?

17                  HEARING OFFICER TIPSORD: For the  
18                  record, that's question seven?

19                  MS. WILLIAMS: Yes.

20                  MR. LANYON: I'm sorry?

21                  HEARING OFFICER TIPSORD: It's  
22                  question number seven.

23                  MR. LANYON: Well, non-disinfected  
24                  effluent ranges from ten to 200,000 colony

1 forming units per 100 ml. That's  
2 significantly lower than raw influent sewage.

3 MS. WILLIAMS: So the basis for your  
4 statement is that, generally, treated  
5 effluent versus untreated effluent have lower  
6 levels of pathogens?

7 MR. LANYON: Yes.

8 MR. ANDES: Follow-up on that.  
9 Mr. Lanyon, can you tell us what the general  
10 levels are in raw sewage?

11 MR. LANYON: They range from -- in the  
12 millions say, one to 20 million.

13 MR. ANDES: Thank you.

14 HEARING OFFICER TIPSORD: And just for  
15 the record, when you used the phrase ml,  
16 that's --

17 MR. LANYON: Ml is milliliters.

18 MS. WILLIAMS: So, untreated, one  
19 million to 20 million.

20 MR. ANDES: That was raw sewage.

21 MS. WILLIAMS: Untreated raw sewage.  
22 And when you stated treated effluent, I  
23 believe you said 10 to 200,000. Did you  
24 mean ten --

1 MR. LANYON: Ten thousand to 200,000.

2 MS. WILLIAMS: Okay. So what are the  
3 typical concentrations of pathogenic  
4 organisms in the District's effluent?

5 MR. ANDES: Can I ask are you asking  
6 about pathogenic indicators or both? Two  
7 separate things.

8 MS. WILLIAMS: I would -- if he can  
9 answer both, I would like to know both. But  
10 I would let -- I would assume indicator would  
11 be easier to answer.

12 MR. ANDES: Yeah.

13 MR. LANYON: Well, the numbers I cited  
14 were for fecal coliform, which is an  
15 indicator bacteria. I don't have data on the  
16 pathogenics.

17 MS. WILLIAMS: So the numbers you gave  
18 for a typical treated effluent, you're saying  
19 that's the same as the numbers for the  
20 District's treated effluent?

21 MR. LANYON: Yes. For the Calumet,  
22 North Side and Stickney water reclamation  
23 plants.

24 MR. ANDES: To clarify, I don't think

1 Mr. Lanyon is trying to make a claim as to  
2 everyone else's treat effluents. He's  
3 speaking specifically about the District's  
4 treated effluents.

5 MS. WILLIAMS: Okay. I heard him say  
6 typically treated effluent and I took that to  
7 mean broader. But you aren't trying to  
8 testify about other plants typically?

9 MR. LANYON: No, I'm not, just  
10 District effluents at those three plants that  
11 I mentioned.

12 MS. WILLIAMS: So what is the basis  
13 for your statement then that these numbers  
14 are relatively low? Relative to what?

15 MR. LANYON: Relative to untreated raw  
16 sewage.

17 MS. WILLIAMS: Okay. Not relative to  
18 other treatment plants?

19 MR. LANYON: No.

20 MR. ETTINGER: Let me just ask one  
21 question here just to get it. On disinfected  
22 plants, what would be your typical fecal  
23 levels coming out of the Kirie, Egan and your  
24 other plants?



1 MR. LANYON: Hanover Park?

2 MR. ETTINGER: Hanover Park.

3 MR. LANYON: I don't have those  
4 numbers handy. I don't know.

5 MR. ETTINGER: Would they be under  
6 400?

7 MR. LANYON: Non-disinfected?

8 MR. ETTINGER: No, the disinfected  
9 plants.

10 MR. LANYON: Disinfected, well, they'd  
11 be near zero.

12 MR. ETTINGER: Thank you.

13 MS. WILLIAMS: Moving on to question  
14 eight.

15 MR. HARLEY: Can I ask a follow-up?

16 HEARING OFFICER TIPSORD: Sure.

17 MR. HARLEY: Keith Harley, Chicago  
18 Legal Clinic upon behalf the Southeast  
19 Environmental Task Force. Can you explain  
20 historically why it is that some District  
21 plants disinfect while others do not?

22 MR. LANYON: Yes, I can. The three  
23 plants that are located in the northwest part  
24 of the county, that is the Egan, Hanover Park

1 and Kirie water reclamation plants, discharge  
2 to general use waters. And under Illinois  
3 rules, these waters require seasonal  
4 disinfection and you must meet a bacterial  
5 water quality standard. That's why we  
6 practice disinfection at those three plants.

7 MR. HARLEY: And for how long have you  
8 disinfected at Egan?

9 MR. LANYON: As long as the rule has  
10 been in effect. I'm not sure how long that  
11 is but.

12 MR. HARLEY: Is it more than 30 years?

13 MR. LANYON: I don't know. Could be.  
14 I don't know.

15 MR. HARLEY: The same would be true  
16 for Hanover and Kirie, as well?

17 MR. LANYON: Yes. I'm not sure how  
18 long.

19 MR. HARLEY: And that would require  
20 you to retrofit equipment onto those  
21 facilities in order to disinfect?

22 MR. LANYON: Well, if the plant came  
23 on line after the rule was in effect, that  
24 would be part of the original design.

1 MR. HARLEY: Did you have to retrofit  
2 disinfection equipment onto any one of those  
3 facilities?

4 MR. LANYON: I don't believe so. I  
5 believe the rule has been in effect since the  
6 '70s when -- well, Egan went on line in 1975,  
7 Kirie went on line in 1980 and the Hanover  
8 Park plant we took over years ago and have  
9 upgraded it many times. So whenever the rule  
10 was in effect, we provided disinfection  
11 according to the rules.

12 MR. HARLEY: Thank you.

13 MR. ANDES: I'd like to follow-up on  
14 that.

15 HEARING OFFICER TIPSORD: Sure.

16 MR. ANDES: Mr. Lanyon, can you  
17 compare the size of those three plants, the  
18 size of the three plants at issue in this  
19 rulemaking?

20 MR. LANYON: They're relatively small.  
21 The Kirie Plant discharges about somewhere  
22 between 30 and 50 million gallons per day.  
23 The Egan Plant discharges about 25 million.  
24 The Hanover Park Plant discharges about 12

1 million gallons per day.

2 MR. ANDES: And the flow of North  
3 Side, Calumet and Stickney.

4 MR. LANYON: Both the Calumet and the  
5 North Side Plant discharge an average of 250  
6 million gallons per day and the Stickney  
7 Plant discharges 800 million gallons per day.

8 MR. ANDES: Thank you.

9 MR. RAO: Follow-up, Mr. Lanyon. Do  
10 Egan, Hanover and Kirie Plants discharge to  
11 the CAWS?

12 MR. LANYON: No. They discharge to  
13 general use waters. The Kirie Plant  
14 discharges to Willow Creek, the Egan Plant  
15 discharges to Salt Creek and the Hanover Park  
16 Plant discharges to the west branch of the  
17 DuPage River.

18 MR. RAO: Thank you.

19 HEARING OFFICER TIPSORD: Mr. Harley.

20 MR. HARLEY: Just one follow-up. To  
21 clarify, it was your testimony that the  
22 reason that you disinfected those plants is  
23 not because of the size -- the relative size  
24 of those plants by comparison to their CAWS

1           counterparts. It was your testimony that the  
2           reason you disinfect at those plants is  
3           because of a rule requirement that you do so;  
4           is that correct?

5                       MR. LANYON: That's absolutely  
6           correct.

7                       MR. HARLEY: Thank you.

8                       MS. WILLIAMS: Mr. Lanyon, can you  
9           explain what rule you're referring to?

10                      MR. LANYON: I can't quote chapter and  
11           verse. It's somewhere in the --

12                      MS. WILLIAMS: Is it an effluent limit  
13           or a permit --

14                      MR. LANYON: No. It's a water quality  
15           standard set for general use waters by the  
16           Pollution Control Board.

17                      MS. WILLIAMS: And you have permit  
18           limits for fecal coliform at your  
19           disinfecting facilities?

20                      MR. LANYON: Yes.

21                      MS. WILLIAMS: Do you know offhand  
22           what those are?

23                      MR. LANYON: Offhand, I don't.  
24           There's a monthly meet and a daily max.

1 MR. ANDES: I think that would be  
2 particularly within the knowledge of the  
3 Agency since it issued the permits.

4 MR. SULSKI: Ask him if 400 sounds  
5 about right.

6 MS. WILLIAMS: The question I'm  
7 getting at, so there's no point of going  
8 around this, is it's correct, isn't it, that  
9 your permit limit is higher than the near  
10 zero you testified is the number coming out  
11 of the plant, correct?

12 MR. LANYON: Yes.

13 MS. WILLIAMS: Can you explain why the  
14 actual bacteria level in your discharge is  
15 lower than the limit in the permit?

16 MR. LANYON: Well, controlling fecal  
17 coliform in the effluent is very difficult.  
18 Fecal coliform has wide variations. When  
19 you're going to kill, you kill them all,  
20 fecal coliform.

21 HEARING OFFICER TIPSORD: Mr. Harley.

22 MR. HARLEY: What type of treatment  
23 technology are you using to kill the fecal  
24 coliform at Egan, Hanover and Kirie?

1 MR. LANYON: At all three plants we're  
2 currently using chlorination/dechlorination.

3 MR. HARLEY: Thank you.

4 MR. LANYON: Using -- we use sodium  
5 hypochlorite as the inactivation agent and we  
6 use sodium bisulfite to remove the chlorine.

7 MR. HARLEY: Is that a common approach  
8 among publically-owned treatment works in the  
9 United States for treating for fecal  
10 coliform?

11 MR. LANYON: It is a common approach,  
12 although its popularity is decreasing.

13 MS. WILLIAMS: Number eight, in the  
14 second paragraph on Page 8 of your pre-filed  
15 testimony you make the following statement:  
16 Moreover, the pathogenic microorganisms do  
17 not thrive well outside the human body and  
18 the fresh water's natural disinfection  
19 process is aided by exposure to indigenous  
20 bacteria sunlight. Are you suggesting the  
21 best way to deal with pathogens from the  
22 District's treatment plants is to disinfect  
23 the effluents in situ in water that  
24 experience human recreation?

1 MR. LANYON: May I ask --

2 MR. ANDES: You're mischaracterizing  
3 his testimony, but I'll let you answer.

4 MR. LANYON: Could I ask for a  
5 clarification? What do you mean by disinfect  
6 the effluents in situ?

7 MR. ANDES: That's not what he said.

8 MS. WILLIAMS: No, you're not, right?  
9 You're not suggesting that they should be  
10 disin- -- that they should be treated?

11 MR. LANYON: That means disinfecting  
12 it in the waterway. No, I'm not saying that.

13 MS. WILLIAMS: Moving on to number  
14 nine, on Page 9 you explain that the District  
15 is currently averaging 43 days per year of  
16 combined sewer overflow discharges. How many  
17 discharges or days per year of discharges  
18 will be expected after the completion of the  
19 Tunnel and Reservoir Project?

20 MR. LANYON: I don't have an exact  
21 estimate of that. We hope it's very low.

22 HEARING OFFICER TIPSORD: Mr. Harley.

23 MR. HARLEY: Mr. Lanyon, you mentioned  
24 that in permits for Egan, Hanover and Kirie



1 the disinfection requirement was seasonal; is  
2 that correct?

3 MR. LANYON: That's correct.

4 MR. HARLEY: What's the duration of  
5 the season during which you need to  
6 disinfect?

7 MR. LANYON: I believe it begins May  
8 1st and terminates October 31st.

9 MR. HARLEY: And so that would be  
10 seven months?

11 MR. ANDES: Are you testing him?

12 MR. HARLEY: I beg your pardon?

13 MR. ANDES: Are you testing him in  
14 adding?

15 MR. HARLEY: The reason for my  
16 question is that even taking into account  
17 that there were maybe 40, even to 50, even to  
18 60 days where there may be the influence of  
19 CSO events, in a seven-month period there'd  
20 still be many days where we would not see the  
21 influence of CSO events of pathogen levels in  
22 the water; is that correct?

23 MR. LANYON: We don't have CSOs at the  
24 Kirie, Egan and Hanover Park plants.

1 MR. HARLEY: I'm sorry, I should  
2 reference the question in relation to CAWS  
3 facilities.

4 MR. ANDES: Can you restate the  
5 question then?

6 MR. HARLEY: Yes. It's your testimony  
7 that there were 43 CSO events that were --  
8 occurred in the CAWS; is that correct?

9 MR. LANYON: That's correct.

10 MR. ANDES: An average.

11 MR. HARLEY: On average. But we would  
12 have approximately in a season during which  
13 disinfection would be required, potentially  
14 seven months, and so there would be many days  
15 when you would still be discharging effluent  
16 from your sewage treatment plants where they  
17 would essentially be the sole source of  
18 pathogens into the CAWS; is that correct?

19 MR. LANYON: No, that's not correct.

20 MR. HARLEY: Can you explain why not?

21 MR. LANYON: There's other sources  
22 besides CSOs.

23 MR. HARLEY: Do you know the relative  
24 proportion of total pathogen loading from

1           those other sources by comparison to your  
2           facilities?

