

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-) PCB 04-207
) (Enforcement-
EDWARD PRUIM and ROBERT PRUIM,) Land)
)
Respondents.)
-----)
PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
-vs-) PCB 97-193
) (Enforcement-
COMMUNITY LANDFILL COMPANY, INC.,) Land)
) (Consolidated)
Respondent.)

REPORT OF PROCEEDINGS taken before Tamara Manganiello, Registered Professional Reporter and Notary Public, at 1320 Union Street, Morris, Illinois, commencing at the hour of 9:00 a.m. on the 3rd day of December, A.D., 2008.

ILLINOIS POLLUTION CONTROL BOARD
MR. BRADLEY P. HALLORAN, HEARING OFFICER
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

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

2

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS
ENVIRONMENTAL BUREAU
69 West Washington Street
Suite 1800
Chicago, Illinois 60602
(312) 814-5388
BY: MR. CHRISTOPHER J. GRANT
MS. JENNIFER VAN WIE

7

Appeared on behalf of the Complainant;

8

LAROSE & BOSCO, LTD.
200 North LaSalle Street
Suite 2810
Chicago, Illinois 60601
(312) 642-4414
BY: MR. MARK A. LAROSE

10

11

12

Appeared on behalf of the Respondents;

13

LAW OFFICES OF CLARISSA Y. CUTLER
155 North Michigan Avenue
Suite 375
Chicago, Illinois 60601
(312) 729-5067
BY: MS. CLARISSA Y. CUTLER

14

15

16

Appeared on behalf of the Respondents.

17

18

19

20

21

22

23

24

1 HEARING OFFICER HALLORAN: Good
2 morning, everyone. My name is Bradley
3 Halloran. I'm a hearing officer with the
4 Illinois Pollution Control Board. I'm also
5 assigned to this matter, a consolidated
6 matter entitled People of the State of
7 Illinois, Complainant, versus Edward Pruum
8 and Robert Pruum, Respondents, PCB 4-207 and
9 the People of the State of Illinois,
10 Complainant, versus Community Landfill, Inc.,
11 Respondent, PCB 97-193.

12 Today is December 3rd, 2008, at
13 approximately 9:00 a.m. This matter was
14 continued on the record from yesterday,
15 December 2nd, 2008. At present, the State is
16 still in their case in chief and I believe
17 they're about to call their sixth witness.

18 (Witness sworn.)

19 WHEREUPON:

20 ELLEN ROBINSON
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

23
24

1 DIRECT EXAMINATION

2 By Ms. Van Wie

3 Q. Good morning.

4 A. Good morning.

5 Q. Would you please state your name for
6 the record?

7 A. Ellen Robinson.

8 Q. And where are you currently employed?

9 A. I work at the Illinois EPA,
10 Springfield headquarters.

11 Q. How long have you been employed with
12 the Illinois EPA?

13 A. Since April of 1993.

14 Q. And what is your current title at the
15 Illinois EPA?

16 A. I am now environmental protection
17 specialist three in the waste reduction and
18 compliance section of the Bureau of Land.

19 Q. What was your title when you first
20 started working at the Illinois EPA?

21 A. I started as a life science career
22 trainee.

23 Q. And about how long were you a life
24 science career trainee?

1 A. Probably about a year.

2 Q. And what was your title after that?

3 A. Environmental protection specialist
4 one and then it ended up being a two and then three.

5 Q. Have you held any other positions
6 while working for the Illinois EPA?

7 A. No.

8 Q. Please describe your responsibilities
9 as an environmental protection specialist three in
10 the waste reduction and compliance section of IEPA?

11 A. Well, one of the things I do is I
12 receive the annual forms called the landfill
13 capacity certification forms. They come in from
14 landfill operators and I use these forms to publish
15 an annual report and the latest of which was just
16 published online, the 2007 edition. I also work
17 with 20 different counties as a grant manager.

18 Q. Were your responsibilities as an
19 environmental specialist one approximately the same
20 as they are now?

21 A. Well, not really because as staff
22 members left, I ended up taking on more
23 responsibility. And I, at one time, have managed
24 the whole state of Illinois, every county in the

1 state as far as solid waste planning goes.

2 And then, also, I progressively
3 worked into taking over the capacity report and to
4 write that publication probably in 1996 and I have
5 written 12 of those.

6 Q. We're going to focus specifically on
7 the landfill capacity certification forms.

8 A. Okay.

9 Q. If you could just generally describe
10 what these forms are?

11 A. These are forms that are submitted by
12 the landfill operators or engineers that are hired
13 by the landfill operators for a specific landfill
14 and they give us a snapshot of how many cubic yards
15 of capacity remain at the beginning of each year
16 and how many cubic yards or gate cubic yards were
17 accepted at the landfill over a given year, a
18 calendar year, and they also specify how many years
19 remain and this is written for the general assembly
20 and the governor.

21 Q. Are these forms required by some
22 statute or regulation?

23 A. The Illinois EPA land pollution
24 regulations require it. It's 858.207 and Part C.

1 Q. And who submits the landfill capacity
2 certification forms to the Illinois EPA?

3 A. The landfill operator or the
4 environmental engineer that's hired by the landfill
5 operator.

6 Q. As long as you've been an
7 environmental protection specialist have you
8 reviewed the annual landfill capacity certification
9 forms?

10 A. No. At first the requirement was for
11 the accountants to do that as part of the fee
12 structure that was paid to the State of Illinois.
13 But at some point in time when people retired, they
14 passed the responsibility on to me because I worked
15 with counties and landfills in counties and so on.
16 So I started doing that, I think, in 1996 for the
17 ninth annual report and I've written through the
18 21st.

19 Q. And who reviewed these forms at
20 Illinois EPA before 1996?

21 A. Well, the accountant staff did, either
22 Jan Zanetello, Shirley Hill or Linda Hytorak. And
23 then they left and then ended up passing that
24 responsibility to me.

1 Q. Currently are you the sole person
2 responsible for reviewing the landfill capacity
3 certification forms at Illinois EPA?

4 A. Yes.

5 Q. Is there anything done with the
6 information contained in the landfill capacity
7 certification forms?

8 A. Well, the information is entered into
9 a database and it's compiled into an annual report
10 on the landfills, compost sites and transfer
11 stations in the state of Illinois.

12 MR. GRANT: Can I interrupt for a
13 minute? I notice that you've got some papers
14 there. I know that we discussed your
15 testimony. I don't know that it's
16 appropriate for her to have that maybe with
17 her.

18 If you need them, we can refresh
19 your recollection. I just want to make sure
20 this is done right.

21 THE WITNESS: Okay. It's my first
22 time to testify.

23 MR. GRANT: I know it is. I should
24 have told you beforehand.

1 BY MS. VAN WIE:

2 Q. We were talking about the information
3 that's contained in the landfill capacity reports
4 going into an annual report that you compile,
5 correct?

6 A. Uh-huh.

7 Q. And is that the same annual report
8 that you mentioned that is part of your
9 responsibilities as an environmental protection
10 specialist?

11 A. Yes.

12 Q. In the second binder, if you could
13 look at Complainant's Exhibit 14C?

14 A. Okay. I have it.

15 Q. Can you tell me what this is?

16 A. This is the landfill capacity
17 certification form submitted by Morris Community
18 Landfill for Parcel B of that facility on April
19 19th, 1993.

20 Q. Can you tell me who submitted the
21 form?

22 A. The environmental engineer at Andrews
23 Engineering, I believe, Vincent Madonia.

24 Q. And prior to today were you asked to

1 review the Illinois EPA file of landfill capacity
2 certifications forms specifically for the Morris
3 Community Landfill?

4 A. Yes. I found them. They were there
5 in our official file.

6 Q. And does Exhibit 14C represent a true
7 and correct copy of what was found in the Illinois
8 EPA file for the Morris Community Landfill?

9 A. Yes.

10 Q. I'd like you to go -- we're going to
11 go through this exhibit.

12 A. Okay.

13 Q. And I'll ask you questions about what
14 information is being provided.

15 In Section 1A can you please tell
16 me what information is being supplied?

17 A. This looks at the permits that have
18 been given to this landfill, Morris Community
19 Landfill, Parcel B, and it says how much additional
20 airspace might have been allowed by any new permits
21 during the year.

22 Q. Okay. And it looks like Section 1B
23 through G is fairly self-explanatory as to the
24 information that it's asking. It's mostly about

1 permits and things like that, correct?

2 A. Yes. Actually, there's no information
3 there for that particular landfill for that
4 particular form.

5 Q. I'm talking about Section 1B through
6 G.

7 A. Oh, yeah. That's what we were just
8 talking about, yeah.

9 Q. Right. And Section -- as you had just
10 stated, Section 2 is not filled out, correct?

11 A. Right.

12 Q. Looking to Section 3 which is on Page
13 2, if you could please explain what is in
14 Section 3C?

15 MR. LAROSE: Mr. Halloran, I'm going
16 to make an objection to the basis of this
17 witness' knowledge with respect to this
18 document. She didn't take over this job
19 until 1996.

20 I have no objection to her
21 authenticating this document as part of what
22 is now in the government's file. And we're
23 not going to object to the admission of this
24 document. But for her to explain what the

1 information is on here when it wasn't her job
2 when it was submitted, how would she know
3 what this information is? There is no basis
4 of her knowledge. It wasn't her job.

5 THE WITNESS: Can I answer?

6 HEARING OFFICER HALLORAN: No.

7 Ms. Van Wie?

8 MS. VAN WIE: I can. Mr. Halloran,
9 she is now the person at Illinois EPA that
10 reviews these reports. These reports request
11 the same information in 1993 that they do
12 today.

13 She reviews these on a yearly
14 basis and compiles the information for an
15 annual report. She's more than certified to
16 testify to the information that is being
17 provided.

18 MR. LAROSE: And, again, if this was a
19 report from '97 or '98 or today when it was
20 her job to do that, I wouldn't have a problem
21 with that. How does she know what was being
22 submitted to her or to the Agency in 1993
23 when it wasn't her job?

24 THE WITNESS: I look through --

1 HEARING OFFICER HALLORAN: Wait. You
2 know what I'll do, I will overrule
3 Mr. LaRose's objection to the extent that I
4 will allow it as demonstrative evidence
5 because I think the Board would appreciate an
6 explanation of this exhibit. So that's my
7 ruling. Thank you.

8 BY MS. VAN WIE:

9 Q. You can continue.

10 A. Okay. This Section 3 is the same as
11 all the forms ever at this Agency, so, I mean,
12 they're all the same. Section 3 describes how much
13 permitted volume as of a certain date was available
14 and then it divides or it subtracts some amount of
15 cubic yards to give me another figure.

16 So, basically, it's telling me how
17 much volume is available for waste disposal. And it
18 doesn't say what they're using here to calculate it,
19 but usually it's an aerial photograph.

20 Q. Okay. So the -- if this is my
21 understanding, the bottom number, 279,940, that
22 would be the remaining capacity for waste at the
23 landfill for this given time period; is that
24 correct?

1 A. Yeah. And -- yeah.

2 Q. And if we could look to Section 4B and
3 C?

4 A. And describe that?

5 Q. Yes.

6 A. Okay. We're looking at how many
7 pounds per cubic gate yard, so basically it's as the
8 waste is compacted there's a certain ratio and it's
9 how many gate yards can you fit in a cubic -- in an
10 in-place yard. And so they were multiplying this
11 out and they're getting another number. It's a
12 ratio -- compaction ratio.

13 Q. So is it your understanding that each
14 landfill would have an individual compaction ratio
15 that may be different?

16 A. Yes. I've talked to some engineers
17 about what this means and it ranges between 1 to 1
18 to 7 to 1. So theirs was 1.66 to 1, so it's
19 reasonable.

