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1 ILLINOIS POLLUTION CONTROL BOARD  
2  
3 PEOPLE OF THE STATE OF ILLINOIS, )  
) )  
4 Complainant, )  
) )  
5 -vs- ) PCB 04-207  
) (Enforcement-  
6 EDWARD PRUIM and ROBERT PRUIM, ) Land)  
) )  
7 Respondents. )  
----- )  
8 PEOPLE OF THE STATE OF ILLINOIS, )  
) )  
9 Complainant, )  
) )  
10 -vs- ) PCB 97-193  
) (Enforcement-  
11 COMMUNITY LANDFILL COMPANY, INC., ) Land)  
) (Consolidated)  
12 Respondent. )  
13

14 REPORT OF PROCEEDINGS taken before Tamara  
15 Manganiello, Registered Professional Reporter and  
16 Notary Public, at 1320 Union Street, Morris,  
17 Illinois, commencing at the hour of 9:00 a.m. on the  
18 4th day of December, A.D., 2008.  
19  
20

21 ILLINOIS POLLUTION CONTROL BOARD  
MR. BRADLEY P. HALLORAN, HEARING OFFICER  
22 100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
23 (312) 814-8917  
24

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1 A P P E A R A N C E S:  
2  
3 OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS  
ENVIRONMENTAL BUREAU  
4 69 West Washington Street  
Suite 1800  
5 Chicago, Illinois 60602  
(312) 814-5388  
6 BY: MR. CHRISTOPHER J. GRANT  
MS. JENNIFER VAN WIE  
7  
8 Appeared on behalf of the Complainant;  
9  
10 LAROSE & BOSCO, LTD.  
200 North LaSalle Street  
Suite 2810  
Chicago, Illinois 60601  
(312) 642-4414

11 BY: MR. MARK A. LAROSE  
12 Appeared on behalf of the Respondents;  
13 LAW OFFICES OF CLARISSA Y. CUTLER  
14 155 North Michigan Avenue  
15 Suite 375  
16 Chicago, Illinois 60601  
(312) 729-5067  
BY: MS. CLARISSA Y. CUTLER

17 Appeared on behalf of the Respondents.  
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0003

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 entitled -- it's a  
6 consolidated matter, People of the State of  
7 Illinois, Complainant, versus Edward Pruim  
8 and Robert Pruim, Respondents, PCB No. 4-207  
9 and People of the State of Illinois,  
10 Complainant, versus Community Landfill  
11 Company, Inc., PCB 97-193.

12 This hearing is continued from  
13 yesterday, December 3rd. Today is  
14 December 4th at 9:00 a.m. It's my  
15 understanding that the State is still  
16 progressing in their case in chief.

17 MR. GRANT: That's correct.

18 HEARING OFFICER HALLORAN: You may  
19 begin.

20 MR. GRANT: I think before we begin we  
21 wanted to take care of a preliminary matter  
22 regarding a count that we had agreed to  
23 dismiss but it hasn't been done on the  
24 record.

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1 This is in the case against Robert  
2 Pruim and Edward Pruim that's PCB 04-207,  
3 specifically Count 11. This was a parallel  
4 count, in the other case it was Count 12,  
5 which had been dismissed by the Board. And  
6 so we're going to dismiss in the complaint  
7 against the Pruims our count number 11.

8 HEARING OFFICER HALLORAN: As you  
9 know, I can't make that kind of decision, a  
10 substantive decision. But your observation  
11 or your dismissing Count 11 will be noted for  
12 the record and the Board would be asked to  
13 take a look at that and so rule.

14 MR. GRANT: Okay. We'll make it clear  
15 in our post-hearing brief, but just to advise  
16 you. And, again, this is in 04-207, count  
17 number 11 in that case.

18 HEARING OFFICER HALLORAN: Okay.

19 MR. GRANT: It's our intention to  
20 dismiss the allegation against the Pruims.

21 HEARING OFFICER HALLORAN: Okay.

22 Thank you very much, Mr. Grant.

23 MS. VAN WIE: And, Mr. Halloran, we  
24 would like to move into evidence some of the

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1 exhibits used yesterday.

2 HEARING OFFICER HALLORAN: Okay.

3 MS. VAN WIE: For Complainant, those  
4 would be Exhibit Nos. 13A, 13B, 13E, as in  
5 Evan, 13F, 13I, 13J and 13K.

6 HEARING OFFICER HALLORAN: Any  
7 objection?

8 MS. CUTLER: No objection. And we  
9 have several exhibits also to move into  
10 evidence from yesterday, Mr. Halloran.

11 HEARING OFFICER HALLORAN: Okay.

12 Those exhibits will be admitted into  
13 evidence. Okay. I'm sorry, Ms. Grayson.

14 MS. CUTLER: Oh, I'm sorry. We'd like  
15 to move into evidence the exhibits that we  
16 used yesterday, Respondents Exhibit 36,  
17 Exhibit 50 and then People's Exhibit 14F.