3                   MR. LANYON: No, I don't know that.

4                   MR. ANDES: I'd like to follow-up. Is  
5           it also true, Mr. Lanyon, that the effects of  
6           CSO discharges can last beyond the day of the  
7           event?

8                   MR. LANYON: Yes. They can last  
9           several days.

10                  MR. ANDES: Thank you.

11                  MS. WILLIAMS: I would like to go back  
12           to your answer to question nine before I move  
13           on. You stated that you don't have an exact  
14           estimate, you hope it's very low.

15                          Now when we talked about  
16           discharges, I want to get a sense of very  
17           low. I know you said that the discharges to  
18           Lake Michigan were very rare and those were  
19           once every five years. Is that the type of  
20           timeline you're talking about with very low?  
21           Can you give us some --

22                          MR. LANYON: Well, that would exceed  
23           my wildest hopes.

24                          MS. WILLIAMS: So every year will

1                   probably still have them?

2                   MR. LANYON: One or two per year.

3                   MS. WILLIAMS: Thank you.

4                   MR. ANDES: I'd like to follow-up.

5                   HEARING OFFICER TIPSORD: Before you  
6 do; one or two CSOs per year after the  
7 completion of TARP, correct? That's your  
8 answer?

9                   MR. LANYON: CSO events after, yes.

10                  HEARING OFFICER TIPSORD: We had lost  
11 track of what we were talking about, I think,  
12 for purposes of the record.

13                  MR. ANDES: The first question I have  
14 to follow up is when we talk about a CSO  
15 event, does that mean one discharge from one  
16 pipe?

17                  MR. LANYON: No, it doesn't. It's a  
18 day in which there is combined sewer overflow  
19 at one or more outfalls.

20                  MR. ANDES: So that could be multiple  
21 outflows on a given day?

22                  MR. LANYON: Yes.

23                  MR. ANDES: And how will the ultimate  
24 number of overflows allowed in a given year

1 be determined?

2 MR. LANYON: We'll still count them by  
3 days.

4 MR. ANDES: But there's a process --  
5 am I right there's a process of developing a  
6 long-term control plan subject to approval by  
7 the Agencies?

8 MR. LANYON: I believe the Agency has  
9 approved of our long term control plan.  
10 We're building it out.

11 MR. ANDES: Has Illinois EPA or U.S.  
12 EPA specified an allowed number of  
13 dischargers at this point?

14 MR. LANYON: No.

15 MR. ANDES: So there's still some ways  
16 to go in the process before that happens?

17 MR. LANYON: Yes.

18 MR. ANDES: Thank you.

19 HEARING OFFICER TIPSORD:  
20 Ms. Williams.

21 MS. WILLIAMS: Can you explain what  
22 you mean by there's some ways to go in the  
23 process?

24 MR. LANYON: We have to complete the

1 construction of the reservoirs.

2 MS. WILLIAMS: And then what will  
3 happen?

4 MR. LANYON: Well, the reservoirs will  
5 provide additional storage capacity for  
6 combined sewer overflow that would reduce the  
7 number of overflow events.

8 MS. WILLIAMS: And will that be  
9 incorporated into a permit at some point?

10 MR. LANYON: I'm sure the Agency will  
11 do that.

12 MR. ANDES: I'd like to follow up once  
13 more. Mr. Lanyon, are you saying that until  
14 the TARP is completed, you don't really know  
15 how many overflows there are going to be?

16 MR. LANYON: That's correct.

17 MS. WILLIAMS: Number ten, on Page 3  
18 of Attachment 4 to your testimony it states  
19 that the Calumet River extends upstream of  
20 the O'Brien Lock and Dam to Lake Michigan.  
21 However, since the Calumet River is directly  
22 connected to Lake Michigan, it is not  
23 considered part of the CAWS. Is it your  
24 testimony that this reach should be left out

1 of this rulemaking?

2 MR. LANYON: No.

3 MS. WILLIAMS: You are just -- what  
4 was the purpose then of that statement?

5 MR. LANYON: I was just pointing out  
6 that that's not part of the controlled  
7 waterway system that we control.

8 MS. WILLIAMS: Number 11, on Page 5 of  
9 Attachment 4 it states that most of the  
10 discretionary diversions occur during the  
11 summer except for the North Shore Channel  
12 where some flow is scheduled throughout the  
13 year for the NSC due to more sensitive water  
14 quality conditions. Explain what is meant by  
15 more sensitive water quality conditions?

16 MR. LANYON: The reach of the North  
17 Shore Channel between the Wilmette Pumping  
18 Station and the North Side water reclamation  
19 plant outfall, approximately four miles in  
20 length, is basically stagnant most of the  
21 time. It only receives inflow from combined  
22 sewer overflows and some storm water.

23 It is typically low in dissolved  
24 oxygen because of those conditions. The

1           stagnant flow could give rise to odor -- an  
2           odor potential, so we occasionally will  
3           divert water at Wilmette to provide some flow  
4           during the non-summer months.

5                    MS. WILLIAMS:  Number 12, is it  
6           accurate that there are no U.S. Geological  
7           Survey gauges to monitor enforcement of the  
8           discretionary diversion at the O'Brien Lock  
9           and Dam or Wilmette Pumping Stations?

10                   MR. LANYON:  No.

11                   MS. WILLIAMS:  So you didn't testify  
12           that due to a lack of funds there are no  
13           gauges operating there?

14                   MR. LANYON:  I don't recall testifying  
15           that there were no gauges due to a lack of  
16           funding.

17                   MS. WILLIAMS:  Okay.  That's fine.

18                   MR. ANDES:  I think I can follow up.  
19           Can you explain what the situation is as to  
20           those gauges?

21                   MR. LANYON:  I believe the USGS has  
22           left the hardware in place and does collect  
23           data, however, the data is not analyzed and  
24           reduced to a record that they publish.



1 MS. WILLIAMS: Does the District have  
2 access to the data?

3 MR. LANYON: I'm sure, if we requested  
4 it, we could have access.

5 MS. WILLIAMS: But you don't make it a  
6 practice of getting the data and analyzing  
7 it?

8 MR. LANYON: No.

9 MS. WILLIAMS: Number 13, on Page 10  
10 of your testimony you state that the District  
11 is prepared to take on new challenges to  
12 further improve our treatment plant effluent  
13 quality and water quality in the CAWS if  
14 sound scientific and engineering studies  
15 demonstrate feasibility, significant benefit  
16 and economic reasonableness.

17 What would be necessary to  
18 demonstrate feasibility of an improvement to  
19 the District?

20 MR. LANYON: Well, that's a very  
21 general question. Without specifics, I  
22 really couldn't answer that.

23 MS. WILLIAMS: It's a general question  
24 to ask you to explain your statement that --

1 MR. ANDES: If you want him to give a  
2 specific number, he can't do that. It's  
3 going to have to be dealt with --

4 MS. WILLIAMS: A number?

5 MR. ANDES: What exactly are you  
6 looking for?

7 MS. WILLIAMS: I would like him to  
8 explain what the District views as  
9 feasibility. I didn't view feasibility to  
10 involve numbers, but if that's what you meant  
11 by that. Did you mean economics when you  
12 said feasibility?

13 MR. LANYON: That would include both  
14 economic and technical feasibility.

15 MS. WILLIAMS: Okay. Do you believe  
16 that the Agency's proposals are technically  
17 feasible?

18 MR. LANYON: No.

19 MS. WILLIAMS: Why not?

20 MR. ANDES: We have other witnesses  
21 who are going to deal with that issue.

22 MS. WILLIAMS: But, I mean, he said  
23 the question was too general. I'd like him  
24 to explain. If he's saying here that it's

1 not feasible, what's not feasible? I think  
2 that's fair.

3 HEARING OFFICER TIPSORD: I think  
4 he -- he did make the statement.

5 MR. LANYON: I did make the statement  
6 that, you know, we feel that the proposal is  
7 premature and not supported by good science  
8 and so forth.

9 And the other witnesses that will  
10 testify for the District will bring out many  
11 of the factors that we would have to consider  
12 in answering this question.

13 MS. WILLIAMS: But you're not trying  
14 to say with this statement that the  
15 technology doesn't exist to meet the Agency's  
16 proposal, are you?

17 MR. LANYON: In some cases, we're not  
18 sure that technology exists or is feasible.

19 MS. ALEXANDER: Just to be clear on  
20 this --

21 HEARING OFFICER TIPSORD: You need to  
22 identify yourself.

23 MS. ALEXANDER: I'm sorry. Ann  
24 Alexander from the Natural Resources Defense

1 Council. Are you saying that the  
2 chlorination and dechlorination technology  
3 that's currently at use at Kirie, Hanover and  
4 Egan as well as across the country would in  
5 any way not be feasible purely from a  
6 technical as opposed to an economic  
7 standpoint to implement at the CAWS  
8 wastewater treatment plants?

9 MR. LANYON: I believe that is a  
10 feasible technology.

11 MS. ALEXANDER: Okay. And would other  
12 disinfection technologies, including  
13 ultraviolet, also be feasible in your view?

14 MR. LANYON: Technically feasible,  
15 yes.

16 MR. ANDES: I'd like to follow-up.  
17 Mr. Lanyon, is it true that the District is  
18 assessing the technical challenges that would  
19 be present in doing either kind of  
20 disinfection at those three plants?

21 MR. LANYON: You're referring to the  
22 Calumet, North Side --

23 MR. ANDES: And Stickney, yes.

24 MR. LANYON: -- and Stickney plants?

1                   Yes, we are making further  
2                   engineering investigations of that. For the  
3                   other three plants, Hanover, Kirie and Egan,  
4                   we're actually testing out UV equipment to  
5                   determine what design parameters would be  
6                   necessary in converting the technology at  
7                   those three plants to ultraviolet radiation.

8                   MS. WILLIAMS: So I guess on the same  
9                   line as Ms. Alexander's follow-up,  
10                  supplemental aeration as is currently being  
11                  used, are you testifying that's not  
12                  technically feasible?

13                  MR. ANDES: Are you asking as to the  
14                  extent of and nature of supplemental aeration  
15                  that would meet the water quality standards?

16                  MS. WILLIAMS: No.

17                  MR. ANDES: Just the technology in  
18                  general and whether it's feasible generally?

19                  MS. WILLIAMS: Yes.

20                  MR. LANYON: Well, that is a question.  
21                  Some of the reaches of the CAWS have very  
22                  complex hydraulics and, you know, the  
23                  feasibility of supplemental aeration using  
24                  the technologies that we already have in

1 place, that is diffused air or the sidestream  
2 elevated pool aerations, we don't know if  
3 they're going to work or not.

4 MS. WILLIAMS: And is that what you  
5 meant when you said in some cases you were  
6 not sure about the feasibility?

7 MR. LANYON: Yes.

8 MS. WILLIAMS: Was there anything else  
9 you were referring to?

10 MR. LANYON: Not that I can think of.

11 MR. ANDES: Let me follow up on that.  
12 To clarify, were you referring to technical  
13 issues that arise both with disinfection and  
14 with supplemental aeration in terms of  
15 technical feasibility issues that would be  
16 presented by other witnesses?

17 MR. LANYON: Well, in answering the  
18 last question, I was referring to  
19 supplemental aeration.

20 MR. ANDES: But earlier you testified  
21 there were technical issues concerning  
22 disinfection, as well, for these plants, for  
23 these three --

24 MS. WILLIAMS: Objection. He didn't

1           testify that they were infeasible, though.  
2           We're asking about his use of the term  
3           feasibility.

4                     MR. LANYON:  It would be --  
5           conceivably, it would be feasible to use UV  
6           disinfection technology at our three big  
7           plants.  However, because of the size of this  
8           installation and it's never been done before,  
9           there are serious technical questions that  
10          have been to be addressed.

11                    HEARING OFFICER TIPSORD:  Ms.  
12          Alexander.

13                    MS. ALEXANDER:  Just to follow up on  
14          that, when you say it's never been done  
15          before, you mean it's never been done before  
16          at these three plants?

17                    MR. LANYON:  It's never been done at  
18          this scale where you're putting in UV  
19          disinfection at a plant that treats 250  
20          million gallons per day or 800 million  
21          gallons per day.

22                    MS. ALEXANDER:  Do you have any reason  
23          to believe that it would not be feasible at  
24          that scale?

1 MR. LANYON: Nothing that I can think  
2 of right now.

3 MS. WILLIAMS: Referring back to the  
4 quote I read in question 13, you also testify  
5 that you're prepared to take on new  
6 challenges where there would be a significant  
7 benefit. What would the District view as a  
8 significant benefit of this rulemaking?

9 MR. LANYON: A significant benefit  
10 would be achieving a standard or achieving a  
11 use.

12 MR. HARLEY: May I ask a follow-up on  
13 that?

14 HEARING OFFICER TIPSORD: Sure.

15 MR. HARLEY: Achieving a use or  
16 maintaining a use?

17 MR. LANYON: Either.

18 MR. HARLEY: A recreational use?

19 MR. LANYON: Yes.

20 MR. HARLEY: The use of the waters by  
21 the public for boating?

22 MR. LANYON: Yes.

23 MR. HARLEY: For fishing?

24 MR. LANYON: Yes.



1 MR. HARLEY: Thank you.

2 MR. ANDES: Let me follow up on that.  
3 So if we double-back all the way through that  
4 question, I believe -- to make sure I  
5 understand the answer, are we talking about  
6 whether there is a significant benefit for  
7 recreational use and whether the proposal  
8 would result in a significant benefit for  
9 recreational use, is that what you're talking  
10 about?