20 Q. We're going to move on to Section 5
21 and if you could explain 5A?

22 A. This is pretty much what we published
23 in the annual report. It's how much waste was
24 received at the landfill during a 12-month period, a

1 calendar -- usually a calendar year and that was
2 given.

3 And then you're dividing that by
4 the amount of waste -- or amount of capacity
5 available. So you've got the amount of capacity
6 available divided by the waste taken in and that
7 gives you the year's remaining. And this says 1.35
8 were remaining years.

9 Q. So that would be how many years the
10 landfill can remain open taking in approximately the
11 same amount of waste?

12 A. Yeah.

13 MR. LAROSE: Objection. She's leading
14 the witness now on some crucial testimony.

15 HEARING OFFICER HALLORAN: Sustained.

16 BY THE WITNESS:

17 A. What this says to me is --

18 MS. VAN WIE: Ellen.

19 HEARING OFFICER HALLORAN: Rephrase
20 the question. Thanks.

21 BY MS. VAN WIE:

22 Q. So what does the 1.35 years mean?

23 A. 1.35 means that there's not
24 one-and-a-half years remaining but one and so many

1 months remaining, less than half a year. And, you
2 know, so that's what that says, remaining of
3 landfill life. How long is it going to stay open
4 basically is what it says.

5 Q. And if you could turn to what is
6 marked as Page 4?

7 A. Actually -- this actually says it's
8 going to stay open until March 1995 right here on
9 the page, as well, because sometimes we'll put a
10 note in there and that's what it says.

11 Q. Okay.

12 A. And then the next page?

13 Q. Yes, Page 4. Is anyone required to
14 sign the landfill capacity reports?

15 A. Yes, there's a signature here from the
16 owner of the facility, which is Mayor Washburn, the
17 city of Morris mayor, the operator and Michael
18 McDermott, who was the engineer for this site. And
19 he also sealed it saying that it's true and
20 accurate.

21 Q. Who signed as the operator?

22 A. Mayor -- oh, Edward Pruiim.

23 Q. The last name is said prime, just for
24 future reference.

1 A. Oh, sorry.

2 Q. Is it your understanding that the
3 owner, operator and engineer all must certify the
4 information in these reports?

5 A. The engineer certifies it so then
6 we've got the engineer's seal for the State of
7 Illinois down there.

8 Q. Does it matter that the cover letter
9 is signed by a different person?

10 A. No. It's just this one page we're
11 looking at.

12 Q. Okay. If you can now turn to
13 Exhibit 14D and what is this?

14 A. This is a landfill capacity
15 certification form for January 1st of 1995 submitted
16 by Morris Community Landfill for Parcel B submitted
17 on January 18th of 1995 and received at our agency
18 January 20th of 1995.

19 MR. LAROSE: Did you say B or D?

20 MS. VAN WIE: D as in David.

21 MR. LAROSE: Sorry.

22 BY MS. VAN WIE:

23 Q. And is this a true and correct copy of
24 what was found in the Illinois EPA file for the

1 Morris Community Landfill?

2 A. Yes. I looked and this is there.

3 Q. All right. This form looks a little
4 different from the form previously submitted. Does
5 this form request the same information?

6 A. Yes, it does.

7 Q. And rather than going over everything
8 again I'm just going to have you look at certain
9 specific portions of this certification form.

10 What is the time period covered by
11 this form?

12 A. It's capacity as of January 1st of
13 1995 and waste disposed between April 1 of 1994 to
14 December 31st of 1994.

15 Q. And what was the amount of remaining
16 capacity as of April 1st, 1994?

17 A. 264,290 cubic yards.

18 Q. And what amount of waste was received
19 at the landfill during your the reporting period?

20 A. 457,008 cubic yards.

21 Q. What does it mean to you when the
22 amount of waste received exceeds the remaining
23 capacity?

24 A. That the landfill should be closed.

1 There's no capacity left to fill is what it says.

2 This also says zero years were remaining.

3 Q. On the form, who signed as the owner?

4 A. Actually, Edward Pruim signed as
5 owner. I think that was a mistake because he wasn't
6 the owner, he's the operator.

7 Q. And who signed as operator?

8 A. Robert Feeney, the mayor, City of
9 Morris. He should have signed as the owner.

10 Q. And who signed as the professional
11 engineer?

12 A. James Douglas Andrews from Andrews
13 Environmental Engineering, Incorporated. They were
14 the consultant engineer for the landfill.

15 Q. Okay. Now we're going to look at
16 Exhibit 14E, and what is this?

17 A. This is the landfill capacity
18 certification form submitted on -- for January 1st
19 of 1996.

20 Q. And who submitted this form?

21 A. Vincent Madonia of Andrews
22 Environmental Engineering, Springfield, Illinois.

23 Q. Again, the format looks just a little
24 bit different, but does this form request the same

1 information as previous forms?

2 A. Yes. This pretty much looks like it
3 does now.

4 Q. And what is the time period covered by
5 this form?

6 A. Okay. It's waste received at the
7 landfill for the calendar year January 1st, 1995, to
8 December 31st of 1995.

9 Q. And what was the amount of remaining
10 volume available for waste disposal?

11 A. As of January 1st of the year?

12 Q. Yes.

13 A. Zero.

14 Q. And what was the amount of waste
15 received at the landfill during the reporting
16 period?

17 A. 540,135 cubic yards.

18 Q. And taking into consideration the
19 previous year's information about available waste
20 capacity, what does this current information tell
21 you?

22 A. It says there were zero years
23 remaining, zero capacity, yet that they took in
24 waste.

1 Q. And how much remaining capacity did
2 the form list for the landfill for the upcoming
3 year?

4 A. Zero.

5 Q. Okay. Who signed as the owner of the
6 landfill?

7 A. The owner was Robert Feeney, again,
8 the mayor of City of Morris.

9 Q. And who signed as the operator?

10 A. Robert Pruiam, president.

11 Q. And who signed as the professional
12 engineer?

13 A. J. Douglas Andrews of Andrews
14 Environmental Engineering.

15 Q. And did Mr. Andrews include his
16 certification stamp?

17 A. Yes.

18 MS. VAN WIE: Just a minute.

19 (Whereupon, a discussion
20 was had off the record.)

21 MS. VAN WIE: At this point I'd ask to
22 move into evidence Exhibits 14C, D and E.

23 HEARING OFFICER HALLORAN: Mr. LaRose?

24 MR. LAROSE: No objection.

1 HEARING OFFICER HALLORAN: So
2 admitted.

3 MS. VAN WIE: All done. Thank you.

4 HEARING OFFICER HALLORAN: Is that it,
5 Ms. Van Wie?

6 MS. VAN WIE: Yes.

7 HEARING OFFICER HALLORAN: Mr. LaRose.

8 CROSS EXAMINATION

9 By Mr. LaRose

10 Q. Ma'am, before you testified, have you
11 ever testified in a case before?

12 A. No.

13 Q. Before you testified today, you met
14 with your lawyers?

15 A. Sure.

16 Q. They provided with you some
17 documentation with respect to your testimony?

18 A. What we were doing was going over the
19 forms that are already submitted as official record.

20 Q. The paperwork that you handed back to
21 Mr. Grant, was that like a script of your testimony?

22 A. That's what we agreed we would talk
23 about.

24 Q. Like a question and answer type

1 format?

2 A. (Witness nodding.)

3 Q. Can I see that, please?

4 MR. GRANT: I think I stopped her
5 before she got really past her foundation,
6 which was her educational background.

7 I don't have a problem with
8 providing him with that, but not the entire
9 script.

10 HEARING OFFICER HALLORAN: You know, I
11 think Mr. LaRose gets an opportunity to look
12 at it. I believe she only got as far as the
13 educational requirements, I believe, and
14 maybe a little farther, because I just
15 noticed it probably, you know, 30 seconds
16 after Mr. Grant did.

17 MR. LAROSE: But she did have it with
18 her on the witness stand.

19 HEARING OFFICER HALLORAN: That's
20 correct.

21 MR. LAROSE: And she did say that they
22 met and discussed this and this was a script
23 of her testimony. And I just don't see how
24 there could be any privilege attached to it

1 when you write a script of your testimony of
2 an employee of the Agency.

3 I think I'm entitled to see it
4 regardless of whether she referred to it on
5 the stand or didn't refer to it on the stand.
6 She certainly referred to it before she got
7 on the stand.

8 MS. VAN WIE: And I object to the
9 characterization that it's somehow a script.

10 HEARING OFFICER HALLORAN: Somehow
11 what?

12 MS. VAN WIE: A script. I drafted the
13 questions. I had put what I considered based
14 on information provided to me through the
15 Agency documents to be -- I drafted the
16 questions. I spoke with her about the
17 answers. And at this point, you know, she
18 was obviously directed to testify honestly
19 and completely regardless of what was written
20 down.

21 MR. LAROSE: And I'm not disputing
22 that. But Ms. Van Wie was about to say that
23 she drafted the questions and looked at the
24 documents and suggested answers. And if she

1 provided a suggested script to this witness,
2 I think I'm entitled to take a look at it.

3 HEARING OFFICER HALLORAN: You know, I
4 think Mr. LaRose is right. I think I'm going
5 to caution on the side of full disclosure
6 because the witness should not have come up
7 here with the papers and I think Mr. LaRose
8 should be able to see the documents.

9 MR. LAROSE: We may not even use it.
10 And I'm not saying that she got up there and
11 told a fib or whatever. But if she was
12 provided with questions and answers, even
13 suggested ones, I think I should be able to
14 look at it.

15 HEARING OFFICER HALLORAN: I agree
16 with you, Mr. LaRose.

17 MR. GRANT: I guess, you know, she's
18 never testified before, it's not unusual to
19 go over testimony with witnesses, it's not
20 unusual for them to have -- you know, to
21 review it beforehand. She did not use it on
22 the stand except for her foundation area.

23 I don't see -- you know, I mean, I
24 think he can ask her if she testified

1 truthfully or if she was provided the
2 answers, he can ask her that on cross
3 examination.

4 But as far as to provide him with
5 something that she accidentally brought up
6 here and didn't use except for the first page
7 or so on foundation, I just don't see the
8 point of it and I think it's going to create
9 an issue where none exists because she did
10 not use it for the important part of her
11 testimony.

12 HEARING OFFICER HALLORAN: Well, I
13 mean, if there's no issue existing, then
14 what's the problem, let Mr. LaRose see it.
15 It's irrelevant whether it's her first time
16 or 100th time on the witness stand.

17 And Mr. LaRose brings up a good
18 point, so I don't know if you want to do this
19 in camera or what but, you know, in my
20 seven years I've never seen a witness come up
21 here and bring papers up which have been
22 called a script or whatever.

23 MR. GRANT: And I obviously didn't see
24 it until I saw her looking down and I figured

1 there was something like that going on.

2 MR. LAROSE: And it's not so much even
3 that she brought it up there. If she had
4 said, oh, remember we went over this and you
5 provide -- if she even referred to it, it's
6 something that I think I'm -- I mean, what
7 if, for example, the suggested questions and
8 answers are different than her testimony?

9 HEARING OFFICER HALLORAN: And I
10 noticed the witness, when Ms. Van Wie asked
11 her questions, she looked down at her paper
12 and that's what caught my eye as I looked at
13 that.

14 So, you know, at this point my
15 ruling is I sustain Mr. LaRose's objection.
16 I would request that the State let Mr. LaRose
17 peruse the papers that the witness brought up
18 on the stand and we'll take it from there.

19 MR. LAROSE: And what I'd like to do,
20 Mr. Hearing Officer, is go on with the
21 examination and then take a five-minute break
22 so I can look at it and then we might be
23 done. There may not be an issue with that.