18 HEARING OFFICER HALLORAN: I believe  
19 Respondents Exhibit No. 15 I accepted as an  
20 offer of proof.

21 MS. CUTLER: I'm sorry, that  
22 was Exhibit 50.

23 HEARING OFFICER HALLORAN: That's  
24 accepted as an offer of proof.

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1 MS. CUTLER: As an offer of proof.

2 HEARING OFFICER HALLORAN:

3 Respondent's Exhibit No. 36 and Complainant's  
4 Exhibit 14F, any objection?

5 MR. GRANT: No, with the provision  
6 that 50 comes in as an offer of proof.

7 HEARING OFFICER HALLORAN: So  
8 admitted. Exhibit No. 36, Respondent's, and  
9 Complainant's Exhibit 14F admitted into  
10 evidence. Respondent's Exhibit No. 50 is  
11 taken as an offer of proof. All right. You  
12 may proceed.

13 MR. GRANT: I call Mr. James Pelnarsh.  
14 (Witness sworn.)

15 MR. GRANT: First, Mr. Hearing  
16 Officer, Mr. Pelnarsh is the site manager and  
17 employee of Community Landfill Company and  
18 I'd like to proceed in my examination as an  
19 adverse witness.

20 And then, also, Mr. Pelnarsh and I

21 have known each other and it's my  
22 understanding you don't like to be called  
23 Mr. Pelnarsh and you'd prefer that I call you  
24 Jim; is that correct?

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1 THE WITNESS: Yeah.

2 MR. GRANT: I just didn't want anybody  
3 to think there was a lack of respect.

4 MR. LAROSE: Mr. Hearing Officer, do I  
5 get to be heard on this adverse examination  
6 issue?

7 HEARING OFFICER HALLORAN: I'm sorry,  
8 Mr. LaRose?

9 MR. LAROSE: Do I get to be heard on  
10 the adverse examination issue?

11 HEARING OFFICER HALLORAN: Yes, you  
12 may.

13 MR. LAROSE: He is the site manager,  
14 but he's not an officer or director or in the  
15 control group of Community Landfill  
16 Corporation. He hasn't been shown to be a  
17 hostile witness in this case.

18 If Counsel can show hostility,  
19 then we can take that when it comes. But I  
20 don't think just because he's the site  
21 manager, without being an officer or director  
22 of the corporation, he gets to cross examine  
23 him. He's not a party to this lawsuit.

24 MR. GRANT: I'd like to point out that

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1 Jim acted as the company representative in  
2 sitting in for testimony for the previous  
3 two days, so he's acting as an agent of the  
4 corporation in that capacity here.

5 Also, you know, he's been  
6 essentially the site manager, the principal  
7 person at the site since 1983, I think.

8 THE WITNESS: Right.

9 MR. GRANT: And a lot of his  
10 statements were entered into testimony by the  
11 witnesses and also I think it will just be a  
12 lot shorter if we proceed this way.

13 HEARING OFFICER HALLORAN: I'm going  
14 to grant Mr. Grant's motion.

15 Section 104.624, addressing  
16 adverse witnesses, I see enough cause. So,  
17 Mr. LaRose, your objection is overruled. The  
18 record will so note that.

19 WHEREUPON:

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

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1 DIRECT EXAMINATION  
2 By Mr. Grant

3 Q. As preliminary, Jim, you still live in  
4 Minooka?  
5 A. Mokena.  
6 Q. Mokena?  
7 A. Mokena.  
8 Q. I'm wrong on my first question. And  
9 your age is about 70?  
10 A. Yeah.  
11 Q. And just to be fair, I'm going to tell  
12 you I'm 56.  
13 A. Okay.  
14 Q. You're still working at Morris  
15 Community Landfill?  
16 A. Yes, sir.  
17 Q. Okay. What do you do there?  
18 A. Same thing, site operator.  
19 Q. Light the flare, I hope?  
20 A. Light the flare. Did it this morning.  
21 Q. And your education -- your highest  
22 level of education is high school, right?  
23 A. High school, right.  
24 Q. Okay. You've been with Community  
0010 Landfill Company since 1983?  
1 A. Yes.  
2 Q. And all that time as site manager,  
3 correct?  
4 A. Right.  
5 Q. And so you pretty much know the  
6 history of CLC's involvement with Morris Community  
7 Landfill?  
8 A. Right.  
9 Q. And when I say CLC -- we all use it,  
10 but for the record it stands for Community Landfill  
11 Corporation?  
12 A. Right.  
13 Q. And before joining CLC, you worked at  
14 Excel Disposal, correct?  
15 A. Yes, in Crestwood.  
16 Q. And Excel Disposal was owned by Bob  
17 Pruim and Ed Pruim; isn't that true?  
18 A. Yes.  
19 Q. And you've known them for some time?  
20 A. Right.  
21 Q. They're the only owners of Community  
22 Landfill Company?  
23 A. Right, since I've been there.  
0011  
1 Q. And the only officers of Community  
2 Landfill Company?  
3 A. Right.  
4 Q. And while at Community Landfill  
5 Company you always reported to Ed Pruim or Bob  
6 Pruim, correct?  
7 A. Either/or.  
8 Q. Now before 1982 the City of Morris  
9 operated the Morris Community Landfill; isn't that