11 MR. LANYON: Well, yes, but the whole  
12 question is what is significant.

13 HEARING OFFICER TIPSORD:  
14 Ms. Alexander.

15 MS. ALEXANDER: Mr. Lanyon, I assume  
16 you're aware that there are other  
17 municipalities in the nation that do  
18 disinfect effluent in locations where there  
19 are also CSO contributions to the water body;  
20 is that correct?

21 There are places in the country  
22 where they disinfect effluent coming out of a  
23 wastewater treatment plant when there are  
24 also CSOs flowing in the same water body,

1 correct?

2 MR. LANYON: I believe so.

3 MS. ALEXANDER: So is it your belief  
4 that there's any benefit to that  
5 disinfection, any significant benefit I  
6 should say?

7 MR. LANYON: I seriously question  
8 whether there is a benefit.

9 MS. ALEXANDER: Okay. So, in other  
10 words, you're saying that all of the other  
11 municipalities across the country, every  
12 other major municipality and all the  
13 municipalities in Illinois that are currently  
14 disinfecting are spending a lot of money  
15 without getting any significant benefit?

16 HEARING OFFICER TIPSORD: That's a  
17 pretty broad question.

18 MS. ALEXANDER: But I think you're  
19 making a fairly general statement about  
20 significant benefit. Are you saying that  
21 disinfection, whenever there are CSOs, is not  
22 a significant benefit or are there  
23 circumstances where it might be?

24 MR. LANYON: Disinfection --

1 MS. ALEXANDER: Disinfection in a  
2 circumstance where there are CSOs flowing  
3 into the same water body. Are you saying  
4 that is never going to constitute a  
5 significant benefit or create a significant  
6 benefit or that there are circumstances where  
7 it might?

8 MR. LANYON: I don't know if it would  
9 or it wouldn't in that case without further  
10 analysis.

11 MS. ALEXANDER: Okay.

12 HEARING OFFICER TIPSORD:  
13 Ms. Williams.

14 MS. WILLIAMS: Do you have -- when you  
15 talk about looking at whether the proposal or  
16 a rule adopted by the Board would have  
17 economic reasonableness, do you have a  
18 specific methodology that you're looking at  
19 to determine economic reasonableness?

20 MR. LANYON: No.

21 MS. WILLIAMS: I think that covers all  
22 my questions.

23 HEARING OFFICER TIPSORD: In that  
24 case, let's take a ten-minute break and we'll

1           come back and start with the people.

2                   MS. HEDMAN: This is Susan Hedman from  
3           the Office of the Attorney General on behalf  
4           of the People of the State of Illinois.  
5           Madam Hearing Examiner, Mr. Andes and I have  
6           come to an agreement about deferring the  
7           questions that we had posed to Mr. Lanyon to  
8           the financial and economic witnesses that are  
9           being presented by the MWRD, Mr. Kunetz,  
10          Mr. Mastracchio and Mr. Zenz.

11                   HEARING OFFICER TIPSORD: Okay.

12                   MS. HEDMAN: And then, if necessary,  
13          to call Mr. Lanyon at that time if they  
14          cannot cover all of the financial, budget and  
15          economic issues.

16                   HEARING OFFICER TIPSORD: Okay.

17                   MS. HEDMAN: In addition, our first  
18          question posed to Mr. Lanyon in a question we  
19          posed down the line to Mr. Kunetz are  
20          requests for documents. One is the  
21          District's budget book and the other is the  
22          master plans for the Stickney and the North  
23          Side and the Calumet plants. They're  
24          prepared to present these.

1 I would like your guidance as to  
2 how you might like these put in the record.  
3 They are very voluminous and we would like to  
4 put them on the record solely electronic. In  
5 addition to which, for purposes of  
6 authentication it might be easier if the  
7 District were to put the documents on the  
8 record. How would you like to proceed?

9 HEARING OFFICER TIPSORD: For purposes  
10 of the record, even if they're voluminous, we  
11 do need at least one hard copy. And the  
12 reason being is that -- well, you know what,  
13 give it to us electronically and if we have a  
14 problem on appeal, we'll deal with it then.

15 We are having some difficulties  
16 with the courts taking electronic copies.  
17 We've had to print out some stuff recently  
18 and so if it does become an issue if this  
19 rulemaking is appealed down the line, we'll  
20 work with the District at that point.  
21 Electronically then is fine and CD is fine.

22 MR. ANDES: To clarify, there are two  
23 issues. One is the budget books, which are  
24 very voluminous, and we do not yet have

1           those. As those are online on the District's  
2           website, I guess we could print those out and  
3           burn them onto a -- we could probably burn  
4           those onto a disk and submit that.

5                        As to the master plans, which are  
6           even more voluminous, we have burned the  
7           summaries of the master plans onto a disk and  
8           I wasn't sure if the Attorney General needed  
9           more than that. But if you want to review  
10          that and decide if there's anything further  
11          needed, that would be fine with me.

12                      HEARING OFFICER TIPSORD: If your  
13          budget books are available online and there's  
14          no objection from the people, I'm willing to  
15          accept the link onto the web into the record.  
16          And if we need specifics out of the budget  
17          books, again, since the People asked for  
18          them, if we need specifics, we can always  
19          print specifics and enter those at exhibits.

20                      But rather than put all of the  
21          voluminous material into the record and save  
22          some trees perhaps, if it's okay with the  
23          People, if we can get a link to the budget  
24          books. And then like I said, if we need

1           specifics from them, we can always print what  
2           we need specifically. But let's just do the  
3           link electronically and enter that into the  
4           record at the appropriate time.

5                   MR. ANDES: We'll do that. And then I  
6           would also say I know that the Attorney  
7           General is reserving the right to bring back  
8           Mr. Lanyon and we'll reserve the right to  
9           object depending on the circumstances at the  
10          time. But I think with all that, we're  
11          agreed.

12                   MR. ETTINGER: Can I address that  
13          briefly? I don't want to force the District  
14          to have people here unnecessarily and I don't  
15          want to spend a lot of time asking questions  
16          of Mr. Lanyon that some other District  
17          witness is preparing to -- is prepared to  
18          answer.

19                   It is, however, difficult for us  
20          reading and planning how you're going to do  
21          this. In this case in much of Mr. Lanyon's  
22          testimony he makes some broad policy  
23          statements, for example, which I don't want  
24          to spend a lot of time cross-examining if you

1 have a later witness who's going to justify  
2 or explain the broad policy statements.

3 We are, however, in a little bit  
4 of a trap here that I think all of us in this  
5 corner are struggling with in that if we  
6 don't ask questions about some of those  
7 statements now and it turns out that there  
8 isn't somebody later on to ask them of, we  
9 may have never been able to ask those  
10 questions.

11 So I'll just state now that I'm  
12 not going to be asking questions about some  
13 of the broader policy statements that  
14 Mr. Lanyon made in the expectation that there  
15 will be later witnesses to address some of  
16 them, but we may have problems down the road  
17 if it turns out that my hopes are not  
18 realized.

19 MR. ANDES: I think your hopes will be  
20 realized. In every case I can think of those  
21 questions are addressed in other witness  
22 testimony, or if they are a directive of the  
23 witnesses, they would have the capability to  
24 answer them, so I don't think we'll have a



1                   problem.

2                   MR. ETTINGER: Thank you.

3                   HEARING OFFICER TIPSORD: With that,  
4 we'll come back and start with the ELPC and  
5 we'll take about a ten-minute break. Thank  
6 you.

7   (Whereupon, after a short  
8 break was had, the  
9 following proceedings  
10 were held accordingly.)

11                   HEARING OFFICER TIPSORD: And I stand  
12 corrected. I believe we're going to start  
13 with Openlands first and then ELPC. Are we  
14 ready to proceed?

15                   MS. MEYERS-GLEN: For the record -- I  
16 believe you have my card -- my name is Stacy  
17 Meyers-Glen with Openlands. If you can't  
18 hear me for any reason, please let me know  
19 that I need to speak up.

20                   MR. JOHNSON: Speak up.

21                   MS. MEYERS-GLEN: Great. Thank you.  
22 I like that.

23   I initially was going to start on  
24 one and two on pathogen levels, but the

1 Illinois Environmental Protection Agency has,  
2 I think, adequately touched that, so I'm  
3 going to alter those two questions to really  
4 hit on just a couple of points.

5 And I just wanted to clarify,  
6 Mr. Lanyon, when you stated on Page 8 of your  
7 testimony that the District's treated  
8 wastewater has been demonstrated to have  
9 relatively low levels of pathogenic  
10 microorganisms, that is, compared to raw  
11 sewage, correct?

12 MR. LANYON: Yes.

13 MS. MEYERS-GLEN: And it's still  
14 relatively high to disinfect it effluent,  
15 correct?

16 MR. LANYON: Perhaps.

17 MS. MEYERS-GLEN: You testified the  
18 levels were zero relatively from your other  
19 plants?

20 MR. LANYON: Yes.

21 MS. MEYERS-GLEN: So I'm going to skip  
22 then based on your statement that was it was  
23 between 10,000 and upwards to 200,000 CFUs  
24 per 100 milliliters. I'm going to skip those

1 first two questions.

2 Now you're familiar with the  
3 critique by Tim Wade of the US EPA of the  
4 District's interim risk assessment; is that  
5 correct?

6 MR. LANYON: No.

7 MS. MEYERS-GLEN: You're not?

8 MR. ANDES: What document are you  
9 specifically referring to?

10 MS. MEYERS-GLEN: There was a letter  
11 by Tim Wade in the United States  
12 Environmental Protection Agency to the  
13 District pointing out certain issues or  
14 concerns that they had regarding the MWRD's  
15 interim risk assessment. Are you familiar  
16 with U.S. EPA's interaction with the District  
17 on that issue?

18 MR. LANYON: I'm aware that we have --  
19 we had received comments. I believe we  
20 addressed all the comments. Other witnesses  
21 will testify to this matter.

22 HEARING OFFICER TIPSORD: For the  
23 record, that was question number three.

24 MS. MEYERS-GLEN: Yes. Thank you.

1 Question number four: Do you know of any  
2 instances where people have come into direct  
3 contact with the water in the Chicago Area  
4 Waterway System in close proximity to your  
5 outfalls at Stickney, Calumet and North Side?

6 MR. LANYON: No.

7 MS. MEYERS-GLEN: Can you say whether  
8 people come into indirect contact such as  
9 getting water on their hands paddling, jet  
10 skiing, tubing or otherwise passing by these  
11 outfalls?

12 MR. LANYON: No.

13 MS. MEYERS-GLEN: So it's possible?

14 MR. LANYON: Beg your pardon?

15 MS. MEYERS-GLEN: It's possible then?

16 MR. LANYON: Possible, yes.

17 MS. MEYERS-GLEN: Are you aware that  
18 the Dammrich Rowing Center in Skokie, that's  
19 otherwise known as the Oakton Street launch  
20 site, runs canoes and kayaks approximately  
21 one-half mile upstream from the District's  
22 North Side wastewater treatment plant?

23 MR. LANYON: Yes.

24 MS. MEYERS-GLEN: And do you know

1           whether high school and college crew teams  
2           from New Trier, North Park University, Loyola  
3           Academy and Northwestern University, or  
4           otherwise just people that rent canoes and  
5           kayaks from this location ever row  
6           five minutes downstream past the outflow of  
7           the North Side wastewater treatment plant?

8                       MR. LANYON: No.

9                       MS. MEYERS-GLEN: And for recreational  
10           users that paddle or crew on the North Side  
11           channel, isn't that an effluent dominated  
12           waterway?

13                      MR. ANDES: What reach are you talking  
14           about there?

15                      MS. MEYERS-GLEN: The North Side  
16           channel that --

17                      MR. ANDES: The whole North Side  
18           channel?

19                      MS. MEYERS-GLEN: Sure.

20                      MR. LANYON: Well, first of all --

21                      MS. MEYERS-GLEN: First of all, the  
22           whole North Side channel.

23                      MR. LANYON: I don't know a North Side  
24           channel.

1 MS. MEYERS-GLEN: The North Shore  
2 Channel, I apologize, near your North Side  
3 Plant.

4 MR. LANYON: Do they paddle past the  
5 outfall?

6 MS. MEYERS-GLEN: I think --

7 MR. LANYON: Possible. I don't know  
8 that they do, but...

9 MS. MEYERS-GLEN: Well, for  
10 recreational users that would paddle or crew  
11 as there are crew teams in that area, on the  
12 North Shore Channel by your plant, near the  
13 plant, that location even a half mile up or  
14 down, that's an effluent dominated waterway,  
15 correct?

16 MR. LANYON: Well, it would be correct  
17 to say that downstream of the outfall it is  
18 an effluent dominated water.

19 MS. MEYERS-GLEN: Isn't there --

20 MR. LANYON: Our effluents don't  
21 normally flow upstream.

22 MS. MEYERS-GLEN: Isn't there  
23 significant backflow, though, from the North  
24 Side Plant?

1 MR. LANYON: What do you mean by a  
2 backflow?

3 MS. MEYERS-GLEN: There is -- on  
4 October 31st were you present at the MWRD  
5 study session on water quality standards?