24 HEARING OFFICER HALLORAN: Mr. Grant

1 said there isn't an issue, so...

2 MR. GRANT: Well, I don't think
3 there's an issue because she did not have it
4 on the stand except for that brief period
5 before we sort of cured the problem.

6 HEARING OFFICER HALLORAN: Well, no.
7 And like I said earlier when Ms. Van Wie -- I
8 think, if my memory serves me correctly --
9 asked her a question, remember when we talked
10 about the witness looked at the sheets and
11 responded in some manner, so it was just a
12 tad beyond the educational background.

13 MR. LAROSE: And it's not even -- it
14 even goes further than that. I certainly
15 would be able to ask her did the lawyers
16 supply you with questions and answers.
17 Normally, the witness says, no, they just
18 told me to tell the truth. But when there's
19 a piece of paper that says that --

20 HEARING OFFICER HALLORAN: I agree.
21 This is kind of an anomaly. And I have no
22 doubt that she's not telling the truth. But
23 what we'll do is we'll go on with your cross
24 and then we'll take a five-minute break and

1 process of cross examining.

2 MR. LAROSE: Thank you.

3 BY MR. LAROSE:

4 Q. Ms. Robinson, the forms that we went
5 over, 14C, D and E don't say anything about the
6 elevation or the permitted elevation of the
7 landfill, do they?

8 A. No. That's part of the permit.

9 Q. Okay. The forms that we went over, C,
10 D and E wouldn't or don't indicate to you in any way
11 at what elevation the waste was placed?

12 A. No.

13 Q. So based on those forms, you wouldn't
14 have any way to tell whether or not the waste placed
15 in any one of those years was placed at an elevation
16 over the permitted capacity?

17 A. No.

18 Q. And you've never been to the landfill,
19 right?

20 A. No.

21 Q. You don't have -- other than the forms
22 that were submitted to you, you don't have any
23 independent evidence or knowledge that the landfill
24 is actually either over height or overfilled?

1 A. No.

2 Q. Okay. The signatures on 14C, 14D and
3 14E -- let's take them one at a time. Turn to 14C,
4 please. Do you have it in front of you?

5 A. The signature page?

6 Q. Yes, the signature page of 14C.
7 That's signed by Edward Pruim, but he also indicates
8 his title as secretary-treasurer of Community
9 Landfill Corporation, correct?

10 A. Yes.

11 Q. On 14D would you turn to the signature
12 page of that, please? Are you with me?

13 A. Yeah.

14 Q. You indicated that Edward Pruim
15 probably signed it in the wrong place as owner when
16 he should have signed it as operator and him and the
17 mayor got those positions on the paper mixed up?

18 A. Right.

19 Q. You don't have any evidence that that
20 was anything other than just a mix-up or an
21 inadvertent oversight?

22 A. No. Probably should have been sent
23 back to them to get it redone.

24 Q. Okay. And, again, Edward Pruim signs

1 here as secretary, correct?

2 A. Secretary.

3 Q. And on 14E, if you turn to the
4 signature page of that, it looks like they got it
5 into the right position this time, Robert Pruium
6 signs it as president?

7 A. Yes.

8 Q. Correct?

9 A. Uh-huh.

10 Q. Look at 14C. I think you testified
11 that in Section 3, that would be Roman numeral
12 Section 3, that the remaining capacity was 279,940,
13 right?

14 A. Yes.

15 Q. Okay. And is that airspace or gate
16 yards?

17 A. It doesn't specify there.

18 Q. Okay. Down at the bottom --

19 A. But I think it would be airspace
20 because the gate cubic yards is four.

21 Q. Right.

22 A. As received waste -- as received at
23 the gate of the landfill.

24 Q. Right. That's Roman numeral four is

1 what you're saying?

2 A. Right.

3 Q. So the -- even on this form, if it was
4 accurate, the 279,940 cubic yards of airspace would
5 translate into 464,700 yards of waste received at
6 the gate?

7 A. I don't know that they're comparable
8 because it's different measures, in-place and gate.
9 We always publish the gate cubic yards. I think
10 that's what's in their permit is what's in three.

11 Q. You published the gate cubic yards?

12 A. Yeah, what's in four.

13 Q. But isn't four, the gate cubic yards,
14 464,700?

15 A. Yeah, because you're multiplying that
16 279,940 times the compaction ratio.

17 Q. To get to the gate yards?

18 A. Yeah.

19 Q. So your testimony that the remaining
20 airspace of 279,940 really wasn't correct? The
21 remaining capacity was 464,700 yards of gate
22 receipts?

23 A. Yes.

24 Q. You said that waste compaction ratios

1 could range from 1 to 1 to 1 to 7?

2 A. Seven to 1.

3 Q. I'm sorry, 7 to 1. I suppose if you
4 were taking in brick, it doesn't compact very well
5 and it's closer to the 1 to 1 thing, right?

6 A. Construction demolition debris, yeah.

7 Q. And if you were taking in paper,
8 corrugated cardboard or something like that, it
9 might be on the higher end of the 7 to 1 ratio
10 because it does compact?

11 A. Right.

12 Q. Okay. Take a look at 14D. I'm going
13 to direct your attention to the page that starts
14 with Roman numeral five.

15 The figure for amount of remaining
16 capacity, 264,290, do you know whether that was gate
17 yards or airspace?

18 A. They didn't fill out the previous page
19 so I have no idea.

20 Q. And does any records that the EPA have
21 show whether those are -- whether that's airspace or
22 gate yards?

23 A. No. But there's an asterisk says that
24 it was provided by the Agency, so I don't think the

1 landfill people gave them the information.

2 Q. We're going to talk about that in a
3 second.

4 My question to you is you don't
5 know whether the 264 -- strike that.

6 Did you review the Agency's file
7 to determine whether the Agency has records to
8 determine whether the 264,290 was gate yards or
9 airspace?

10 A. We publish these reports and I have
11 the report with me that this was published in,
12 probably, that I could check and see if I published
13 it as gate cubic yards or if I didn't.

14 Q. Go ahead and take a look.

15 A. Is that all right?

16 MR. GRANT: All right with me.

17 HEARING OFFICER HALLORAN: We'll take
18 a short break off the record.

19 (Brief pause.)

20 HEARING OFFICER HALLORAN: We're back
21 on the record.

22 BY MR. LAROSE:

23 Q. Ms. Robinson, we took a look at the
24 1995 -- what do you call that document?

1 A. It's at available disposal capacity
2 for solid waste in Illinois, eighth annual report.

3 Q. Okay. And it's a compilation of
4 information that is supplied to the Agency with
5 respect to landfills, transfer stations and --

6 A. Compost sites.

7 Q. -- and compost sites?

8 A. (Witness nodding.)

9 Q. We were trying to figure out whether
10 we could determine if the 264,290 stated on
11 Exhibit 14D was gate yards or airspace. You looked
12 at the '95 report -- I'm sorry, what year did we
13 look at, '94?

14 A. Yeah. The period of time is as of
15 April 4th. The capacity as of April 4th -- April
16 1st, I'm sorry, of 1994.

17 Q. Of '94?

18 A. Yeah.

19 Q. And reported in there for Community
20 Landfill is the 264,290?

21 A. Yes.

22 Q. But you didn't prepare that report?

23 A. No.

24 Q. Okay. So without having prepared the

1 report, can you say for sure whether the 264,290 in
2 Exhibit 14D is gate yards or airspace?

3 A. Well, we always publish gate.

4 Q. Well, you do?

5 A. Yeah.

6 Q. You do, but you didn't do this and it
7 wasn't your job then?

8 A. Right. And it wasn't filled out on
9 the page before this so I guess I can't say for
10 sure.

11 Q. Okay. The IEPA on this document
12 indicates again -- I'm sorry, 14D on Page 3 under
13 life and expectancy Section 5A, that the 264,290
14 figure was provided by IEPA; do you know anything
15 about that?

16 A. I would assume it would be from the
17 report.

18 Q. Okay. Besides your assumption, do you
19 know if and how IEPA -- I guess if how or why IEPA
20 supplied this information to my client's engineer?
21 Did you have anything to do with it?

22 A. No.

23 Q. Do you know anything about the
24 specifics of IEPA supplying this number to my

1 client's engineer?

2 A. No.

3 Q. Do you know who did it?

4 A. Janet Hawes Davis accepted the report
5 at that time -- I mean, accepted the form at that
6 time. She did the forms.

7 Q. Did you review the Agency's files in
8 1994 to determine if there was any documentation
9 with respect to the Agency providing the information
10 set forth on Page 3 of Exhibit 14D?

11 A. No, just what was on this form.

12 Q. Okay.

13 A. And it's not there other than in that
14 location.

15 Q. The form doesn't give you enough
16 information to determine when this was supplied, how
17 it was supplied, who supplied it, on what basis it
18 was supplied?

19 A. And a lot of times people just
20 generally say the Illinois EPA and it could be
21 anybody at the Illinois EPA that provided it.

22 Q. You receive these now. If you were to
23 receive one like this that said supplied by the EPA
24 with a number in there like that, would that be --

1 A. I would send it back to them and ask
2 them for more specifics.

3 Q. So from this document we can't tell
4 what the 264,290 means, really?

5 A. It's some kind of capacity.

6 Q. Okay. Other than signing these
7 documents as corporate representatives of Community
8 Landfill, do you have any independent evidence that
9 the shareholders or officers of CLC had any direct
10 or personal involvement in the allegations regarding
11 overfilling the landfill?

12 A. No.

13 Q. Also included in these packages or in
14 this package of certifications is one we didn't go
15 over and that's -- actually, a couple we didn't go
16 over.

17 Take a look at 14F. By this time
18 were you the one receiving these documents? This
19 one is marked received February 7th, 1997.

20 A. Yeah. I mean, I was reviewing them
21 and posting the data, yeah.

22 Q. And as of January 1, 1997, and for the
23 previous calendar year at some time did it go from
24 the April to March period to a calendar year period?

1 A. Yes.

2 Q. Okay. Was it in this time period?

3 A. It was back then in the eighth report.

4 Q. Okay.

5 A. It was because someone went on
6 maternity leave and they didn't want to write the
7 report while she was gone so they waited until she
8 got back. So they decided to change it to calendar
9 year to make it easier for the reporting, as well.

10 Q. So was this the first report this
11 year? This January 1, 1997, landfill capacity
12 certification, was that the first one that would
13 have covered the previous calendar year then?

14 A. Yes.

15 Q. Okay. And for this from 1996, this
16 report covered Morris Community Landfill, but it
17 covered both Parcels A and B, right?

18 A. Right.

19 Q. And it covered A and B because now
20 they were disposing of waste on A and maybe had
21 disposed of some on B, I don't know. But at least
22 they're reporting the main capacity for both sites
23 of the landfill, right?

24 A. Yes, that's what it says on the front.

1 Q. Okay. And they're reporting the
2 remaining capacity of over 1.7 million cubic yards,
3 right?

4 A. Yes.

5 Q. And in that time period, the 12 months
6 preceding January 1997, they reported that they
7 received 297,988 yards?

8 A. Uh-huh.

9 Q. Ma'am, you have to say yes or no.

10 A. Oh, I'm sorry. Yes.

11 Q. So by that time, by 1997, they had
12 plenty of capacity remaining, right?

13 A. They had 1.7 million gate cubic yards.

14 (Brief pause.)

15 MR. LAROSE: We're going to mark this
16 Document 50. It's the one that you gave me
17 from her.

18 MR. GRANT: Okay.

19 HEARING OFFICER HALLORAN: Thank you,
20 sir.

21

22 BY MR. LAROSE:

23 Q. Ms. Robinson, I've handed you what's
24 been previously marked as Exhibit 50, which is a

1 several page document. The first page appears to be
2 an e-mail from Mr. Grant to you, Ms. Roque,
3 Mr. Harris, Mr. Styzens --

4 MR. GRANT: I'm going to object at
5 this point. This is -- she may have had her
6 script on here. My e-mail to all of these
7 parties is clearly attorney/client privilege.