6 MR. LANYON: When?

7 MS. MEYERS-GLEN: October 31st of  
8 2007.

9 MR. LANYON: Yes.

10 MS. MEYERS-GLEN: Do you remember  
11 Samuel Dorevitch talking at that study  
12 session?

13 MR. LANYON: Yes.

14 MS. MEYERS-GLEN: Do you recall when  
15 he said that there was a significant backflow  
16 from the North Side Plant?

17 MR. ANDES: Are we introducing a  
18 statement into evidence here --

19 MS. MEYERS-GLEN: I certainly can.

20 MR. ANDES: -- because I don't see it?

21 MR. LANYON: I don't recall him making  
22 such a statement, however, it is conceivable  
23 that we have a density current from the  
24 outfall in the upstream direction.

1 MS. MEYERS-GLEN: That's sufficient.  
2 I'm not going to introduce it. What is a  
3 density current?

4 MR. LANYON: I beg your pardon?

5 MS. MEYERS-GLEN: Can you define what  
6 a density current is?

7 MR. LANYON: Yes, I can.

8 MS. MEYERS-GLEN: Please go ahead.

9 MR. LANYON: A density current is one  
10 where in a booming body of water such as a  
11 river there is a heavier current flowing  
12 upstream on the bottom of the river.

13 And we have found that it occurs  
14 in the Chicago River east of the junction  
15 with the North and South Branches. And I  
16 suspect it occurs also at other locations in  
17 our system such as near our outfalls of the  
18 North Side water reclamation plant and the  
19 Calumet water reclamation plant.

20 MS. MEYERS-GLEN: And that would  
21 account for them as -- well, what would  
22 otherwise be termed as like a backflow?

23 MR. LANYON: Yes. I wouldn't call it  
24 a backflow myself.



1 MR. HARLEY: May I ask a follow-up?

2 HEARING OFFICER TIPSORD: Yes,  
3 Mr. Harley.

4 MR. HARLEY: In terms of the outfall  
5 locations themselves, are there any  
6 engineered barriers that would prevent people  
7 who were in boats from going directly past  
8 the point at which you're discharging?

9 MR. LANYON: I'm sorry, what do you  
10 mean by engineered barrier?

11 MR. HARLEY: Are there any walls that  
12 would prevent people from actually going  
13 directly past the point at which you are  
14 discharging effluent from the Calumet the  
15 Stickney or the North Side plants?

16 MR. LANYON: No. Such a wall may pose  
17 an obstruction to navigation and wouldn't be  
18 allowed by the Corps of Engineers.

19 MR. HARLEY: Thank you.

20 MS. MEYERS-GLEN: Question number  
21 nine: Does the Chicago Park District have a  
22 launch site for paddlers at River Park near  
23 Foster Road downstream of the North Side  
24 wastewater treatment plant?

1 MR. LANYON: Yes.

2 MS. MEYERS-GLEN: And that location is  
3 also heavily used as a fishing spot?

4 MR. LANYON: It's used. I'm not sure  
5 what you mean by heavily used.

6 MS. MEYERS-GLEN: There are a lot of  
7 people fishing there, correct, routinely?

8 MR. LANYON: That might be more  
9 precise.

10 MS. MEYERS-GLEN: Number ten: Are you  
11 familiar with the Chicago Park District boat  
12 launch and two kayak rental locations at  
13 Clark Park near Addison which are also  
14 downstream of the North Side wastewater  
15 treatment plant?

16 MR. LANYON: Yes.

17 MS. MEYERS-GLEN: And do people  
18 frequently kayak and canoe north from the  
19 Clark Park boat launch on the North Branch of  
20 the Chicago River?

21 MR. LANYON: On occasion they do.  
22 Frequently, I'm not sure what you're  
23 referring to as frequently.

24 MS. MEYERS-GLEN: Well, do people

1 often take that route from the Clark Park  
2 boat launch, do you know?

3 MR. LANYON: Often as opposed to going  
4 the other way, I don't know.

5 MS. MEYERS-GLEN: That's correct. You  
6 don't know?

7 MR. LANYON: I have no data to say  
8 whether it's frequent or not.

9 MS. MEYERS-GLEN: Okay.

10 HEARING OFFICER TIPSORD: But they do  
11 go that direction?

12 MR. LANYON: Yes.

13 HEARING OFFICER TIPSORD: Thank you.

14 MR. LANYON: You have two choices,  
15 upstream, downstream.

16 MR. SULSKI: Thank you, Dick.

17 MS. MEYERS-GLEN: Well, I guess isn't  
18 it a frequent route that people will go  
19 between the Clark Park boat launch and the  
20 River Park boat launch?

21 MR. ANDES: He just said he didn't  
22 know.

23 MS. MEYERS-GLEN: Well, that's a  
24 different question as to whether or not they

1 go between those two boat launches.

2 MR. LANYON: We were not involved in  
3 helping --

4 MR. ANDES: I'm sorry, first, the  
5 question was -- can you restate that  
6 question?

7 MS. MEYERS-GLEN: Sure. People kayak  
8 often from the Clark Park boat launch to the  
9 River Park boat launch, correct, upstream?

10 MR. LANYON: I don't know.

11 MS. MEYERS-GLEN: And how is the  
12 District involved -- this is question number  
13 12 -- in helping the Chicago Park District  
14 establish the River Park and Clark Park  
15 launch sites?

16 MR. LANYON: Well, we leased property  
17 to them.

18 MS. MEYERS-GLEN: In fact, didn't the  
19 District grant easements to protect this use  
20 on those properties?

21 MR. LANYON: I'm sorry?

22 MS. MEYERS-GLEN: Didn't the District  
23 actually grant easements on those two  
24 properties to protect that use, establishing

1           it as a boat launch for recreational use?

2                   MR. LANYON: I don't know if the  
3           agreement involved an easement or not.

4                   HEARING OFFICER TIPSORD: Mr. Harley.

5                   MR. HARLEY: Are you familiar with  
6           other District properties that are being  
7           leased to units of local government that are  
8           being used now for boat launches?

9                   MR. LANYON: Yes, generally familiar.

10                   MR. HARLEY: Could you identify what  
11           some of those might be?

12                   MR. LANYON: Well, I could identify  
13           what some of those are. For instance, the  
14           Alsip boat launch on the Calumet-Sag Channel.  
15           The Worth boat launch on the -- or the Worth  
16           Park District on the Calumet-Sag Channel.

17                   There's the Summit boat launch on  
18           the Sanitary and Ship Canal, Village of  
19           Summit. There's the two that were mentioned  
20           in the previous questions on the North  
21           Branch. There may be some others, but I  
22           can't remember them all.

23                   MR. HARLEY: And so that the record is  
24           clear, these are District-owned properties

1           that are being leased to units of local  
2           government which are then using them so that  
3           the public can have access to the Chicago  
4           Area Waterways?

5                   MR. LANYON: Yes, that's correct.

6                   MR. HARLEY: Thank you.

7                   MS. FRISBIE: Margaret Frisbie with  
8           Friends of the Chicago River. Do you know --  
9           can you differentiate between boat launches  
10          that are motorized boats and paddle craft?

11                   MR. ANDES: Does he have personal  
12          knowledge?

13                   MS. FRISBIE: (Nodding.)

14                   MR. LANYON: Well, I don't know.  
15          That's -- if a person comes to a launch, they  
16          can accommodate both types. I don't know  
17          whether you call it both.

18                   MS. FRISBIE: Okay.

19                   MR. LANYON: Either or.

20                   MS. MEYERS-GLEN: On question 13 on  
21          Page 3 of your testimony you state that the  
22          other 21 miles of the CAWS -- we can put that  
23          in a there for reference for the record --  
24          have been deepened, straightened and/or

1           widened to the extent that they -- and this  
2           is what I wanted to pay particular attention  
3           to -- no longer resemble a natural river  
4           channel. Your testimony includes  
5           characteristics of a natural river system  
6           that you state are not attributable to the  
7           typical Chicago Area Waterways.

8                        I'm going to defer my first  
9           question about characteristics to the ELPC  
10          because they have an identical question, so  
11          I'm just going to go to the second one.

12                       Are you stating that there are no  
13          reaches in Chicago Area Waterways with the  
14          following characteristics, and the first is  
15          gradually sloping banks?

16                       MR. ANDES: To clarify, what do we  
17          mean by reaches?

18                       MS. MEYERS-GLEN: There are 17  
19          reaches, I believe, that the IEPA has  
20          identified in this rulemaking, a multitude of  
21          which are on the CAWS.

22                       For the stretches that have been  
23          identified in the Illinois EPA's proposal  
24          that pertain to the CAWS, I'm assuming that

1           that is what Attachment 5 of the District's  
2           testimony for Mr. Lanyon pertains to; is that  
3           correct?

4                       The nice exhibit that you put up  
5           that had the characteristics for a man-made  
6           and a typical natural waterway, that  
7           pertained to the stretches of the CAWS in  
8           this rulemaking, correct?

9                       MR. ANDES: I wasn't sure how you were  
10          defining reaches here.

11                      MS. MEYERS-GLEN: Sure. That is what  
12          I am asking about in this series of  
13          questions.

14                      MR. ANDES: Okay.

15                      MS. MEYERS-GLEN: And as far as your  
16          testimony when you say that there are no  
17          reaches of the CAWS, which is how you defined  
18          it, with the following characteristics, you  
19          first say that there is a distinction of  
20          gradually sloping banks.

21                      Are you testifying that there are  
22          no reaches of the CAWS that -- the 21 miles  
23          of the CAWS no longer resemble a natural  
24          river channel in that there are no reaches of



1 the CAWS that have gradually sloping banks;  
2 is that what you're testifying to?

3 MR. LANYON: Yes.

4 MS. MEYERS-GLEN: And I'd like to  
5 introduce -- Mr. Andes, did you receive our  
6 Attachment number 1 to our pre-filed  
7 questions for Mr. Lanyon?

8 MR. ANDES: I did.

9 MR. LANYON: All the pretty pictures.

10 MS. MEYERS-GLEN: Yes, all the nice,  
11 lovely, colorful pictures.

12 MR. ANDES: Well, let me clarify to  
13 that. I think this may cut to the chase. I  
14 think the question here is are you asking him  
15 is there any area along the CAWS that has  
16 these characteristics or are you saying are  
17 there particular reaches that have these  
18 characteristics along their entire stretch?

19 If you're asking are there any  
20 segments of the CAWS that -- any portion of  
21 the CAWS that has these characteristics, I  
22 think that's a separate set of questions than  
23 saying are there reaches that have these all  
24 along them.

1 MS. MEYERS-GLEN: Mr. Andes, my  
2 question to Mr. Lanyon was whether or not his  
3 statement was in his testimony that the other  
4 21 miles of CAWS have been deepened,  
5 straightened and/or widened to the extent  
6 that they no longer resemble a natural river  
7 channel?

8 There was no exception to that in  
9 his testimony and so what I'm asking him is  
10 that with that -- with that statement, does  
11 that mean that there are no gradually sloping  
12 banks along the CAWS?

13 HEARING OFFICER TIPSORD: Anywhere  
14 along the CAWS?

15 MS. MEYERS-GLEN: Anywhere along the  
16 CAWS, that being one of the attributes that  
17 you apply to a natural waterway in  
18 Attachment 5?

19 MR. ANDES: So the question is are  
20 there any areas along the CAWS that have  
21 these characteristics?

22 MS. MEYERS-GLEN: That's correct.

23 MR. LANYON: There are locations where  
24 you will find a more gradually sloping bank,

1 but for a reach of several miles, no, it's  
2 not a general condition.

3 MS. MEYERS-GLEN: But it does occur?

4 MR. LANYON: At a location.

5 MS. MEYERS-GLEN: And I would like you  
6 to look at -- I would also like to know does  
7 anyone want color copies?

8 HEARING OFFICER TIPSORD: Actually, we  
9 are going to admit these as an exhibit for  
10 ease of the record.

11 MS. MEYERS-GLEN: Thank you.

12 MR. ANDES: Fine.

13 HEARING OFFICER TIPSORD: We won't --  
14 for ease of the record, so we all know what  
15 we're looking at, we will admit them at  
16 exhibits.

17 Mr. Andes, do you need color  
18 copies?

19 MR. ANDES: No, we don't.

20 HEARING OFFICER TIPSORD: Okay. How  
21 about IEPA, color copies?

22 MS. WILLIAMS: I'll take color.

23 HEARING OFFICER TIPSORD: And  
24 Ms. Meyers-Glen, these are the -- all the

1            attachments to your questions --

2                    MS. MEYERS-GLEN:    Yes.

3                    HEARING OFFICER TIPSORD:    -- stapled  
4            together?

5                    If there's no objection, again,  
6            simply for ease of the record, I'm going to  
7            mark these as Exhibit 61.

8                    Seeing none, they're marked as  
9            Exhibit 61.

10                   MS. MEYERS-GLEN:    Also, they are  
11            online, available on the internet in color.  
12            Those attachments should be available to  
13            everybody.

14                   HEARING OFFICER TIPSORD:    And I do  
15            have another copy that we don't need up here  
16            if anybody does need it.

17                   MS. MEYERS-GLEN:    Actually, maybe to  
18            Mr. Andes, if we could get a color copy to  
19            him.