8 HEARING OFFICER HALLORAN: I agree.
9 This should not be attached to this.

10 MR. LAROSE: Okay.

11 MR. GRANT: I'd ask that all copies be
12 returned to me. It's privileged material.
13 This is not included in, you know, the very
14 brief testimony Ms. Robinson did with
15 documents in front of her.

16 MR. LAROSE: This really isn't
17 crucially important to me. But it's really
18 no different than the other document.

19 He's telling them what the
20 questions are that he's going to ask them and
21 what the answers are.

22 MR. GRANT: This is privileged
23 material and this has nothing to do with
24 Ms. Robinson's, you know, inadvertent

1 bringing these materials to, you know, the
2 testimony because we didn't see her, they
3 were in her hand and all of a sudden this
4 opens the door to all sorts of privileged
5 discussion. I don't think that we waived
6 that by the very simple inadvertent bringing
7 of some documents up to the witness stand. I
8 think they should be returned to me.

9 MR. LAROSE: It's as simple as this,
10 Mr. Halloran --

11 MR. GRANT: I'm sure Mr. LaRose is
12 enjoying this situation, but it doesn't waive
13 attorney/client privilege.

14 MR. LAROSE: Can I speak now? I'm not
15 enjoying anything. When a lawyer provides a
16 script -- Page 1 is exactly what she
17 testified to.

18 When a lawyer provides a script to
19 a witness, question, answer, question,
20 answer, question, answer, and the witness
21 testifies to that, all I want to do is say
22 you didn't write this, somebody else did and
23 this is the testimony that you gave. They
24 told her what to say. The Board is entitled

1 to know that.

2 MR. GRANT: I think, at a minimum, the
3 front page of the e-mail needs to be returned
4 to me as privileged. There's other people
5 copied on there, has nothing to do with
6 Ms. Robinson or what she brought to the
7 stand.

8 HEARING OFFICER HALLORAN: Here's what
9 I'm going to do -- I've heard enough of this.
10 I'm going to direct Mr. LaRose -- I don't
11 need this top part, the e-mail cover letter.

12 I will take the remaining exhibit
13 that he has as Defendant's Exhibit 50 as an
14 offer of proof and the Board can do with it
15 what it wants, but it's a script.

16 So in any event, if you could
17 return the copies. Take the cover letter
18 off, please, and I'll accept the remaining as
19 an offer of proof.

20 MR. LAROSE: Do I get to examine her
21 on it briefly?

22 HEARING OFFICER HALLORAN: Well, you
23 know, when you say briefly --

24 MR. LAROSE: Where did it come from,

1 did you write it, did they give it to you,
2 isn't this what you testified to?

3 HEARING OFFICER HALLORAN: Okay. But
4 I'm just saying when you've said briefly in
5 the past, it's been a long time.

6 MR. LAROSE: Sometimes I don't get the
7 answers that I like.

8 HEARING OFFICER HALLORAN: But in any
9 event, you may proceed, but this is all under
10 an offer of proof. The cross examination and
11 the exhibit you may or may not offer into
12 evidence. I'll take it as an offer of proof.

13 MR. LAROSE: And that's fine.

14 BY MR. LAROSE:

15 Q. I took the first page off,
16 Ms. Robinson. I'm handing you back Exhibit 50. Was
17 this document written by you?

18 A. No.

19 Q. Was it supplied to you by the lawyers
20 for the Attorney General's office?

21 A. Yes.

22 Q. Okay. And it has on here questions
23 and answers. You didn't type either the questions
24 or the answers on here, did you?

1 A. No.

2 Q. And to the certain extent you made a
3 couple of changes, for example, Paragraph 10 where
4 they say yes, you said no, that was actually the
5 testimony that you gave here today, right?

6 A. Yeah.

7 Q. Okay. So to the extent that you
8 testified here today, prior to your testimony the
9 lawyers for the government provided you with both
10 the questions and the answers, correct?

11 A. They were based on what we had
12 discussed and I had given the answers in my
13 discussions with them.

14 Q. They provided you with Exhibit 50,
15 which was both the questions given to you today and
16 the answers, correct?

17 A. They provided that to me.

18 MR. LAROSE: Again, Mr. Halloran, I
19 would move into evidence Exhibit 50. I know
20 you said it's an offer of proof only, but it
21 certainly goes to her credibility. She was
22 supplied with the questions and the answers.
23 They said it wasn't a script. It couldn't be
24 more like a script if it was, you know,

1 Arthur Miller.

2 HEARING OFFICER HALLORAN: You're
3 argument is on the record. Mr. Grant, do you
4 want to respond on the record?

5 MR. GRANT: Yes. This was not -- the
6 answers that are down here are not the
7 answers that she gave on the stand under
8 oath.

9 And, I mean, as far as -- maybe
10 it's time for us to do a little redirect
11 about -- you know, again, I think we're still
12 inside the offer of proof.

13 But as far as where the answers
14 came from, now Mr. LaRose is trying to
15 indicate that the answers were supplied and
16 so he artfully uses the term that these were
17 provided by Attorney General's office.

18 He didn't ask -- you know, I
19 assume that he understands the answer. He
20 didn't ask who provided the answer, whether
21 it's the State's answer or was it
22 Ms. Robinson's answer. So I think, you know,
23 I'd like to, within this offer of proof, at
24 least clarify that.

1 MR. LAROSE: And, again, if he asks
2 her more questions about this and has her
3 explain this, it's got to come in. The
4 Board's got to understand where this thing
5 came from.

6 HEARING OFFICER HALLORAN: Right.
7 And, you know, you can file your --

8 MR. LAROSE: So If he wants to ask her
9 more questions, great, but he's just opened
10 the door farther than they already did.

11 MR. GRANT: What they're going to see
12 is they're going to see, you know, his appeal
13 of a hearing officer ruling on an offer of
14 proof. I mean, I think this is an unusual
15 situation, it's an unusual area.

16 As far as the document itself, you
17 know, I think it should come in as an offer
18 of proof. But I think the fact that we're
19 able to clarify, you know, what this document
20 actually --

21 HEARING OFFICER HALLORAN: Well, I'm
22 giving you the opportunity. Mr. LaRose, how
23 is your cross doing? Are you finished with
24 it?

1 MR. LAROSE: I'm finished with it.

2 HEARING OFFICER HALLORAN: Okay. I'm
3 going to give Mr. Grant or Ms. Van Wie an
4 opportunity to redirect. And this will be, I
5 assume, in an offer of proof regarding this
6 document, this offer of proof Exhibit 50.

7 MR. LAROSE: Just so that we're clear,
8 though, my only offer of proof regarded this
9 document. So maybe they -- I don't know how
10 they want to do it. If they want to do an
11 offer of proof redirect so that we know where
12 the offer of proof, both the cross exam and
13 the redirect begins and ends and then go on
14 to their regular redirect.

15 HEARING OFFICER HALLORAN: Right. I
16 think that's what we're doing.

17 MR. LAROSE: Whichever they want to
18 do.

19 HEARING OFFICER HALLORAN: That's
20 fine. That's what I thought they were doing,
21 they were going to do a brief redirect on
22 Mr. LaRose's offer of proof.

23 MR. GRANT: Correct.

24 HEARING OFFICER HALLORAN: And then

1 just stop, let me know and then we can
2 proceed with the further redirect on other
3 topics.

4 MR. GRANT: Okay.

5 REDIRECT EXAMINATION

6 By Mr. Grant

7 Q. Ms. Robinson, do you recall meeting
8 with the Attorney General representatives down in
9 Springfield?

10 A. Yes.

11 Q. And discussing the documents that are
12 in evidence, the landfill capacity certifications?

13 A. Right.

14 Q. And what they meant?

15 A. Right.

16 Q. And after we had the discussion, we
17 submitted -- we had some discussions on the phone,
18 correct?

19 A. Yes.

20 Q. And then eventually based on our
21 discussions, what's been marked as exhibit 50 was --

22 MR. LAROSE: Objection, he's leading
23 the witness.

24 HEARING OFFICER HALLORAN: Sustained.

1 BY MR. GRANT:

2 Q. Okay. And can you tell me what
3 Exhibit 50 is?

4 A. Well, it's just something that was
5 provided to me by Jennifer regarding what my
6 testimony -- what I had told her what my testimony
7 would be.

8 Q. Okay. And did you make changes to
9 make sure that it was accurate?

10 A. Yes.

11 Q. Okay. And is everything that's in
12 here true and correct as far as you're concerned?
13 Are these true and correct answers to these
14 questions?

15 MR. LAROSE: Objection, leading.

16 HEARING OFFICER HALLORAN: Sustained.

17 BY MR. GRANT:

18 Q. On the stand today under oath do you
19 agree that the answers to these questions are true?

20 A. They're based on what I knew about the
21 reports and what I was saying to her.

22 Q. Are these your answers?

23 A. They're my answers.

24 Q. Okay.

1 MR. GRANT: That ends the offer of
2 proof.

3 HEARING OFFICER HALLORAN: Thank you.
4 Mr. LaRose, do you want to --

5 MR. LAROSE: No.

6 HEARING OFFICER HALLORAN: Okay.
7 We're finished with the offer of proof on the
8 exhibit, Respondent's Exhibit 50. Which as
9 an aside, I don't have.

10 MR. LAROSE: I'm sorry.

11 HEARING OFFICER HALLORAN: That's
12 okay. You gave it to me and then I gave it
13 back.

14 MR. LAROSE: Mr. Halloran, just to
15 clarify the record, so the record will
16 reflect that 50 was offered and taken just as
17 an offer of proof?

18 HEARING OFFICER HALLORAN: That's
19 correct. And the subsequent testimony.
20 Thank you. Ms. Van Wie, you may proceed.

21 REDIRECT EXAMINATION

22 By Ms. Van Wie

23 Q. Ms. Robinson, when it comes to the
24 annual reports, once information is provided and

1 published, isn't it up to the operator or the owner
2 of a landfill to correct any incorrect information
3 that is published in a report?

4 MR. LAROSE: Objection leading.

5 HEARING OFFICER HALLORAN: Sustained.

6 BY MS. VAN WIE:

7 Q. Ms. Robinson, if any incorrect
8 information is provided in the annual report, who is
9 expected to correct that information?

10 A. The responsible party is the landfill
11 operator or the consultant. And sometimes I do
12 point out that there are errors, you know, when I
13 get it and ask for a re-submittal.

14 Q. Okay. And do you have any knowledge
15 if Parcel A of the landfill in 1996 was permitted to
16 accept waste?

17 A. I guess it was from this form since it
18 was talking about Morris Community Landfill Parcels
19 A and B and Section 5 says from January 1 in 1996 to
20 December 31st, you know, 297,988 cubic yards was
21 received. So I would assume at the landfill means
22 at this landfill, Parcels A and B.

23 Q. Do you have any independent knowledge
24 other than -- excluding the landfill capacity

1 report, that Parcel A was permitted to accept waste
2 in 1996?

3 A. Well, Section 2 describes the permit
4 at the landfill and I guess it's this landfill and
5 it says how much permitted space was there. So, I
6 mean, it just says at the landfill and they didn't
7 say it was Parcel A or Parcel B. They didn't say so
8 I would assume that it would be both.