20                   MR. ANDES:    We're fine, really.    Thank  
21            you.

22                   MS. WILLIAMS:    Can I ask the Hearing  
23            Officer an exhibit question really quick?

24                   HEARING OFFICER TIPSORD:    Yes.

1 MS. WILLIAMS: Exhibit 60 was  
2 Mr. Lanyon's testimony?

3 HEARING OFFICER TIPSORD: Uh-huh.

4 MS. WILLIAMS: Does that include his  
5 attachments?

6 HEARING OFFICER TIPSORD: Yes.

7 MS. WILLIAMS: Thank you.

8 MS. MEYERS-GLEN: I note that,  
9 Mr. Lanyon, you introduced in your testimony  
10 a photograph from 1895 of the Chicago  
11 Sanitary and Ship Canal; is that correct?

12 MR. LANYON: Yes, that was one --

13 MS. MEYERS-GLEN: And that's over 100  
14 years ago?

15 THE COURT REPORTER: Can you repeat  
16 that?

17 MR. LANYON: -- of the attachments.

18 HEARING OFFICER TIPSORD: Can you  
19 specify where in the testimony that was?

20 MS. MEYERS-GLEN: That would be this  
21 photographed that they introduced as --

22 HEARING OFFICER TIPSORD: Is it  
23 attached -- what attachment is it in?

24 MS. MEYERS-GLEN: I believe it's

1 Attachment 60. It's what you entered into  
2 evidence this morning.

3 HEARING OFFICER TIPSORD: No.

4 Exhibit 60 --

5 MS. WILLIAMS: I think it's  
6 Attachment 2.

7 MS. MEYERS-GLEN: Thanks.

8 HEARING OFFICER TIPSORD: Thank you.  
9 Again, for ease of the record, we can't just  
10 say "this." We have to tell them exactly  
11 where they can find it when you read the  
12 transcript.

13 MS. MEYERS-GLEN: Thank you. Now that  
14 picture was taken over 100 years ago,  
15 correct?

16 MR. LANYON: Let's see, 2008 minus --  
17 yes.

18 MS. MEYERS-GLEN: Quite a while ago?

19 MR. ETTINGER: Is there an engineer in  
20 the house?

21 MS. MEYERS-GLEN: Now in Attachment  
22 1 -- actually, Attachment 1 is from an  
23 interior cover of what is called Our Goal is  
24 Clear, actually issued by the District. Are

1                   you familiar with that brochure?

2                   MR. LANYON: Yes, I am.

3                   MS. MEYERS-GLEN: And in the interior  
4 cover in the back, are you familiar with this  
5 photograph, have you seen this before?

6                   MR. LANYON: Yes, ma'am.

7                   MR. ANDES: Are these follow-up  
8 questions?

9                   MS. MEYERS-GLEN: Yes, yes. And under  
10 gradually sloping banks, we're getting into  
11 Openland's Attachment Number 1.

12                   MR. ANDES: Okay.

13                   MS. MEYERS-GLEN: And this is an image  
14 of looks like kids sculling on the North  
15 Shore Canal; is that correct?

16                   MR. LANYON: Young people.

17                   MS. MEYERS-GLEN: Yes. Okay. And the  
18 slopes or at least the slope to the left,  
19 that is not a vertical walled steep slope, is  
20 it?

21                   MR. LANYON: No, I don't believe it  
22 is.

23                   MS. MEYERS-GLEN: It's a very nice,  
24 gradual slope?

1 MR. LANYON: No, I don't believe it  
2 is.

3 MS. MEYERS-GLEN: No?

4 MR. LANYON: I believe this photograph  
5 was taken from the North Shore Channel  
6 probably from Lincoln Street, Maple Avenue or  
7 Emerson Street bridges. Those banks are  
8 steep, earthen slopes.

9 MS. MEYERS-GLEN: They are?

10 MR. LANYON: Heavily covered with  
11 trees, as you can see, very pretty looking,  
12 but nevertheless the banks are steep. And  
13 they're often fenced because they're leased  
14 to the local park district or the city or  
15 whatever municipality we're flowing through  
16 here.

17 MS. WILLIAMS: Can I ask a follow-up  
18 to that? When you lease the property to the  
19 park district --

20 MR. LANYON: I beg your pardon?

21 MS. WILLIAMS: When you lease these  
22 properties for purposes of a boat launch, do  
23 the leases contain any restrictions about the  
24 type of boats that can be launched?



1 MR. LANYON: No, I don't believe they  
2 do.

3 MS. WILLIAMS: Thank you.

4 MS. MEYERS-GLEN: These are earthen  
5 banks, correct --

6 MR. LANYON: Yes.

7 MS. MEYERS-GLEN: -- along the side?

8 And are you aware of any place  
9 that you can get out on the North Shore  
10 Channel?

11 MR. LANYON: Where you can get out?

12 MS. MEYERS-GLEN: Uh-huh. That a boat  
13 could leave the water, somebody in a sculling  
14 boat or someone in a kayak or a canoe can get  
15 out.

16 MR. LANYON: Well, you mentioned the  
17 Dammrich Rowing Center at Oakton Street.  
18 There's also a small dock at the Evanston  
19 Ecology Center by Bridge Street. I believe  
20 those are the only two locations on the North  
21 Shore Channel upstream of the North Side  
22 water reclamation plant.

23 MS. MEYERS-GLEN: The second  
24 photograph that you see, if you flip the page

1 over, you're familiar with the Little Calumet  
2 River?

3 MR. LANYON: Yes.

4 MS. MEYERS-GLEN: Okay. And how would  
5 you describe the slope down to the waterway  
6 that's portrayed here in the Little Calumet  
7 River?

8 MR. LANYON: It looks like a very  
9 gradual slope in this photograph.

10 MS. MEYERS-GLEN: And are you familiar  
11 with this area west of the railroad bridge  
12 between Halsted and Indiana Avenue? Have you  
13 been to that area?

14 MR. LANYON: Yes.

15 MS. MEYERS-GLEN: And so that would be  
16 indicative of something that you would see  
17 near that location; is that correct?

18 MR. LANYON: Indicative at this  
19 location, yes.

20 MS. MEYERS-GLEN: So there are no  
21 steep walls at this location, right?

22 MR. LANYON: No. The shoreline  
23 appears to be very rocky, however.

24 MS. MEYERS-GLEN: And you can also see

1 a double kayak and a boat tied up to the  
2 shore there, correct?

3 MR. LANYON: Yes.

4 MS. MEYERS-GLEN: Right off the shore?

5 MR. LANYON: I believe they're tied  
6 up. I can't tell if they're tied up or not.

7 MS. MEYERS-GLEN: And the picture  
8 right beneath it, can you also please  
9 describe the shoreline?

10 MR. ANDES: In what respect?

11 MS. MEYERS-GLEN: Can you describe the  
12 slope of the shoreline?

13 MR. LANYON: Well, it's difficult to  
14 tell the slope of the shoreline because it's  
15 heavily vegetated.

16 MS. MEYERS-GLEN: There's a lot of  
17 vegetation?

18 MR. LANYON: Yes.

19 MS. MEYERS-GLEN: And a lot of that is  
20 in as well as around the waterway?

21 MR. LANYON: In this photograph or  
22 generally?

23 MS. MEYERS-GLEN: In this photograph  
24 of the Little Calumet River.

1 MR. LANYON: Yes.

2 MS. MEYERS-GLEN: And you're familiar  
3 with this location, as well, between the Lake  
4 Calumet Gun Club and Beaubien Woods, their  
5 boat launch there?

6 MR. LANYON: Well, I'm not sure where  
7 the Lake Calumet Gun Club is. I do know  
8 where the Beaubien Woods boat launch is.

9 MS. MEYERS-GLEN: And isn't this  
10 area -- aren't there gradually sloping  
11 shorelines in this area?

12 MR. LANYON: In locations, yes.

13 HEARING OFFICER TIPSORD: Mr. Harley,  
14 you have a follow-up?

15 MR. HARLEY: You've testified that  
16 you're familiar with the Beaubien Woods boat  
17 launch?

18 MR. LANYON: Yes.

19 MR. HARLEY: Can you describe to the  
20 Board who owns and operates that boat launch?

21 MR. LANYON: I believe it is the Cook  
22 County Forest Preserve District.

23 MR. HARLEY: And can you describe the  
24 physical characteristics of that boat launch?

1 MR. LANYON: They're concrete pads  
2 sloping into the water.

3 MR. HARLEY: And are those open for  
4 any member of the public to launch any type  
5 of craft?

6 MR. LANYON: I believe so. I'm not  
7 familiar with the Forest Preserve District  
8 Regulations regarding that site.

9 MR. HARLEY: Thank you.

10 MS. MEYERS-GLEN: I'm going to try to  
11 get through Attachment 1 a little quicker.

12 The next photograph, we have the  
13 Calumet River near Torrence Avenue Bridge;  
14 are you familiar with that location, along  
15 the Calumet River near the Torrence Avenue  
16 Bridge?

17 MR. LANYON: I can't say that I'm  
18 familiar with it. I know where it's located,  
19 but...

20 MS. MEYERS-GLEN: In this photograph  
21 do you see -- what kind of a slope do you  
22 see?

23 MR. LANYON: Well, I see a gradual  
24 slope, a lot of rocks along here and several

1 people appear to be fishing.

2 MS. MEYERS-GLEN: Do you see rocks  
3 leading into the water or is that basically  
4 just soil?

5 MR. LANYON: I'm sorry?

6 MS. MEYERS-GLEN: You don't see rocks,  
7 though, leading into the water, it's just  
8 basically a nice, gradual --

9 MR. LANYON: I see rocks on the  
10 shoreline. I don't know if they're leading  
11 into the water or not.

12 MS. MEYERS-GLEN: Right. It just  
13 seems like a nice, gradual slope where the  
14 water meets the shoreline, right?

15 MR. ANDES: Are you stating -- answer  
16 the question. Is it a nice, gradual slope?

17 MR. LANYON: I don't know if it's nice  
18 or not, but it's gradual.

19 MS. MEYERS-GLEN: And there are people  
20 fishing in that photograph?

21 MR. LANYON: Yes.

22 MS. MEYERS-GLEN: On the two beneath  
23 it that are actually courtesy of Chicago  
24 River Canoe & Kayak, you're familiar you said

1 with the North Branch of the Chicago River,  
2 correct, near Clark Park boat launch?

3 MR. LANYON: Yes.

4 MS. MEYERS-GLEN: Can you please  
5 describe the shoreline in the right picture;  
6 is that a gradual slope?

7 MR. LANYON: Yes.

8 MS. MEYERS-GLEN: And also on the left  
9 where they're canoeing right next to the  
10 shore?

11 MR. LANYON: Yes. This is one of the  
12 leased properties. The Chicago Park District  
13 cut down the steeper slope to make a canoe  
14 launch at Clark Park.

15 MS. MEYERS-GLEN: So you support this  
16 kind of activity at that location?

17 MR. ANDES: Support?

18 MR. LANYON: Support? We lease the  
19 property to the Park District.

20 MS. MEYERS-GLEN: Correct.

21 MR. LANYON: What they do with it is  
22 their business.

23 MS. MEYERS-GLEN: And you help them to  
24 be able to bring this kind of activity to

1           this location?

2                   MR. ANDES:   What do you mean help?

3                   MR. LANYON:   We provide no financial  
4           support.

5                   MS. MEYERS-GLEN:   But you're helping  
6           in order for this boat launch to be at that  
7           location?  You're leasing the property so  
8           that that boat launch exists, correct?

9                   MR. LANYON:   I've testified that we  
10          lease the property to the Park District.

11                   MS. MEYERS-GLEN:   Correct.  For this  
12          purpose, right?

13                   MR. LANYON:   No.

14                   HEARING OFFICER TIPSORD:  If I may,  
15          Mr. Lanyon?  What you're saying is the  
16          District leases the property to the Park  
17          District, but you do not specify in that  
18          lease what they do with that property once  
19          it's leased, correct?

20                   MR. LANYON:   That is correct.

21                   MS. MEYERS-GLEN:   And you're familiar,  
22          though, from the Park District that this is  
23          going to be used for a boat launch; is that  
24          correct?



1 MR. ANDES: At what point in time he  
2 was aware?

3 MS. MEYERS-GLEN: Prior to when the  
4 lease was signed, is that correct, you're  
5 aware that the Chicago Park District is going  
6 to be using the property as a boat launch,  
7 that there are plans for such, that that is  
8 how the property is going to be used; is that  
9 correct?

10 MR. ANDES: Are we talking about a  
11 specific boat launch?

12 MS. MEYERS-GLEN: Sure. How about  
13 Clark Park boat launch. You were aware that  
14 that is how the Chicago Park District is  
15 going to use this property, correct?

16 MR. LANYON: Well, I was not involved  
17 in these discussions or transactions. I  
18 can't say if the District was aware or not.

19 But as a general statement, the  
20 District is not opposed to entities leasing  
21 our property for these purposes. That's  
22 obvious because so much of that has been  
23 done. We're not trying to restrict access to  
24 the waterways.

1 HEARING OFFICER TIPSORD: Mr. Harley,  
2 you have a follow-up?

3 MR. HARLEY: On that point, are you  
4 familiar with the Water Reclamation  
5 District's waterway strategy?

6 MR. LANYON: Yes.

7 MR. HARLEY: And it's correct to state  
8 that, in fact, the District encourages public  
9 open space recreation and water edge  
10 accessibility in its properties; is that  
11 correct?

12 MR. LANYON: Yes.

13 MR. HARLEY: Thank you.

14 MS. MEYERS-GLEN: Just a couple more.  
15 If you flip the page I wanted to take note of  
16 the lady standing pretty far into the North  
17 Branch of the Chicago River near the Clark  
18 Park boat launch.

19 You talked about how the waterways  
20 are deep with steep slopes. Does it seem  
21 deep at that location in the North Branch of  
22 the Chicago River? It seems pretty shallow,  
23 correct?

24 MR. LANYON: Well, it's represented

1           that this was taken at the Clark Park boat  
2           launch, but I have no direct knowledge that  
3           that's where this photograph was taken.

4                       MS. MEYERS-GLEN: Are you familiar  
5           with the Clark Park boat launch?

6                       MR. LANYON: Yes, I am.

7                       MS. MEYERS-GLEN: And are you familiar  
8           with areas such as this that are shallow like  
9           that where you can actually wade out and  
10          stand in that waterway?

11                      MR. LANYON: I've never waded out and  
12          stood in the river at the Clark Park boat  
13          launch. I don't know.

14                      MS. MEYERS-GLEN: So you're not  
15          familiar with the depth?

16                      MR. LANYON: No.

17                      MS. MEYERS-GLEN: And in this  
18          photograph do you see aquatic vegetation to  
19          the right in the middle of the river?

20                      MR. LANYON: Well, I see something  
21          sticking out of the water.

22                      MS. MEYERS-GLEN: And that's most  
23          likely aquatic vegetation, correct? It looks  
24          like plants?

1 MR. LANYON: I don't know.

2 MR. ANDES: Can I ask what the  
3 relevance of that is?

4 MS. MEYERS-GLEN: Yes. He states that  
5 there is limited aquatic vegetation and that  
6 that is --

7 MR. ANDES: Did that contradict his  
8 statement?

9 MR. LANYON: May I add that on Labor  
10 Day last week I was on my bicycle, I stopped  
11 at Clark Park, I didn't see anything sticking  
12 out of the water at the Clark Park --

13 MS. MEYERS-GLEN: At that time?

14 MR. LANYON: -- boat launch that  
15 looked like what you see in this photograph.

16 MS. MEYERS-GLEN: So you just were at  
17 Clark Park boat launch, correct?

18 MR. LANYON: Beg your pardon?

19 MS. MEYERS-GLEN: You just were at  
20 Clark Park boat launch?

21 MR. LANYON: On Labor Day.

22 MS. MEYERS-GLEN: Okay. And so this  
23 photograph, does that look like Clark Park  
24 boat launch to you?

1 MR. LANYON: I can't tell. I don't  
2 know what the bank -- I presume this was  
3 taken from the launch looking out across the  
4 river. I can't -- the other side of the  
5 river is forested like this is, but if this  
6 is -- I can't tell if there's any marks of  
7 distinction saying that this is at that  
8 location.

9 MS. MEYERS-GLEN: And then the last  
10 picture is fishing along the North Branch of  
11 the Chicago River at River Park. Are you  
12 familiar with River Park?

13 MR. LANYON: Yes.

14 MS. MEYERS-GLEN: And can you explain  
15 the shoreline in this picture? Is it  
16 gradual?

17 MR. LANYON: Well, it's rocky and it  
18 appears to be shallow for some distance out.  
19 If this were taken from the west banks of the  
20 river just downstream from the point where  
21 the North Branch tributary flows over the  
22 North Branch dam into the channelized portion  
23 of the System, yes, there is a large shallow  
24 area there, probably the sediments coming

1 over the dam have settled out in that area.

2 MS. MEYERS-GLEN: So that's nice and  
3 gradual?

4 MR. LANYON: Yes. This is one of  
5 those rare locations where we have a gradual  
6 slope under water.

7 MS. MEYERS-GLEN: And the second  
8 characteristic that you stated was typical of  
9 a natural system that wasn't typical for the  
10 CAWS is the vegetative cover along the river  
11 banks. And I'd like to draw your attention  
12 to Exhibit 2 -- or Attachment 2, sorry, for  
13 Openlands.

14 And, again, I'd like to start with  
15 this wonderful photograph from Our Goal is  
16 Clear. Are you familiar with this  
17 photograph, as well, from the District's  
18 publication from 2007?

19 MR. LANYON: Yes.

20 MS. MEYERS-GLEN: In fact, your name  
21 is on here, I believe, above the further  
22 information?

23 MR. LANYON: I guess.

24 MS. MEYERS-GLEN: And where is this

1 photograph taken?

2 MR. LANYON: I suspect it was on the  
3 North Shore Channel, but I have no definite  
4 knowledge of that.

5 MS. MEYERS-GLEN: Would it surprise  
6 you that your office told me that it was the  
7 North Branch of the Chicago River?

8 MR. LANYON: Could have been.  
9 Anywhere north of roughly Addison Street, the  
10 banks are forested like this.

11 MS. MEYERS-GLEN: Okay. So along the  
12 North Shore Channel as well as the North  
13 Branch of the Chicago River you do get a lot  
14 of this nice tree canopy over the waterway,  
15 correct?

16 MR. LANYON: Yes.

17 MS. MEYERS-GLEN: And second  
18 photograph you see foliage along what's the  
19 Chicago Sanitary and Ship Canal upstream of  
20 MWRD monitoring station number ten. Are you  
21 familiar with that area? That's the aeration  
22 station west or southwest of your sewage  
23 treatment works?

24 MR. LANYON: Generally familiar.

1 MS. MEYERS-GLEN: Okay. And with that  
2 general familiarity, are you familiar with  
3 areas that have foliage like this along the  
4 CSSC or Chicago Sanitary and Ship Canal?

5 MR. LANYON: Well, at Fay's Point is  
6 where the Little Calumet River tributary  
7 flows into the channelized portion of the  
8 waterway, and like the North Branch, you  
9 know, you have a wider area in the river, you  
10 have shallower depths at that particular  
11 location.

12 MS. MEYERS-GLEN: This is along the  
13 CSSC, not Cal-Sag.

14 HEARING OFFICER TIPSORD: I think what  
15 happened is you skipped pictures. The way  
16 they're put together is you have the picture  
17 of the egret and you -- she's referring to  
18 the next page of pictures.

19 MS. MEYERS-GLEN: I did.

20 HEARING OFFICER TIPSORD: He's  
21 answering questions regarding the egrets and  
22 you're looking at the next page.

23 MS. MEYERS-GLEN: You're absolutely  
24 right. I apologize. I forgot about our



1 friend, the egret. So you've got an egret in  
2 the water --

3 HEARING OFFICER TIPSORD: Wait. Let's  
4 finish with the question.

5 MS. MEYERS-GLEN: Sure. Let's go back  
6 to the CSSC for a moment. If we could turn  
7 to --

8 MR. LANYON: We're looking at the  
9 photograph that says foliage along the  
10 Sanitary and Ship Canal.

11 MR. ANDES: Upstream of monitoring  
12 station number ten.

13 MS. MEYERS-GLEN: You know what, I  
14 skipped a page. I apologize. If you could  
15 go back. There's a photograph of the egret.  
16 You are absolutely right, Mr. Lanyon. I'm  
17 sorry.

18 If you can go back to gradual  
19 slope along the Calumet-Sag Channel at Fay's  
20 Point Marina and that's the one you were  
21 looking at --

22 MR. LANYON: Yes.

23 MS. MEYERS-GLEN: -- with the egret in  
24 the water?

1 MR. LANYON: Yes.

2 MS. MEYERS-GLEN: Okay. And that is  
3 east of the confluence of the Little Calumet  
4 River. Are you familiar with that area near  
5 Fay's Point Marina?

6 MR. LANYON: Yes.

7 MS. MEYERS-GLEN: And this is  
8 relatively what it looks like at that  
9 location; is that correct?

10 MR. LANYON: That's right.

11 MS. MEYERS-GLEN: A lot of foliage?

12 MR. LANYON: Yes.

13 MS. MEYERS-GLEN: And water foul like  
14 this are not uncommon; is that correct?

15 MR. LANYON: Not uncommon for the --

16 MS. MEYERS-GLEN: For this area.

17 MR. LANYON: I think that we've seen  
18 them at other locations, also.

19 MS. MEYERS-GLEN: And this egret is  
20 standing out in the waterway; is that  
21 correct?

22 MR. LANYON: That's what egrets do.

23 MS. MEYERS-GLEN: That's correct. So  
24 it must not be that deep at that location; is

1           that correct?

2                   MR. LANYON:   How long a leg does the  
3           egret have?

4                   MS. MEYERS-GLEN:   It's pretty shallow,  
5           right?

6                   MR. LANYON:   A foot or so perhaps.

7                   MS. MEYERS-GLEN:   Right.   And there is  
8           a lot of vegetation along the waterway?

9                   MR. LANYON:   Well, you see a lot of  
10          vegetation above the water line along the  
11          waterways.

12                   MS. MEYERS-GLEN:   That's correct.   Now  
13          in the picture right beneath, this is also  
14          along --

15                   HEARING OFFICER TIPSORD:   Excuse me,  
16          Mr. Harley has a follow-up.

17                   MR. HARLEY:   This refers -- this  
18          pictures refers to Fay's Point Marina and you  
19          testified that you're familiar with the  
20          marina?

21                   MR. LANYON:   Generally familiar.

22                   MR. HARLEY:   Can you describe Fay's  
23          Point Marina to the Board?

24                   MR. LANYON:   Well, Fay's Point is a

1 development at the point where the Little  
2 Calumet River flows into the channelized  
3 portion of the system. It's on the south  
4 bank of the Calumet-Sag Channel and south of  
5 the Fay's Point Development is where the  
6 Little Calumet River flows into the  
7 generalized portion of the system.

8 MR. HARLEY: Is it correct to say that  
9 Fay's Point Marina is a housing development  
10 that includes a marina component?

11 MR. LANYON: I believe that's true.

12 MR. HARLEY: And this is an economic  
13 development that occurred in Blue Island,  
14 Illinois; is that correct?

15 MR. LANYON: Yes.

16 MR. HARLEY: And this economic  
17 development occurred, this mixed housing  
18 marina community occurred within the past  
19 five years?

20 MR. LANYON: I believe it's still  
21 under construction.

22 MR. HARLEY: Thank you.

23 MR. ANDES: I'd like to follow-up.  
24 Mr. Lanyon, the various photos concerning

1 vegetative cover above the waterline, can you  
2 tell me what that says about conditions below  
3 the waterline?

4 MR. LANYON: Very little. The  
5 conditions below the waterline -- and this is  
6 a water quality rulemaking -- are what's  
7 important in this rulemaking.

8 And just looking at the vegetation  
9 on the bank doesn't tell you what the benthos  
10 is like below the waterline.

11 THE COURT REPORTER: Benthos?

12 MR. LANYON: Benthos, B-E-N-T-H-O-S.

13 HEARING OFFICER TIPSORD: Ms. Frisbie.

14 MS. FRISBIE: Would you say that or do  
15 you know if the presence of an egret would  
16 indicate the presence of small fish or other  
17 things that it might be eating in the water?

18 MR. LANYON: That may be true,  
19 although, this river looks rather muddy so  
20 I'm not sure the egret can see much.

21 HEARING OFFICER TIPSORD:

22 Ms. Meyers-Glen.

23 MS. MEYERS-GLEN: Returning to, I  
24 believe, it's the last -- the foliage along

1 the north bank of the Cal-Sag Channel after  
2 the confluence with the CSSC, so this is  
3 further towards the Chicago -- the confluence  
4 with the Chicago Sanitary and Ship Canal.  
5 There are areas such as this one with tree  
6 foliage overhanging over the waterway and  
7 this is actually an alcove, correct?

8 MR. LANYON: This is actually what?

9 MS. MEYERS-GLEN: An alcove, correct?  
10 This actually has, like, an inlet, correct.

11 MR. LANYON: If I'm not mistaken, this  
12 is where the wall along the north bank of the  
13 Calumet-Sag Channel was cut to allow the  
14 Illinois and Michigan Canal to flow into the  
15 Calumet-Sag Channel.

16 MS. MEYERS-GLEN: And there are a lot  
17 of trees and overhanging vegetation there, as  
18 well?

19 MR. LANYON: Yes.

20 MS. MEYERS-GLEN: And then the next  
21 picture is of the Chicago Sanitary and Ship  
22 Canal between Summit -- the Summit boat  
23 launch and the confluence with the Cal-Sag  
24 Channel; is that the next photograph you

1 have?

2 MR. ANDES: You skipped the next page.

3 MS. MEYERS-GLEN: The foliage along  
4 the Chicago Sanitary and Ship Canal upstream  
5 of MWRD monitoring station --

6 HEARING OFFICER TIPSORD: I think  
7 we've already talked about those.

8 MS. WILLIAMS: That's the next photo,  
9 station ten.

10 MS. MEYERS-GLEN: Okay. So Attachment  
11 3 is the next one and that's the last one  
12 with rocks and aquatic vegetation. Do you  
13 remember using that as one of the typical  
14 factors of a natural waterway in your  
15 Attachment 5?

16 MR. ANDES: I'm sorry, I'm confused  
17 now.

18 HEARING OFFICER TIPSORD: You're  
19 skipping the trees lining. You started to  
20 ask about trees lining the Chicago Sanitary  
21 and Ship Canal between Summit and the  
22 confluence and now you're jumping to  
23 Attachment 3.