9 MS. VAN WIE: That's all.

10 THE WITNESS: Just from this form
11 here.

12 MS. VAN WIE: That's all.

13 HEARING OFFICER HALLORAN: Thank you.
14 Mr. LaRose.

15 MR. LAROSE: Nothing further.

16 HEARING OFFICER HALLORAN: Thanks
17 Ms. Robinson. You may step down.

18 MR. GRANT: Can we take a couple
19 minute break?

20 HEARING OFFICER HALLORAN: Sure. Off
21 the record.

22

23

24

1 (Whereupon, after a short
2 break was had, the
3 following proceedings
4 were held accordingly.)

5 HEARING OFFICER HALLORAN: We're back
6 on the record. The State is still in the
7 process of their case in chief. I think
8 they're about to call their seventh witness.

9 MS. VAN WIE: Mr. Warren Weritz.

10 (Witness sworn.)

11 WHEREUPON:

12 WARREN WERITZ

13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 By Ms. Van Wie

17 Q. Good morning. Could you please state
18 your name for the record, please?

19 A. Warren Weritz.

20 Q. And how is your last name spelled?

21 A. W-E-R-I-T-Z.

22 Q. And, Mr. Weritz, what's your highest
23 level of education that you completed?

24 A. College degree.

- 1 Q. And where did you graduate from and
2 when?
- 3 A. University of Illinois at Chicago,
4 1989.
- 5 Q. What was your major?
- 6 A. Geography.
- 7 Q. Where are you currently employed?
- 8 A. Illinois EPA, Des Plaines office.
- 9 Q. And how long have you been with the
10 Illinois EPA?
- 11 A. Nineteen years.
- 12 Q. What is your current title?
- 13 A. EPS three.
- 14 Q. And what is EPS three?
- 15 A. Environmental protection specialist
16 three. That's just a job title. That's as far as I
17 can go right now in this position.
- 18 Q. Is that with the Bureau of Land?
- 19 A. Yes.
- 20 Q. You currently work for the Bureau of
21 Land?
- 22 A. I'm sorry, I'm currently with the
23 Bureau of Air, air monitoring.
- 24 Q. Okay.

1 A. In the Des Plaines office.

2 Q. And when did you start working for the
3 Bureau of Air?

4 A. 1999.

5 Q. Have you ever held any other positions
6 while working for the Illinois EPA?

7 A. Yes, with the Bureau of Land.

8 Q. And what was your title with Bureau of
9 Land?

10 A. It started off as a life science
11 career trainee and went through three levels to an
12 environmental protection specialist three.

13 Q. In your position with the Bureau of
14 Land were you more commonly known as a field
15 inspector?

16 A. Yes.

17 Q. And how long were you a field
18 inspector?

19 A. Approximately nine years.

20 Q. What dates, please?

21 A. 1990 through 1999. Actually,
22 February 1999 I started with the Bureau of Air.

23 Q. What were your responsibilities as an
24 environmental protection specialist in the Bureau of

1 Land?

2 A. Field inspections at landfills,
3 hazardous waste facilities, various inspections.

4 Q. And were those your responsibilities
5 for the entire period from 1990 through 1999?

6 A. Yes.

7 Q. Were inspections of sanitary landfills
8 part of your duties?

9 A. Yes.

10 Q. And did you inspect those landfills
11 for compliance with the Environmental Protection
12 Act, Illinois EPA and Illinois Pollution Control
13 Board regulations?

14 A. Yes.

15 Q. Did you also inspect for compliance
16 with terms and conditions of Illinois EPA issued
17 landfill permits?

18 A. Yes.

19 Q. While you were a field inspector was
20 Morris Community Landfill within your inspection
21 region?

22 A. Yes.

23 Q. And for a period of time were you the
24 primary field inspector for the Morris Community

1 Landfill?

2 A. Yes.

3 Q. And what period of time was that?

4 A. Approximately 1993 through 1999 or
5 '98.

6 Q. Who took over the primary inspection
7 responsibilities when you left the Bureau of Land in
8 1999?

9 A. I believe Tina Kovaszny.

10 Q. If you could please just give me a
11 general description of the Morris Community
12 Landfill?

13 A. It's a municipal landfill, contains
14 two parcels located in Morris, Illinois, Grundy
15 County.

16 Q. And do you know if the Morris
17 Community Landfill had any permits during your
18 tenure and the primary inspector?

19 A. Yes.

20 Q. Do you know what kind of permits those
21 were?

22 A. Operating permit, composting permit
23 and I think a special permit.

24 Q. Do you remember the first time you

1 inspected the Morris Community Landfill?

2 A. I accompanied another inspector. It
3 was prior to '93, but I don't remember the exact
4 date. As a primary inspector, though, it was 1993.

5 Q. I'd like you to look at what has been
6 marked as Exhibit 13A. It's in the second binder to
7 your right.

8 A. Okay.

9 Q. And could you please review that
10 document and tell me what it is, if you know?

11 A. Landfill inspection report dated
12 August 18th, 1993.

13 Q. And is this your inspection report?

14 A. Yes.

15 Q. Can you tell me if this was a routine
16 inspection?

17 A. No. It was an inspection conducted as
18 a result of a complaint investigation.

19 Q. Did you inspect both Parcels A and B
20 of the landfill during this inspection?

21 A. I believe this was only Parcel B.

22 Q. Did you take any pictures at the
23 landfill during your August 18th, 1993 inspection?

24 A. Yes. According to my inspection

1 report, I took six pictures.

2 Q. Are they attached to your inspection
3 report?

4 A. Well, there's a Xerox copy of them.

5 Q. When you arrived at the landfill was
6 anyone there?

7 A. I met with Jim Pelnarsh, Sr.

8 Q. And who is that?

9 A. Who is that? The gentleman sitting in
10 the back.

11 Q. Could you give me a general
12 description of who you know Jim Pelnarsh to be at
13 the landfill?

14 A. The operator of the landfill, just my
15 main contact.

16 Q. And how do you know that?

17 A. From several times going out there and
18 being escorted around the landfill.

19 Q. On August 18th, 1993, did Mr. Pelnarsh
20 accompany you around the landfill as you made your
21 inspection?

22 A. Yes.

23 Q. In the narrative of your inspection
24 report, which is approximately five pages in, you

1 refer to a quote, unquote, active area of the
2 landfill; do you know if that is Parcel A or Parcel
3 B?

4 A. That would be Parcel B.

5 Q. And can you tell me what you observed
6 at Parcel B of the Morris Community Landfill in
7 August 1993?

8 A. I've got garbage and processed
9 landscape wastes were observed being landfilled
10 together.

11 Q. And is landfilling landscape waste a
12 violation of the Environmental Protection Act?

13 A. Yes.

14 Q. Did you ask anyone about the
15 landfilling of landscape waste with the garbage?

16 A. Yes.

17 Q. Who did you ask?

18 A. He stated that he used the landscape
19 waste as daily cover in addition to the use of
20 Fabrisoil.

21 Q. Who said that to you?

22 A. Mr. Pelnarsh.

23 Q. Did you also observe landscape waste
24 being windrowed?

1 A. Yes. After we went to the composting
2 area, there was one windrow observed.

3 Q. What does windrow mean?

4 A. It's a pile of processed landscape
5 waste that's piled horizontally. Its dimensions are
6 governed by the permit. But it aids in composting
7 material.

8 Q. Did you tell anyone that the
9 landfilling of landscape materials was not allowed?

10 A. Yes.

11 Q. Who did you tell?

12 A. Mr. Pelnarsh.

13 Q. And do you know if the landfill had a
14 permit to compost landscape waste?

15 A. Yes.

16 Q. Did you include all these observations
17 in your August 18th, 1993 inspection report?

18 A. Yes.

19 Q. And did you observe anything at Parcel
20 A at the Morris Community Landfill during your
21 August 18th, 1993 inspection?

22 A. According to my narrative, no. Oh,
23 you know, I do have a note here that I must have
24 looked at Parcel A because at the time of the

1 inspection the impounded automobiles were moved from
2 Parcel A. There were some cars stored there.

3 Q. And that's included in your inspection
4 report?

5 A. Yes. I've got a note here. Yes.

6 Q. If we could look at Exhibit 13B, do
7 you recognize this document?

8 A. Yes, another landfill inspection
9 report.

10 Q. And was this a routine inspection?

11 A. No. I believe this one was an
12 inspection at the request of Scott Payne of the
13 division of legal counsel, Springfield.

14 Q. And did you inspect both Parcels A and
15 B of the landfill during this inspection?

16 A. Apparently, just Parcel B.

17 Q. And, again, I believe in your
18 narrative section you refer to the active area; is
19 that still Parcel B?

20 A. Yes.

21 Q. Did you take any pictures at the
22 landfill during your April 7th, 1994 inspection?

23 A. Yes, 14.

24 Q. Are they attached to your inspection

1 report?

2 A. Yes. Xerox copies anyway.

3 Q. Okay. When you arrived at the
4 landfill was anyone there?

5 A. Jim Pelnarsh, the landfill manager.

6 Q. And did he accompany you on your
7 inspection?

8 A. Yes.

9 Q. If you could, please describe what you
10 observed in Parcel B at your April 7th, 1994
11 inspection?

12 A. I've got an inspection revealed
13 continuing practice of landfilling landscape waste.
14 The landfill operator has been warned about this
15 practice on more than one occasion.

16 It says litter was observed in the
17 perimeter ditch at the southwest portion of the
18 landfill. Litter was also observed on the southwest
19 slope of the fill. It says Mr. Pelnarsh admitted
20 that the litter was not being collected at the end
21 of the working day, as required.

22 Q. Was that a statement that Mr. Pelnarsh
23 made to you specifically?

24 A. Yes.

1 Q. And did you have any reason to doubt
2 the credibility of his statement that litter was
3 indeed not being collected at the end of each
4 working day?

5 A. No. I've also stated that five
6 leachate seeps were seen along the northwest
7 perimeter of the fill, however these seeps did not
8 appear to migrate off site.

9 Q. If we could move to Exhibit 13E, do
10 you recognize this document?

11 A. Yes.

12 Q. And what is it?

13 A. Another landfill inspection report.

14 Q. And what is the date, please?

15 A. March 22nd, 1995.

16 Q. Was this a routine inspection?

17 A. No. This was another complaint
18 investigation.

19 Q. And did you inspect both Parcels A and
20 B of the landfill during this inspection?

21 A. Just Parcel B.

22 Q. Is that, again, referred to as the
23 active area in your narrative section?

24 A. Yes.

1 Q. Did you take any pictures of the
2 landfill during your March 22nd, 1995 inspection?

3 A. Yes, ten pictures.

4 Q. And are those attached to your
5 inspection report?

6 A. Yes.

7 Q. When you arrived at the landfill was
8 anyone there?

9 A. Jim Pelnarsh, Jr. and Sr.

10 Q. And did either one of those gentlemen
11 accompany you around the landfill as you made your
12 inspection?

13 A. Yes.

14 Q. Which one, or did both?

15 A. Jim Pelnarsh, Jr.

16 Q. Can you please explain what you
17 observed at Parcel B of the landfill on March 22nd,
18 1995?

19 A. I've got there was no evidence of
20 composted material being landfilled. And that
21 was -- the original intent of the inspection was to
22 find out if composted material was being used for
23 daily cover.

24 Q. If you could, please review the

1 photographs attached to your inspection report.

2 A. Yes. Composted landscape waste was
3 not being used as daily cover, but some other
4 problems were noticed during the inspection.

5 Q. What other problems did you notice?

6 A. Litter -- failure to collect litter at
7 the end of each operating day, inadequate measures
8 to monitor and control leachate and refuse and
9 standing or flowing water.

10 Q. If you could look at picture number
11 five? If you could please describe what is being
12 depicted in that picture, please?