24 MS. MEYERS-GLEN: I thought we had

1 already -- okay.

2 In this photograph -- let's go to  
3 this one then, the trees lining the Chicago  
4 Sanitary and Ship Canal between Summit and  
5 the confluence with the Cal-Sag Channel. Are  
6 you familiar with the confluence of the CSSC  
7 and the Cal-Sag Channel?

8 MR. LANYON: Yes.

9 MS. MEYERS-GLEN: And when the CSSC in  
10 that area -- are you familiar with the  
11 vegetation along the banks? There are a lot  
12 of trees, right?

13 MR. LANYON: Yes. But this is not at  
14 the confluence.

15 MS. MEYERS-GLEN: This is the CSSC  
16 between Summit and the confluence, correct?

17 MR. LANYON: Yes. That's what the  
18 caption says and I believe it's correct.

19 MS. MEYERS-GLEN: And this would look  
20 like that? As to your knowledge, that would  
21 look like that stretch of the waterway?

22 MR. LANYON: It is typical. I will  
23 say that at Willow Springs the Chicago  
24 Sanitary and Ship Canal, as one goes



1 downstream from Summit, from Summit to Willow  
2 Springs, roughly six miles, it is a  
3 trapezoidal section cut out of earth. There  
4 are a number of industrial sites along there.

5 At Willow Springs the channel  
6 transitions to a rectangular section with  
7 vertical rock walls. And most of the  
8 properties adjoining the canal is Forest  
9 Preserve District land, it's heavily wooded  
10 as you see in this photograph.

11 But below the waterline you've got  
12 a vertical rock wall. The rock section is  
13 generally 160 feet wide and 24 feet deep.

14 MS. MEYERS-GLEN: Well, in your  
15 testimony you talked about tree canopy that  
16 extends over the waterway providing refuge or  
17 shelter, you do discuss that. And my point  
18 here is that there's a good part of the  
19 Chicago Sanitary and Ship Canal that's wooded  
20 along those banks, correct?

21 MR. LANYON: Wooded?

22 MS. MEYERS-GLEN: Has trees.

23 MR. LANYON: Along the bank?

24 MS. MEYERS-GLEN: Like this, the

1 photograph, is indicative to a good portion  
2 of CSSC; is that correct?

3 MR. LANYON: Yeah. Wooded along the  
4 banks, but that doesn't mean there's tree  
5 cover over the water to, you know, protect  
6 the water from being warmed by the sunshine  
7 and such.

8 MS. MEYERS-GLEN: The last photograph  
9 is of a bench along the bank of the Cal-Sag  
10 Channel near Harlem Avenue. You said you  
11 were familiar with that location, correct?

12 MR. LANYON: Yes. That's at our  
13 sidestream elevated pool aeration station  
14 number four.

15 MS. MEYERS-GLEN: And that's nice and  
16 shaded from the trees?

17 MR. LANYON: Yes.

18 MS. DEXTER: Can I ask a follow-up on  
19 the previous photo we were looking at on the  
20 Sanitary Ship and Canal? You mentioned the  
21 rock walls; would you agree that those rock  
22 walls are crumbling, it's not a smooth  
23 surface, but it's --

24 MR. LANYON: Yes, there's areas where

1 the fall has failed.

2 MR. ANDES: On what particular water  
3 body are you talking about, the Cal-Sag  
4 Channel or the --

5 MS. DEXTER: Well, anywhere where  
6 there's rock walls he described.

7 MR. ANDES: Any areas where walls are  
8 crumbling.

9 MS. DEXTER: Right. Where the surface  
10 is crumbling.

11 MR. LANYON: Yes.

12 MS. DEXTER: Thank you.

13 MS. MEYERS-GLEN: The last quality  
14 that I wanted to quickly go over are three  
15 photographs here. In your Attachment 5 you  
16 stated that there were rocks and aquatic  
17 vegetation, that that was indicative of a  
18 natural waterway that (inaudible) --

19 THE COURT REPORTER: Can you repeat  
20 that?

21 MS. MEYERS-GLEN: Sure. You stated  
22 that there were rocks and aquatic vegetation  
23 present in a natural waterway and that wasn't  
24 present on the CAWS. And I wanted to bring

1 your attention to Attachment 3. Now you've  
2 already described a lot of circumstances  
3 where there are rocks, correct?

4 MR. LANYON: Along the shoreline, yes.

5 MS. MEYERS-GLEN: And with this  
6 photograph here -- and those rocks went into  
7 the water in a lot of those photographs,  
8 correct?

9 MR. LANYON: I believe so, but we  
10 can't see them.

11 MS. MEYERS-GLEN: In the first picture  
12 with the overhanging trees and vegetation in  
13 an alcove near the confluence of the Cal-Sag  
14 Channel and on the Little Calumet River, can  
15 you see the aquatic vegetation in the back in  
16 the water?

17 MR. LANYON: I can't --

18 MS. MEYERS-GLEN: Can't make that out?

19 MR. LANYON: -- tell from this  
20 photograph if that is vegetation growing in  
21 the water or emergent vegetation or whether  
22 it's on the shoreline.

23 MS. MEYERS-GLEN: There's a lot of  
24 plants and trees in this photograph, correct?

1 MR. LANYON: What's that?

2 MS. MEYERS-GLEN: There's a lot of  
3 plants and trees in this photograph in the  
4 alcove?

5 MR. LANYON: A lot of plants?

6 MS. MEYERS-GLEN: And trees, yes.

7 MR. LANYON: I mean, trees and  
8 vegetation. I can't distinguish individual  
9 plants.

10 MS. MEYERS-GLEN: And there are rocks  
11 that go down into the water on the left -- or  
12 the right? Sorry.

13 MR. LANYON: On the right-hand side  
14 there's a point that looks like it has rocks  
15 on the slope and in the waterline -- at the  
16 waterline.

17 MS. MEYERS-GLEN: And then in the  
18 photograph beneath it there's a Great Blue  
19 Heron perching on a fallen branch in the  
20 Cal-Sag Channel at the confluence of the  
21 Little Calumet River. Are you familiar with  
22 that location?

23 MR. LANYON: Yes.

24 MS. MEYERS-GLEN: And you've seen

1 Great Blue Heron along this waterway?

2 MR. LANYON: Yes.

3 MS. MEYERS-GLEN: Can you describe --  
4 you had mentioned that there were seldom  
5 places for wildlife to use surrounding  
6 vegetation. He's perched on a --

7 MR. LANYON: I beg your pardon? You  
8 represented that I testified to what?

9 MS. MEYERS-GLEN: In your testimony --  
10 what is the purpose -- let me rephrase.  
11 Strike that.

12 The Great Blue Heron is sitting on  
13 outstretched vegetation, correct?

14 MR. LANYON: Standing on a -- looks  
15 like a tree fallen in at the shoreline.

16 MS. MEYERS-GLEN: A fallen tree  
17 branch. And that's quite different, this  
18 photograph, from the one taken over 100 years  
19 ago in 1895, correct, all of these are with  
20 the nice vegetation?

21 MR. ANDES: Are they the same  
22 location?

23 MS. MEYERS-GLEN: Well, you're saying  
24 that these are typical of the CAWS, Chicago

1 Area Waterways, and this photograph is very  
2 different than the portrayal that's typical  
3 of the CAWS; is that correct?

4 MR. ANDES: I'm not sure that the  
5 statement as to this photo is that it's  
6 typical of the CAWS and I'm not sure that one  
7 photograph shows what's typical either.

8 MS. MEYERS-GLEN: There are different  
9 areas that are along --

10 MS. WILLIAMS: Is that an objection?

11 MS. MEYERS-GLEN: -- the CAWS that  
12 have these characteristics, correct?

13 MR. LANYON: They are different  
14 photographs of different areas.

15 MS. MEYERS-GLEN: With different  
16 characteristics and at different times?

17 MR. LANYON: Different times,  
18 definitely.

19 MS. MEYERS-GLEN: If I may move to  
20 Question 14?

21 DR. GIRARD: Let me just ask a  
22 follow-up that sort of goes along with this  
23 and fits in the middle here.

24 Mr. Lanyon, in your testimony you

1           said that the North Shore Channel was  
2           completed in 1910. Do you know if any  
3           scientific studies by an organization like  
4           the Illinois Natural History Survey were done  
5           to characterize this area before it was  
6           channelized?

7                       MR. LANYON: No, I can't say that I  
8           do.

9                       MR. ANDES: I can also offer there is  
10          an exhibit that I think helps address this in  
11          terms of which areas were -- what the  
12          situation was before. And Mr. Lanyon might  
13          want to address this because this is a --

14                      DR. GIRARD: Is that exhibit  
15          already -- that's an exhibit that's already  
16          in the record?

17                      MR. ANDES: Yes. An attachment to his  
18          testimony.

19                      DR. GIRARD: Okay.

20                      MR. ANDES: And there are copies over  
21          there for everyone.

22                      MS. WILLIAMS: Can we refer, for the  
23          record, to which attachment to his testimony  
24          we're looking at?



1 MR. ANDES: I believe it was -- yes.  
2 I don't have it right in front of me, but I  
3 can do that.

4 MR. LANYON: I believe that was  
5 Attachment 3.

6 Did I answer the question? I'm  
7 not aware of a study by the Natural History  
8 Survey.

9 DR. GIRARD: Well, any -- once you  
10 point me to the attachment, I'd have to ask  
11 what is the attachment based on, where did  
12 you get the information for this attachment?

13 HEARING OFFICER TIPSORD: The before  
14 and after.

15 MR. LANYON: This is simply a before  
16 and after representation of the channels that  
17 were built to reverse the flow of the Calumet  
18 and Chicago Rivers.

19 HEARING OFFICER TIPSORD: But where  
20 did you get the information for them before  
21 the river reversal? What's the basis of that  
22 information?

23 MR. LANYON: From maps that the  
24 District has in its archives from when it

1 built the first canal.

2 DR. GIRARD: So those maps are  
3 referenced in the attachments?

4 MR. LANYON: No.

5 DR. GIRARD: And is there any other  
6 written information besides maps? Are there  
7 narrative descriptions of the area?

8 MR. LANYON: I'm not sure if we have  
9 such descriptions in our archives. We may.

10 MR. ANDES: I think there are books  
11 and reports that have been written concerning  
12 the building of the System, which I think do  
13 describe to some extent these conditions and  
14 we'd be glad to provide those for the record.

15 DR. GIRARD: Thank you. That would be  
16 great.

17 MR. ETTINGER: Can I just ask whether  
18 these maps accurately reflect the coast of  
19 Lake Michigan before and after?

20 MR. LANYON: It's approximately  
21 correct.

22 MR. ETTINGER: Lake Michigan is all an  
23 unnatural bank, too, isn't it?

24 MR. LANYON: I beg your pardon?

1                   MR. ETTINGER: Lake Michigan from the  
2 Chicago River north to Hollywood is all an  
3 unnatural coastline, too, isn't it?

4                   MR. LANYON: Except for the  
5 Streeterville area that was filled in.

6                   MR. ETTINGER: That was --

7                   MR. ANDES: You said unnatural?

8                   MR. ETTINGER: It's unnatural at  
9 Streeterville. It's actually fill all the  
10 way up to Rogers Park, isn't it?

11                   MR. ANDES: We can stipulate to that.

12                   MR. LANYON: I don't know.

13                   MR. ETTINGER: Is the step revetment  
14 on Lake Michigan natural?

15                   MR. LANYON: Step?

16                   MR. ETTINGER: You don't know what the  
17 step revetment is?

18                   MR. LANYON: Oh, I'm sorry, the step  
19 revetment that was put in to protect the  
20 shoreline?

21                   MR. ETTINGER: Yeah.

22                   MR. LANYON: No, that's not natural.

23                   MS. MEYERS-GLEN: Question 14, you  
24 stated the CAWS were not constructed or

1 altered with recreational and aquatic life  
2 uses in mind on Page 3 of your testimony; is  
3 that correct?

4 MR. LANYON: Yes.

5 MS. MEYERS-GLEN: And yet these uses  
6 exist, do they not?

7 MR. LANYON: Yes.

8 MS. MEYERS-GLEN: And are you aware of  
9 other man-made or heavily altered bodies of  
10 water that support recreational activities  
11 like the ones found on the CAWS?

12 MR. LANYON: I have no direct personal  
13 knowledge.

14 MR. HARLEY: Are you familiar with  
15 Illinois Department of Natural Resource  
16 regulations that address the issue of public  
17 use of waters in the CAWS?

18 MR. ANDES: Can you provide a specific  
19 citation?

20 MR. HARLEY: 35 Illinois -- I'm sorry,  
21 17 Illinois Administrative Code, Section  
22 3704.20. I'm not trying to trip you up in  
23 terms of an obscure legal reference. That's  
24 not the point of my question. It's a more

1           general question about are you familiar with  
2           Illinois Department of Natural Resource  
3           Regulations addressing public use of the  
4           CAWS?

5                       MR. LANYON: No.

6                       MR. HARLEY: Thank you.

7                       MS. MEYERS-GLEN: Question 15, in your  
8           testimony on Page 5 you state that physical  
9           characteristics such as banks with high walls  
10          can render hand-powered boating hazardous to  
11          individuals.