13 A. A leachate seep that's flowing to the
14 perimeter ditch.

15 Q. How do you know it's a leachate seep?

16 A. It was flowing from the sidewall of
17 the landfill and had a reddish color and a foul
18 odor.

19 Q. What does the term leachate mean to
20 you?

21 A. A liquid that comes into contact with
22 garbage at a landfill.

23 Q. And do photos five, six and seven
24 depict the leachate that you observed at the

1 landfill on March 22nd, 1995?

2 A. Yes.

3 Q. In your experience of inspecting
4 landfills could the reddish material have been
5 anything other than leachate?

6 A. Not from my experience, no.

7 Q. And why do you say that?

8 A. Just by the characteristics of the
9 liquid that was flowing out, it was coming out of
10 the sidewall of the landfill, it had, you know, a
11 discoloration and a foul odor. To me, it was
12 leachate.

13 Q. What did you observe regarding blown
14 litter at the landfill?

15 A. There was litter scattered in and
16 around the perimeter ditch leading to the retention
17 pond and there was refuse and standing water at the
18 retention pond.

19 Q. Did you take any photographs of your
20 observation of litter?

21 A. Yes.

22 Q. What pictures were those?

23 A. Photos nine and ten and eight.

24 Q. Would you please describe what's being

1 depicted in picture eight?

2 A. A perimeter ditch. I can't determine
3 whether or not that's -- that liquid in the ditch is
4 leachate. But there is litter in the standing --
5 litter in the standing water.

6 Q. And what is depicted in photo nine?

7 A. Refuse and standing water at the
8 retention pond.

9 Q. So is that water the retention pond;
10 is that correct?

11 A. Yes.

12 Q. And photo ten, what is depicted in
13 there?

14 A. The retention pond, litter in the
15 retention pond.

16 Q. If we could move to Exhibit 13 F, do
17 you recognize this document?

18 A. Yes, another inspection report.

19 Q. For what date?

20 A. May 22nd, 1995.

21 Q. Was this a routine inspection?

22 A. Yes.

23 Q. And did you inspect both Parcels A and
24 B during this inspection?

1 A. Just Parcel B.

2 Q. Did you take any pictures during your
3 inspection?

4 A. Yes, 13.

5 Q. And when you arrived at the landfill
6 was anyone there?

7 A. Jim Pelnarsh, Sr., and I met Jean Ann
8 Robinson, solid waste coordinator for Grundy County.

9 Q. Did she usually accompany you on your
10 inspections?

11 A. No.

12 Q. Was this the only one?

13 A. Yes.

14 Q. And did both Mr. Pelnarsh and
15 Ms. Robinson accompany you during your inspection?

16 A. Yes.

17 Q. What did you observe at Parcel B
18 during the May 22nd inspection?

19 A. May I just read the paragraph that I
20 have in my report without taking out, you know,
21 specific -- if I read the paragraph, you'd have it
22 all.

23 Q. Well, let's do this. There were
24 photographs taken; is that correct?

1 A. Yes.

2 Q. Would review of these photographs
3 refresh your recollection as to what you observed
4 during your inspection?

5 A. Yes. Well, some of them are Xerox
6 copies, so it's a little difficult, but I can make
7 out some of it. You know, it was -- the most
8 memorable thing was the leachate seeps or the
9 leachate pops, actually the amount of leachate that
10 was in the perimeter ditches.

11 Q. Can you please describe what you
12 remember of those?

13 A. The ditches were running red with a
14 lot of leachate.

15 Q. And, again, how did you know that it
16 was leachate?

17 A. By the color, the appearance, the
18 odor. This particular liquid had an oily emulsion
19 floating on top of it, fats and greases that were
20 leaching out.

21 Q. And is that --

22 A. It was a substantial amount of
23 leachate and it appeared to me that it was leaving
24 the site.

1 Q. Are there any photographs that depict
2 that observation?

3 A. Yeah, there's numerous photographs
4 showing the leachate and the litter in the ditches.

5 Q. I'm going to have you turn to photo
6 13.

7 A. Yes.

8 Q. Would you say that that's a good
9 general representation of what you observed of the
10 leachate seeps and flows during your May 22nd, 1995
11 inspection?

12 A. Yes.

13 Q. And how did you determine where the
14 leachate was flowing?

15 A. There was a drainage pattern depicted
16 on the site sketch.

17 Q. Do you remember what that pattern was?

18 A. Yes. From Parcel A the leachate would
19 flow -- or from Parcel B the leachate would flow
20 into Parcel A and then eventually to a pond off
21 site, a retention pond off site.

22 Q. And do you know if that pond led to
23 any other water body?

24 A. After discussing it with Mr. Pelnarsh,

1 it was determined that it would probably be flowing
2 into the Illinois and Michigan Canal and/or the
3 Illinois River.

4 Q. Did you reach any conclusions about
5 the leachate migrating off site during your May
6 22nd, 1995 inspection?

7 A. The conclusion that I came up with was
8 that this leachate was migrating into the Illinois
9 River.

10 Q. And did you cite the landfill for
11 water pollution violations for the migrating
12 leachate?

13 A. Yes.

14 Q. If we could look at Exhibit 13I, do
15 you recognize this document?

16 A. Yes, a landfill inspection report.

17 Q. For what date?

18 A. July 11th, 1996.

19 Q. Is that Exhibit 13I?

20 A. 13I.

21 Q. Do you see above the third line down
22 where it says date?

23 A. It says 13I, July 11th, 1996. I'm
24 sorry, it's a new format. It's dated March 5th,

1 1997.

2 Q. Where did you get that July 11th, 1996
3 date?

4 A. On the right side of the form.

5 Q. Is that where it says previous
6 inspection date?

7 A. Right.

8 Q. Was this a routine inspection?

9 A. Yes.

10 Q. And did you inspect both Parcels A and
11 B during this inspection?

12 A. Apparently, only Parcel B.

13 Q. Did you take any pictures during your
14 inspection?

15 A. Yes.

16 Q. And are they attached to your
17 inspection report?

18 A. There were six photos taken and they
19 are attached.

20 Q. When you arrived at the landfill was
21 anyone there?

22 A. Mr. Joe Rogdey (phonetic). He was an
23 equipment operator.

24 Q. And did anyone accompany you around

1 the landfill as you made your inspection?

2 A. Mr. Rogdey.

3 Q. What violations did you cite against
4 the landfill in your March 5th, 1997 inspection
5 report?

6 A. Open dumping of refuse, refuse being
7 disposed of outside the permitted boundary of the
8 landfill and that a review of the significant
9 modification application document says determined
10 that the landfill exceeded its permitted elevations.

11 Q. Why did you cite these specific
12 violations?

13 A. I believe prior to the inspection I
14 was notified by the permit section in Springfield
15 that they had exceeded their permitted elevations.

16 Q. Who do you mean by they?

17 A. I believe it was Christine Roque of
18 the permit section.

19 Q. No. You had said that they had
20 exceeded their permitted --

21 A. Community Landfill had exceeded their
22 permitted elevations.

23 Q. Thank you. So did the other
24 violations derive from your belief that the Morris

1 Community Landfill was over height?

2 A. Yes.

3 Q. And do you know if the landfill was
4 still taking in waste on Parcel B?

5 A. Yes.

6 Q. And how did you know that?

7 A. I was told by Mr. Rogdey that they
8 were still taking in waste and that it was
9 approximately 300 cubic yards of refuse and
10 petroleum-contaminated soil.

11 Q. And did you have any reason to doubt
12 the credibility of Mr. Rogdey's statement to you?

13 A. No.

14 Q. Can you please tell me what's being
15 depicted in picture numbers three and four?

16 A. I took a picture of what was the
17 over-high area.

18 Q. Okay. Thank you. If we could look at
19 Exhibit 13J, do you recognize this document?

20 A. Yes. It's an inspection report dated
21 July 28, 1998.

22 Q. Was this a routine inspection?

23 A. Yes.

24 Q. And did you inspect both parcels?

1 A. Yes.

2 Q. Did you take my pictures during the
3 July 28, 1998 inspection?

4 A. Yes.

5 Q. Are they attached to your inspection
6 report?

7 A. Yes.

8 Q. When you arrived at the landfill was
9 anyone there?

10 A. Jim Pelnarsh, Jr.

11 Q. And did he accompany you on your
12 inspection?

13 A. Yes.

14 Q. Okay. What did you observe at Parcel
15 A of the landfill on July 28th, 1998?

16 A. I found general refuse waste, tires
17 and landscape waste being landfilled. I also found
18 that the operators were recontouring Parcel A,
19 removing old waste from one area and depositing it
20 in another.

21 Q. Was that recontouring going on in
22 Parcel A?

23 A. Yes.

24 Q. Within Parcel A?

1 A. Yes.

2 Q. If we could look at the photographs
3 and if we could go through photos one through eight?
4 If you could just tell me the observations that are
5 being depicted?

6 A. Backhoe is digging up old waste and
7 placing it in a transfer truck.

8 Q. Which photos are you looking at?

9 A. Photos two and three.

10 Q. Okay. And, again, this is all in
11 Parcel A?

12 A. Yes.

13 Q. What about photo number four?

14 A. That's the current active area.

15 Q. Photo number five?

16 A. I've got a photo of landscape waste
17 being mixed with general refuse.

18 Q. And number six?

19 A. A scrap tire is being landfilled with
20 the general refuse.

21 Q. Are tires permitted to be landfilled
22 with general refuse?

23 A. No.

24 Q. And is landscape waste permitted to

1 be -- I'm sorry, strike that.

2 Is landscape waste allowed to be
3 landfilled with general refuse?

4 A. No.

5 Q. If you could look at picture number
6 seven, what is depicted in there?

7 A. This is a picture of the debris that
8 was being excavated and redeposited.

9 Q. Do you know if this waste was old
10 landfill waste?

11 A. I believe it was.

12 Q. We're now going to move to Parcel B.
13 If you could please tell me what you observed in
14 Parcel B during your July 28th, 1998 inspection?

15 A. The gas extraction wells apparently
16 were recently installed and there's some erosion
17 along the side slopes of the landfill.

18 Q. If you could please look at picture
19 number ten, does that picture depict the erosion --

20 A. Yes.

21 Q. -- that you observed on Parcel B?

22 A. Yes.

23 Q. Just one more. If you could look at
24 Exhibit 13K, and what is this?

1 A. An inspection report dated
2 November 19th, 1998.

3 Q. Do you know if this was your last
4 inspection as the primary inspector for the Morris
5 Community Landfill?

6 A. I believe it was.

7 Q. Was this a routine inspection?

8 A. Yes.

9 Q. And did you inspect both Parcels A and
10 B during this inspection?

11 A. Yes.

12 Q. When you arrived at the landfill was
13 anyone there?

14 A. Both Jim Pelnarsh, Jr. and Sr.

15 Q. Did either one of them accompany you
16 on your inspection?

17 A. Mr. Pelnarsh, Jr.

18 Q. What did you observe at Parcel B of
19 the landfill on November 19th, 1998?

20 A. General conditions at Parcel B and the
21 landfill of demo debris in Parcel A.

22 Q. Did you observe any continuing
23 violations at the landfill from your July 28th, 1999
24 inspection -- or, I'm sorry, 1998?

1 A. Well, I informed Mr. Pelnarsh that the
2 side slopes needed to be addressed due to some
3 erosion that's underway and that the perimeter
4 ditches needed some maintenance because they were
5 almost filled with silt.

6 Q. Were those continuing violations or
7 were those new observations?

8 A. Apparently, they were new observations
9 but nothing was cited.

10 Q. Were there any continuing violations
11 that were cited?

12 A. Yes.

13 Q. And what were those?

14 A. There's numerous. Just operating a
15 landfill without a permit.

16 Q. And how do you know the landfill was
17 still accepting waste without a permit?

18 A. I was told that the landfill accepted
19 14,039 cubic yards of waste and I took a picture of
20 the general construction and demo debris being
21 landfilled at the time of the inspection.

22 Q. And what picture was that?

23 A. Three and four.

24 Q. Unfortunately, the photocopying

1 didn't -- it doesn't help very much, but I guess we
2 do have a description.

3 MS. VAN WIE: Okay. Thank you very
4 much, Mr. Weritz.

5 THE WITNESS: Sure.

6 HEARING OFFICER HALLORAN: All yours,
7 Mr. LaRose, or do you want to -- what do you
8 want to do?

9 MR. LAROSE: I'm going to defer to my
10 partner, Ms. Cutler. Ms. Cutler is going to
11 do the examination and if anyone wants to
12 take a break, that's fine with me.

13 MR. GRANT: I don't need a break.

14 HEARING OFFICER HALLORAN: Okay.
15 Let's go. Ms. Cutler.

16 CROSS EXAMINATION

17 By Ms. Cutler

18 Q. Mr. Weritz, you stated that generally
19 in the inspection reports that you were questioned
20 about that either Jim Pelnarsh, Jr. or Sr.,
21 accompanied you and I think a Mr. Rogdey accompanied
22 you on one occasion; is that correct?

23 A. Yes.

24 Q. Did anyone else from the landfill ever

1 accompany you?

2 A. Not that I recall, no.

3 Q. Were you ever accompanied by Edward
4 Pruim?

5 A. No.

6 Q. Were you ever accompanied by Robert
7 Pruim?

8 A. No.

9 Q. In regard to your inspection report
10 dated August 18th, 1994, which is in Exhibit 13A --
11 well, a couple more questions before we get to the
12 inspection report.

13 Did you ever see either Edward
14 Pruim or Robert Pruim?

15 A. Not at Community Landfill, no.

16 Q. Would you recognize them if you had?

17 A. Perhaps. I did meet them at Excel
18 Disposal long ago.

19 Q. So did you ever see them at Community
20 Landfill?

21 A. No.

22 Q. In regard to your inspection report
23 dated August 18th, 1993, you testified that you saw
24 landscape waste?

1 A. Yes.

2 Q. What time of day was the inspection on
3 August 18th, 1993?

4 A. 2:00 p.m. to 3:00 p.m.

5 Q. Did you return at the end of the day?

6 A. No.

7 Q. Did you observe the site conditions at
8 the end of the day?

9 A. No.

10 Q. Do you know whether the landscape
11 material you noted was there at the end of the day?

12 A. No.

13 Q. Do you have any evidence that the
14 shareholders or officers of CLC had any knowledge
15 about the alleged violations regarding landscape
16 waste?

17 A. No.

18 Q. Do you have any evidence that the
19 shareholders or officers of CLC had any direct or
20 personal involvement in the alleged violations
21 concerning landscape waste?

22 A. I don't know. I can't say no because
23 this was coming from Excel Disposal.

24 Q. Do you have any knowledge, any direct

1 evidence that the shareholders or officers of CLC
2 had any direct and personal involvement in the
3 alleged violations?

4 A. No.

5 MR. GRANT: If I --

6 BY MS. CUTLER:

7 Q. Please answer the question yes or no.

8 MR. GRANT: If I can just ask

9 Ms. Grayson, I don't think he knows who the
10 officers or shareholders of CLC are.

11 MS. CUTLER: I'm just asking him if he
12 has any knowledge regarding the shareholders
13 of CLC. It's a simple yes or no question.

14 MR. GRANT: Well, I don't think he
15 knows who the shareholders are. That's why I
16 would just ask --

17 MS. CUTLER: I'm asking him the
18 question.

19 HEARING OFFICER HALLORAN: I'll allow
20 Ms. Cutler to continue her questioning.

21 BY MS. CUTLER:

22 Q. Do you want me to ask the question
23 again?

24 A. Yes.

1 Q. Do you have any evidence that the
2 shareholders or officers of CLC had any direct and
3 personal involvement in the allegations regarding
4 any violations for landscape waste?

5 A. No evidence.

6 Q. Thank you. You testified that on
7 April 7th, 1994, you saw uncovered litter?

8 A. Yes.

9 Q. What time of day was the inspection on
10 April 7th, 1994?

11 A. From 2:30 p.m. to 3:55 p.m.

12 Q. And did you return at the end of that
13 day?

14 A. No.

15 Q. Did you observe the site conditions at
16 the end of that day?

17 A. No.

18 Q. Do photos 11 and 12 show bags of
19 litter along the perimeter of the site?

20 A. I can barely make it out, but I
21 believe those are bags of litter.

22 Q. Don't those bags show that someone
23 picked up litter?

24 A. At some point.

1 Q. Yes or no, do those bags show --

2 A. Yes.

3 Q. -- that someone had picked up litter?

4 A. Yes.

5 Q. Wouldn't you agree that they were
6 attempting to control litter that day?

7 A. I have no idea. I don't know when
8 those bags were filled.

9 Q. Do you recall your deposition was
10 taken on January 15th -- or do you recall that your
11 deposition was taken in this case?

12 A. Yes.

13 MS. CUTLER: Counsel, I refer you to
14 Page 36.

15 MR. GRANT: Can you give me just one
16 second?

17 MS. CUTLER: Sure.

18 (Brief pause.)

19 MR. GRANT: Okay.

20 BY MS. CUTLER:

21 Q. The bottom of Page 37 and top of Page
22 38. Do you recall being asked the question -- well,
23 I'll read the question before that.

24 And we know that at least

1 inadvertently you took pictures of bags in the
2 perimeter that were, you suspected, filled with
3 litter that had been picked up on the perimeter of
4 the site, right, to which you answer, correct.

5 The next question, would those two
6 factors lead you to believe that the site operators
7 were at least attempting to control litter on that
8 day; answer, on that day, yes.

9 Do you recall answering that
10 question?

11 A. I don't recall answering that
12 question. That was a while ago.

13 Q. Would those two factors lead you to
14 believe that someone was attempting to collect
15 litter that day?

16 A. On that specific day, I don't know. I
17 mean, somebody was trying to collect litter, but on
18 that specific day I don't know.

19 Q. Do you have any independent evidence
20 whatsoever that uncovered litter that you may have
21 seen during your inspection on April 7th, 1994, was
22 not covered at the end of the day?

23 A. At the end of that day, I have no
24 idea. But during the inspection I asked

1 Mr. Pelnarsh if litter was being collected at the
2 end of --

3 Q. I didn't ask you that question. Do
4 you have any independent evidence at the end of the
5 day litter that you may or may not have seen there
6 was not covered?

7 MR. GRANT: I think he should be
8 allowed to answer the question. I think he
9 was in process of answering.

10 HEARING OFFICER HALLORAN: Well, no, I
11 think her question was independent knowledge.
12 He testified that Mr. Pelnarsh --

13 BY MS. CUTLER:

14 Q. It's a yes or no question. Do you
15 have any independent knowledge?

16 A. No.

17 Q. Do you have any independent evidence
18 whatsoever that leachate seeps that you may have
19 seen during your inspection on April 7th, 1994, were
20 not fixed?

21 A. Were not fixed?

22 Q. Fixed at the end of day?

23 A. No.

24 Q. Do you have any evidence that the

1 shareholders or officers of CLC knew about any of
2 the alleged -- or the allegations -- violations
3 regarding uncovered litter?

4 A. No.

5 Q. Do you have any evidence that the
6 shareholders or officers of CLC had any direct and
7 personal involvement in the alleged violations for
8 uncovered litter --

9 A. No.

10 Q. -- or refuse?

11 You testified that on March 22nd,
12 1995, you saw uncovered litter. What time of the
13 day was the inspection on March 22nd, 1995?

14 HEARING OFFICER HALLORAN: What
15 exhibit are you referring to?

16 MS. CUTLER: 13E.

17 HEARING OFFICER HALLORAN: Thank you.

18 BY THE WITNESS:

19 A. On March 22nd, 1995, time of
20 inspection 12:40 p.m. to 1:45 p.m.

21 BY MS. CUTLER:

22 Q. Did you return at the end of that day?

23 A. No.

24 Q. Did you observe the site conditions at

1 the end of that day?

2 A. No.

3 Q. Do you have any independent evidence
4 whatsoever that any uncovered litter that you may
5 have seen during your inspection on March 22nd,
6 1995, was not covered at the end of the day?

7 A. No.

8 Q. Do you have any evidence that the
9 shareholders or officers of CLC took any -- I'm
10 sorry, had any direct and personal involvement in
11 the alleged violations regarding uncovered litter?

12 A. No.

13 Q. You testified that on May 22nd, 1995,
14 you saw -- I'm sorry. Exhibit 13F regarding the
15 inspection on May 22nd, 1999, what time of day was
16 that inspection, Mr. Weritz?

17 A. 12:30 p.m. to 2:40 p.m.

18 Q. And did you return at the end of that
19 day?

20 A. No.

21 Q. Did you observe the site conditions at
22 the end of that day?

23 A. No.

24 Q. Do you have any independent evidence

1 whatsoever that any uncovered litter that you may
2 have seen during your inspection on May 22nd, 1995,
3 was not covered at the end of the day?

4 A. No.

5 Q. Do you have any evidence that the
6 shareholders or officers of CLC had any direct and
7 personal involvement in the alleged violations for
8 uncovered litter?

9 A. No.

10 Q. You testified that on July 28th, 1998,
11 you saw uncovered litter as well as used tires and
12 landscape waste. This is inspection report 13J.
13 What time of day was the inspection on July 28th,
14 1998?

15 A. 2:35 p.m. to 3:40 p.m.

16 Q. And did you return at the end of that
17 day?

18 A. No.

19 Q. Did you observe the site conditions at
20 the end of that day?

21 A. No.

22 Q. Do you have any independent evidence
23 whatsoever that any uncovered litter that you may
24 have seen during your inspection on July 28th, 1998,

1 was not covered at the end of that day?

2 A. No.

3 Q. Do you have any independent evidence
4 that any landscape waste you noted during your
5 inspection on July 28th, 1998, remained in the
6 operating space at the end of the day?

7 A. No.

8 Q. And do you have any evidence that
9 there were any tires noted during your inspection,
10 that they were remaining also at the end of the day?

11 A. No.

12 Q. Do you have any evidence that the
13 shareholders or officers of CLC had any direct and
14 personal involvement in the alleged violations
15 regarding either uncovered litter, landscape waste
16 or used tires that you noted in your inspection
17 report on July 28th, 1998?

18 A. No.

19 Q. Were you familiar with the Board's
20 landfill regulations and the Environmental
21 Protection Act as part of your job?

22 A. I was.

23 Q. As part of your job at the time these
24 inspections occurred --

1 A. Yes.

2 Q. -- were you familiar with them?

3 Were you aware on April 7th, 1994,
4 March 22nd, 1995, May 22nd, 1995 -- these are the
5 dates of your inspection reports -- and July 28th,
6 1998, that Section 21.012 of the Act required that
7 litter be collected by the end of each operating
8 day?

9 A. Yes.

10 Q. Were you aware on April 7th, 1994,
11 March 22nd, 1995, May 22nd, 1995, and July 28th,
12 1998, that Section 807.306 of the Pollution Control
13 Board regulations required that litter be collected
14 by the end of each working day?

15 A. Yes.

16 Q. You never saw if litter was picked up
17 at the end of the operating day after the
18 inspections on April 7th, 1994, March 22nd, 1995,
19 May 22nd, 1995, and July 28th, 1998 'is that
20 correct?