12                      You also reference in Attachment 4  
13          a report by the District that states, in  
14          relevant part, that some recreational  
15          activities are hazardous because of the lack  
16          of safe exit points from the water and I give  
17          the citation to that.

18                      How many boat launch sites are  
19          there along the Chicago Area Waterway System  
20          that allow paddlers to get in and out of the  
21          waterway?

22                      MR. LANYON: I think I've already  
23          testified to those that I do recall and I  
24          said I can't remember them all.

1 MS. MEYERS-GLEN: Okay. So you don't  
2 know sitting here how many exit points there  
3 are of boat launch sites on the CAWS?

4 MR. LANYON: That's correct.

5 MS. MEYERS-GLEN: And do you know --  
6 as to your knowledge, how many additional  
7 launch sites are planned for construction?

8 MR. LANYON: I don't know the answer  
9 to that either.

10 MS. MEYERS-GLEN: Do you know how many  
11 private docks or ramps there are between the  
12 Clark Park boat launch and the District's  
13 North Side wastewater treatment plant?

14 MR. LANYON: No.

15 MS. MEYERS-GLEN: Are you aware that  
16 there are actually 45 private docks alone --

17 MR. ANDES: I think it's evident --

18 MS. MEYERS-GLEN: -- between the Clark  
19 Park boat launch and the District? If he  
20 knows the answer, I would appreciate it if he  
21 could --

22 HEARING OFFICER TIPSORD: But he  
23 already told us he doesn't know how many  
24 private ones there are and now you're giving

1 him an exact number and asking him if he's  
2 aware of that. And I have to agree that  
3 you're now presenting evidence in your  
4 question, so he's already said he doesn't  
5 know.

6 MS. MEYERS-GLEN: Do you know the  
7 names and locations -- you had named a few of  
8 the launch sites used for canoes and kayaks  
9 along the CAWS the District has approved,  
10 cooperated in establishing or partially owns.

11 MR. ANDES: I'm not sure what approved  
12 or cooperated in establishing mean. Are we  
13 talking about partially owning the launch,  
14 just the property or anything else?

15 MS. MEYERS-GLEN: Either.

16 MR. ANDES: What do approved and  
17 cooperated and establishing mean?

18 MS. MEYERS-GLEN: Okay. Well, let me  
19 make this a little bit more simple. I'll ask  
20 it in this way. Has the District approved of  
21 or partially owned property where the Park  
22 District and municipal launch sites are in  
23 the CAWS such as River Park, the Oakton  
24 Street launch, Lincoln Village, Dusable Park,

1 Ladd Arboretum, Summit and I guess also Clark  
2 Park according to what you testified to.  
3 Have you approved a partially owned land that  
4 Park District and municipalities have used  
5 for launch sites for those locations?

6 MR. LANYON: I believe I've already  
7 testified that we lease properties to various  
8 entities for the purpose of -- so that these  
9 entities could develop these access points.

10 MS. MEYERS-GLEN: And all of these  
11 locations are ones that you have either  
12 approved of the use or leased land for this  
13 purpose?

14 MR. LANYON: Yes.

15 MS. MEYERS-GLEN: Correct?

16 MR. LANYON: Yes.

17 MS. MEYERS-GLEN: And are you aware  
18 that Openlands has worked with the District  
19 to look at potential boat launches -- boat  
20 launch sites that the District evaluated as  
21 to whether or not to lease that land to local  
22 governments?

23 MR. ANDES: Worked with?

24 MS. MEYERS-GLEN: Our organization,



1 Openlands.

2 MR. LANYON: Not offhand.

3 MS. MEYERS-GLEN: And has -- to your  
4 knowledge, has the District evaluated safety  
5 when allowing local governments to lease --  
6 when leasing their property to local  
7 governments for the use of boat launches or  
8 access for the waterways for recreational  
9 activities along the CAWS?

10 MR. LANYON: Have we?

11 MS. MEYERS-GLEN: Have you evaluated  
12 safety --

13 MR. LANYON: No.

14 MS. MEYERS-GLEN: -- of recreational  
15 uses when --

16 MR. LANYON: No.

17 MS. MEYERS-GLEN: -- leasing property  
18 to local municipalities or to park districts?

19 MR. LANYON: No. In our leases, all  
20 liability for whatever use of the property is  
21 intended -- is laid on the lessee.

22 MS. MEYERS-GLEN: But do you post  
23 signage advising the public that waters are  
24 not safe for bodily contact, do you not?

1 MR. LANYON: At the insistence of the  
2 Agency several years ago, we posted such  
3 signage.

4 MS. MEYERS-GLEN: And that's on  
5 property that you either own or lease for  
6 recreational use, correct?

7 MR. LANYON: Yes.

8 MS. WILLIAMS: Would the District be  
9 willing to provide copies of these leases for  
10 the record?

11 MR. LANYON: I'm sorry, copies of?

12 MS. WILLIAMS: The leases.

13 MR. ANDES: I'm sure, while they're  
14 relevant, we can stipulate as to what  
15 properties we lease.

16 MS. WILLIAMS: We've gotten into  
17 whether the leases reflect that there will be  
18 boat launches and whether the District has  
19 considered safety. Maybe it would help to  
20 have copies of even a representative example  
21 of the leases.

22 MR. ANDES: Are these parties  
23 contending that there's a significant public  
24 health risk from putting people into the

1 water, that the District should be preventing  
2 people from getting into the water?

3 MS. MEYERS-GLEN: I'm merely asking  
4 about the District's consideration of safety  
5 when it engages with other parties to  
6 establish these boat launches, how they're  
7 involved in that process, what they  
8 consider -- to see what the District has done  
9 in regards to safety.

10 The District has asked a lot of  
11 questions regarding safety to other witnesses  
12 and I'm curious as to the District's  
13 involvement in the same kind of assessment,  
14 that's all.

15 MR. HARLEY: If I may follow-up on  
16 that, too? It seems, with all respect, that  
17 a great deal of the testimony that was given  
18 suggested that the waters -- some portions of  
19 the CAWS may be physically unsuitable for  
20 boating and recreational activities and so  
21 the fact that we have so many areas where  
22 people are entering into the river system,  
23 using the river system, some of which they're  
24 doing on District property, seems to be

1 relevant to evaluating the credibility of  
2 those assertions.

3 MR. ANDES: And the leases are  
4 relevant to that?

5 MR. HARLEY: How can the District be  
6 entering into a lease that may or may not  
7 encourage public access to waters when the  
8 District is taking the position in this  
9 rulemaking that those waters are physically  
10 unsuitable for recreational uses?

11 MR. ANDES: So are these parties  
12 contending the District should simply  
13 prohibit access to the CAWS entirely?

14 MR. HARLEY: No.

15 MS. WILLIAMS: I think the parties are  
16 asking that the documents that are being  
17 referred to in testimony are made part of the  
18 record.

19 MR. ANDES: What particular  
20 allegations are we referring to in terms of  
21 physical and suitability that we're  
22 addressing?

23 HEARING OFFICER TIPSORD: I think I --  
24 I think what I'm going to do here is ask the

1 District to provide an example of the leases  
2 you've entered into with any -- with the  
3 Chicago Park District for leasing of property  
4 so that we can see what is in that lease as  
5 far as -- you've testified that -- and,  
6 Mr. Lanyon, you've testified repeatedly that  
7 you don't say, here, we're going to lease  
8 this to you for a boat launch, but you also  
9 say that all the liability is then on the  
10 Park District. I think we'd like to see that  
11 as it relates to the use of the CAWS, so if  
12 we can see an example. I'm not asking you to  
13 provide all of them, but if you could give us  
14 a relative example.

15 MR. ANDES: Sure.

16 HEARING OFFICER TIPSORD: Thank you.

17 MS. MEYERS-GLEN: I've got one  
18 follow-up question, if I may, and that was in  
19 line with this. Are you aware that on  
20 approval by the former District General  
21 Superintendent, John Farnan, an MWRD employee  
22 participated in an event promoting water  
23 trails in the Calumet area in 2006, are you  
24 familiar with that?

1 MR. LANYON: I can't say that I am.  
2 I'm familiar that the -- some group came to  
3 one of our study sessions that talked about  
4 their water trails planned for the Calumet  
5 area.

6 MS. MEYERS-GLEN: Would it surprise  
7 you that the general superintendent okay'd  
8 District participation in a paddling event to  
9 promote such use?

10 MR. LANYON: We do that every year.

11 HEARING OFFICER TIPSORD:

12 Ms. Meyers-Glen, I'm going to ask you to  
13 start wrapping it up. The court reporter has  
14 to be somewhere else at 1:00 o'clock, so  
15 we're going to have to take our lunch break  
16 in the next couple of minutes.

17 MR. ANDES: I have one follow-up  
18 question for now. Based on the information  
19 available, does the District believe that  
20 there are significant public health risks  
21 from paddling or canoeing in the CAWS in the  
22 current status?

23 MR. LANYON: From the UAA reports?

24 MR. ANDES: And a Geosyntec Risk

1 Assessment Report and other documents.

2 MR. LANYON: Well, we don't believe  
3 there's health risks, but the question is  
4 being asked about safety. Safety is a larger  
5 question than just health risks, so...

6 MR. ANDES: And you believe there are  
7 some areas --

8 MR. LANYON: We're just stating that  
9 there are some areas where there are safety  
10 concerns.

11 MR. ANDES: Physical safety issues?

12 MR. LANYON: Physical safety concerns.

13 MS. MEYERS-GLEN: Could you please  
14 give the names, dates and locations of  
15 recreational events that the District has  
16 either assisted with or been a partner in  
17 over the last five years such as the Flat  
18 Water Classic where 511 people paddled the  
19 Chicago River in 2007?

20 MR. ANDES: That is evidence,  
21 obviously, 511 people.

22 MS. MEYERS-GLEN: And that's great.  
23 That's one. I was just wondering what else  
24 the District assisted in or has partnered in

1 to bring events -- to have events out on the  
2 CAWS to bring people to recreate on those  
3 waterways?

4 HEARING OFFICER TIPSORD: Was that an  
5 objection, Mr. Andes?

6 MR. ANDES: As to the particular  
7 statement because there's no evidence  
8 introduced as to it, but we can answer the  
9 question generally.

10 HEARING OFFICER TIPSORD: Thank you.

11 MS. MEYERS-GLEN: I can very happily  
12 establish a foundation for it, Mr. Andes.

13 HEARING OFFICER TIPSORD: No. That's  
14 quite alright. You can do that in your own  
15 testimony. We're not going to do that in  
16 questions, but you certainly may do that in  
17 your own testimony.

18 MS. MEYERS-GLEN: Does the District  
19 participate in or help to sponsor the Flat  
20 Water Classic?

21 MR. LANYON: Yes. We've done this a  
22 number of times.

23 MS. MEYERS-GLEN: Are there other  
24 event that the District also assists in or



1           participates in, in order to get recreational  
2           users out onto the CAWS?

3           MR. ANDES:   In order to?

4           MR. LANYON:   What do you mean?

5           MR. ANDES:   Go ahead, Mr. Lanyon.

6           MR. LANYON:   What do you mean other  
7           events?

8           MS. MEYERS-GLEN:  Do you help with  
9           other activities or events to promote  
10          recreational use on the CAWS?

11          MR. LANYON:  Well, I don't recall the  
12          name of the events, but there are other  
13          events, yes.

14          MS. MEYERS-GLEN:  Can you give us a  
15          ballpark figure of how many events annually  
16          you help with?

17          MR. LANYON:  Ballpark, three or four.

18          MR. ANDES:  Let me follow-up on that.

19          HEARING OFFICER TIPSORD:  Sure.

20          MR. ANDES:  Can you explain to me, for  
21          example, on the Flat Water Classic what does  
22          the District do to help with that event?

23          MR. LANYON:  We schedule our pontoon  
24          boats the day prior to the event to do a

1           general clean-up of the reach of the river  
2           from Clark Park to Tom Ping Park and on the  
3           day of the event we will shut down our  
4           instream aeration station at Webster Avenue  
5           to reduce the risk of traffic -- the problems  
6           with the canoes and kayakers.

7                       MR. ANDES: Do you have any other  
8           involvement in the Classic other than those  
9           particular activities?

10                      MR. LANYON: I believe that's all.

11                      HEARING OFFICER TIPSORD: We're going  
12           to take a lunch break.

13                                       (Whereupon, the hearing  
14                                       of the above-entitled  
15                                       cause was adjourned for  
16                                       lunch, to be reconvened  
17                                       at 1:20 p.m.)

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19  
20  
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22  
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24

1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF WILL )

3

4 I, Tamara Manganiello, CSR, RPR, do hereby  
5 certify that I reported in shorthand the proceedings  
6 held in the foregoing cause, and that the foregoing  
7 is a true, complete and correct transcript of the  
8 proceedings as appears from my stenographic notes so  
9 taken and transcribed under my personal direction.

10

11

*Tamara Manganiello*  
TAMARA MANGANIELLO, CSR, RPR  
License No. 084-004560

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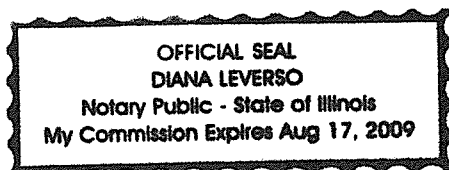
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before me this 18th day  
of September A.D., 2008.

21

*Diana Leverso*  
Notary Public

22

23



24

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