21 A. That's correct, I didn't see it.

22 Q. Did you ever obtain any samples of the
23 material that had, according to you, leaked off the
24 facility on April 7th, 1994, March 22nd, 1995, and

1 May 22nd, 1995? It's a yes or no question. Did you
2 obtain any samples?

3 A. No.

4 Q. -- of material?

5 A. No.

6 Q. So you don't know for a fact that
7 there were any contaminants?

8 A. Other than the visible --

9 Q. You don't know for a fact that there
10 were any contaminants; it's a yes or no question?

11 MR. GRANT: I'm going to object. I
12 think he should be allowed to answer it.

13 HEARING OFFICER HALLORAN: I agree.
14 Objection overruled. He may answer if he's
15 able.

16 BY MS. CUTLER:

17 Q. Do you know for a fact that there were
18 any -- let me just put it another way.

19 A. I observed the leachate off site in a
20 retention pond on May 22, 1995.

21 Q. Beyond your observation did you
22 perform any testing on what you believed you saw in
23 the retention pond?

24 A. No scientific testing, but just

1 observations.

2 Q. So beyond your observations, do you
3 have any evidence that there were any contaminants
4 in the water beyond your observations?

5 A. No.

6 Q. Did you ever see any of what you
7 referred to as reddish, oily liquid actually leave
8 the landfill site?

9 A. I never saw it leave the site.

10 Q. Would that have been something
11 important that you would have noted in your
12 inspection report?

13 A. Yes.

14 Q. If you had seen something leave the
15 site, you would have noted that in your report?

16 A. Yes. That was -- yes.

17 Q. At the time of the inspections on
18 April 7th, 1994, March 22nd, 1995, and May 22nd,
19 1995, had you ever seen naturally-occurring runoff
20 from iron or deposits?

21 A. No.

22 Q. Since you had never seen
23 naturally-occurring runoff from iron or deposits,
24 would you know if they are reddish in color?

1 A. No. I have no idea.

2 Q. Did you ever see any of the reddish
3 liquid leave the site?

4 A. I saw it off site. I didn't see it
5 actually leave the site.

6 Q. Did you take any measures whatsoever
7 to determine whether the material you say you saw in
8 the ditch would be harmful to the environment?

9 A. No.

10 Q. Did you make any determination that
11 the materials you say you saw in the water were
12 contaminants, as well, or likely will cause a
13 nuisance as defined by the definition of water
14 pollution which is contained in the Act?

15 A. I performed no testing.

16 Q. Did you make a determination as to
17 whether those contaminants leaving the site would
18 render the waters harmful or detrimental or
19 injurious to public health, safety, welfare or to
20 domestic, commercial, industrial, agricultural,
21 recreational or legitimate uses or to live stock,
22 wild animals, birds, fish or other aquatic life?

23 A. I couldn't make that determination.

24 Q. Did you make the determination -- did

1 you make any determination? It's a yes or no
2 question.

3 A. No.

4 Q. Did it ever happen that seeps that you
5 had seen on one occasion had been corrected the next
6 time you came back?

7 A. Yes.

8 Q. Isn't it true that on July 28th, 1998,
9 in your narrative, which is Exhibit 13J, you noted
10 that you drove around the landfill looking for
11 leachate seeps and litter problems and that you
12 observed none?

13 A. Yes, none were observed.

14 Q. On May 22nd, 1995, which is
15 Exhibit 13F, you determined after talking to
16 Mr. Pelnarsh that, quote, probably material was
17 flowing into the Illinois River. Did you observe
18 any of the leachate flow off site?

19 A. I did not observe any leachate flow
20 off site.

21 Q. So you didn't observe it go to the
22 Illinois River?

23 A. It was a presumption that --

24 Q. It's a yes or no question. Did you

1 observe any of the leachate go to the Illinois
2 River?

3 A. No.

4 Q. Did you rely on Mr. Pelnarsh to make
5 the hydrogeological determination that the retention
6 pond flowed into the Illinois River?

7 A. No.

8 Q. Did you make any attempt whatsoever to
9 check that out with the IEPA or anything?

10 A. An attempt was made.

11 Q. That's a yes or no question. Did
12 you --

13 A. Yes.

14 Q. -- make an attempt?

15 And what was that attempt?

16 A. I contacted water pollution control at
17 the Maywood office at that time and asked them to
18 look into it and I don't think they did.

19 Q. So beyond your reliance on what you
20 think -- on the direction that you think the water
21 might flow, do you have any evidence whatsoever that
22 it does?

23 A. I never saw the leachate enter the
24 waters of the state. It's just an assumption.

1 Q. Did you take any samples at all? Did
2 you ever take any samples or make any tests on any
3 of the material that you allegedly saw --

4 A. No.

5 Q. -- in the water?

6 A. No.

7 Q. Do you recall that you signed two
8 affidavits in this case?

9 A. Yes.

10 Q. Did you consult with anyone regarding
11 the first one? Did you consult with anyone when you
12 prepared it?

13 A. I don't believe I did.

14 Q. At the bottom of Page 3 I have your
15 affidavit here.

16 MR. GRANT: What exhibit?

17 MS. CUTLER: I didn't mark it as an
18 exhibit.

19 I'm going to withdraw that
20 question.

21 BY MS. CUTLER:

22 Q. In regard to the leachate in your
23 testimony or the alleged leachate in your testimony
24 regarding alleged water pollution, do you have any

1 evidence that the shareholders or officers of CLC
2 had any direct and personal involvement in any of
3 those alleged violations concerning the existence of
4 leachate or water pollution?

5 A. No.

6 MR. LAROSE: I was going to ask
7 Mr. Grant if he was okay if I asked a couple
8 questions just to speed this up. Are you
9 okay with that?

10 MR. GRANT: Sure.

11 HEARING OFFICER HALLORAN: I'm fine
12 with that. Proceed, Mr. LaRose.

13 BY MR. LAROSE:

14 Q. Mr. Weritz, I'm at your inspection
15 report from July 28th, '98, which is 13J.

16 A. Yes.

17 Q. I'm looking specifically at the
18 information in your narrative on pages five, six and
19 seven.

20 Basically, you conclude on Page 7
21 that CLC and the City of Morris did not have a
22 permit to operate past September 18th, 1997, and,
23 therefore, they shouldn't have been accepting waste
24 on Parcel A, right?

1 A. Correct.

2 Q. Is that the first time that you made
3 that determination in all the times that you had
4 been to the landfill?

5 A. I believe it was.

6 Q. Were you aware that as of the date of
7 your inspection -- or I should say prior to the date
8 of your inspection that the Agency had issued in
9 October 1996 a permit for the vertical expansion of
10 Parcel A?

11 A. I don't recall.

12 MR. GRANT: Can I interrupt real
13 quickly? Oh, never mind, you said A.

14 BY MR. LAROSE:

15 Q. Were you aware that in August of 1996
16 that the Community Landfill and the City of Morris
17 had filed a significant modification application for
18 bringing both Parcels A and B up to speed with the
19 814 regulations?

20 A. I vaguely remember that.

21 Q. Okay. The significant modification
22 application, do you remember that that denied --
23 well, strike that.

24 By the time you did your

1 inspection on July 28th, 1998, a permit had been
2 issued for the expansion of Parcel A in October 1996
3 and the SIGMOD had been filed in August of '96; do
4 you remember those two events?

5 A. No.

6 Q. Okay. If you assume for the purpose
7 of my question that those two things occurred, by
8 the time that you did your inspection on July 28th,
9 1998, they had a permit -- 807 permit that was in
10 place, they had filed a SIGMOD. Don't the
11 regulations allow them to continue to operate under
12 that permit until the Agency rules on and denies the
13 SIGMOD?

14 A. I can't recall.

15 Q. Okay. All this stuff started on Page
16 2, the new apparent violations cited against CLC.
17 It really goes from Page 2 of your narrative on 13J
18 all way to the end of the narrative. Did you write
19 that stuff or did somebody from the Agency's law
20 department give that to you?

21 A. I did receive some help from legal
22 counsel.

23 Q. Okay. This was the position of the
24 Agency's legal counsel, not you as an inspector?

1 You weren't making determinations with respect to
2 the law, were you?

3 A. I don't -- I really don't remember.

4 Q. Okay. As far as you know when you
5 wrote this on or around July 28th, 1998, you do not
6 know what the permit status was for the operation of
7 Parcel A, whether they had existing permit, whether
8 they had a pending permit application, you just
9 don't know?

10 A. I probably -- I'd say I don't know.

11 Q. Okay.

12 MR. LAROSE: That's all I have.

13 HEARING OFFICER HALLORAN: Thank you,
14 Mr. LaRose. Ms. Van Wie.

15 BY MS. VAN WIE:

16 Q. Mr. Weritz, do you know who the
17 shareholders of CLC are?

18 A. No.

19 Q. Do you know who the officers of CLC
20 are?

21 A. The Pruims. I'm not sure.

22 Q. Okay. In Exhibit A, which is your
23 August 18th, 1993 inspection report?

24 MR. GRANT: 13A.

1 MS. VAN WIE: That's what I said, 13A.

2 I said A. I mean A.

3 BY MS. VAN WIE:

4 Q. In your narrative section, second
5 paragraph, you mention Excel Disposal?

6 A. Yes.

7 Q. Did you ever visit Excel Disposal?

8 A. Yes.

9 Q. And did you ever meet Edward or Robert
10 Pruim at Excel Disposal?

11 A. I met one of them. I don't remember
12 which one I met.

13 Q. In looking at 13A, you had previously
14 testified that this was a complaint investigation,
15 correct?

16 A. Correct.

17 Q. And it was involving landscape waste?

18 A. Yes.

19 Q. Do you know where that landscape waste
20 was coming from?

21 A. No.

22 Q. Okay. If I could just ask you to turn
23 back to the leachate that you observed at the site,
24 could you please re-describe your observations of

1 that leachate?

2 A. On which date?

3 Q. I guess just generally when you
4 observed leachate.

5 A. Well, if it's coming from a seep, it
6 usually leaves a reddish stain and the liquid has an
7 odor to it.

8 Q. What kind of odor?

9 A. Kind of a putrid garbage, foul
10 smelling.

11 Q. Okay. And did you observe leachate in
12 a retention pond at the landfill?

13 A. On the on-site retention pond at the
14 landfill, no.

15 Q. Okay.

16 A. It was an off-site retention pond.

17 Q. Did you observe leachate in an
18 off-site retention pond?

19 A. Yes.

20 Q. Okay. And is it your understanding
21 that that retention pond is a water of the state?

22 MS. CUTLER: Objection, leading.

23 HEARING OFFICER HALLORAN: Could you
24 rephrase that, please?

1 BY MS. VAN WIE:

2 Q. Do you know if that retention pond is
3 a water of the state?

4 A. I don't know.

5 Q. Do you know if that retention pond led
6 to the Illinois River?

7 A. The outflow, when it overflowed, would
8 eventually go to the Illinois River.

9 Q. Are you required under any statute or
10 regulation to take any samples of leachate when you
11 observe it at a landfill?

12 A. No.

13 MS. VAN WIE: Thank you. That's all.

14 HEARING OFFICER HALLORAN: Thank you,
15 Ms. Van Wie. Ms. Cutler, any recross?

16 MS. CUTLER: No. I have no further
17 questions.

18 HEARING OFFICER HALLORAN: Mr. LaRose?

19 MR. LAROSE: (Shaking head.)

20 HEARING OFFICER HALLORAN: Thank you.
21 You may step down. We can go off the record.

22 (Whereupon, a discussion
23 was had off the record.)

24 HEARING OFFICER HALLORAN: We're back

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, CSR, RPR
License No. 084-004560

12

13

14

15

16

17

18

19

SUBSCRIBED AND SWORN TO
before me this ____ day
of _____, A.D., 2008.

21

Notary Public

23

24