10 correct?  
11 A. Yes, sir.  
12 Q. And then Community Landfill Company  
13 reached an agreement to take over the operations?  
14 A. Yes.  
15 Q. You weren't involved in the  
16 negotiation of that deal, were you?  
17 A. No, sir.  
18 Q. That was negotiated by Bob and Ed  
19 Pruim?  
20 A. Yes.  
21 MR. LAROSE: Objection, basis of his  
22 knowledge.  
23 MR. GRANT: He can answer the question  
24 if he knows.

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1 HEARING OFFICER HALLORAN: Mr. Grant,  
2 Mr. LaRose had an objection.  
3 MR. LAROSE: How would he know who  
4 negotiated it? Basis of his knowledge, it's  
5 a foundation objection.  
6 MR. GRANT: He could say I don't know.  
7 He answered yes.  
8 HEARING OFFICER HALLORAN: Objection  
9 overruled.  
10 BY MR. GRANT:  
11 Q. You're familiar with closure and  
12 post-closure financial assurance, generally, aren't  
13 you?  
14 A. Not really.  
15 Q. Okay. Are you aware that it's  
16 required to have financial assurance?  
17 A. Yes.  
18 Q. But you didn't personally arrange for  
19 any of the financial assurance at the landfill,  
20 correct?  
21 A. No.  
22 Q. To your knowledge, was that done by  
23 Bob and Ed Pruim?  
24 MR. LAROSE: Objection, basis of his

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1 knowledge, foundation.  
2 HEARING OFFICER HALLORAN: He can  
3 answer if he's able. Again, he can say I  
4 don't know if he doesn't know.  
5 BY THE WITNESS:  
6 A. I don't know.  
7 BY MR. GRANT:  
8 Q. You don't control the finances of  
9 Community Landfill Company, do you?  
10 A. Nothing.  
11 Q. And during the 1990s you didn't have  
12 authority to write checks or pay bills on behalf of  
13 the company, did you?  
14 A. No.  
15 Q. All the bills were paid out of the  
16 main office, correct?

17 A. Yes, sir.  
18 Q. And during the 1990s that was in  
19 Riverdale for a while and then in Crestwood for a  
20 while; is that correct?  
21 A. Right.  
22 Q. The main office for Community Landfill  
23 Company was never at the landfill?  
24 A. Never, no.

0014  
1 Q. You did not set the dump fees for the  
2 landfill, did you?  
3 A. No, I didn't.  
4 Q. And you didn't choose the dumping  
5 customers?  
6 A. No.  
7 Q. And most of the business at the  
8 landfill was done on credit; isn't that correct?  
9 A. All of it, to my knowledge, yeah.  
10 Q. And that was all set out at the main  
11 office, also, correct?  
12 A. Right.  
13 Q. And you didn't maintain dumping volume  
14 records at the landfill?  
15 A. Just a daily sheet.  
16 Q. But you didn't keep a monthly log  
17 or --  
18 A. No, nothing like that.  
19 Q. That was also the responsibility of  
20 the main office; is that correct?  
21 A. Right.  
22 Q. Do you know people from Andrews  
23 Engineering Company?  
24 A. Yes.

0015  
1 Q. Or Andrews Environmental Engineering I  
2 should say.  
3 A. Yes.  
4 Q. Mike McDermott?  
5 A. Right.  
6 Q. Doug Andrews?  
7 A. Right.  
8 Q. Have you met Vince Madona?  
9 A. Yes.  
10 Q. Is that name familiar to you?  
11 A. They were all out there.  
12 Q. You didn't hire Andrews as an  
13 engineering consultant yourself, did you?  
14 A. No.  
15 Q. Do you know who hired them?  
16 A. No.  
17 Q. Andrews was Community Landfill  
18 Company's engineering company throughout the '90s,  
19 weren't they?  
20 A. Yes, sir.  
21 Q. And people from Andrews did the  
22 testing at the landfill while you were there?  
23 A. Testing, yeah.

24 Q. Are you familiar with the waste  
0016  
1 disposal permits for the landfill and specifically  
2 the Illinois EPA permits that were in place and were  
3 issued during the 1990s?  
4 A. Not really.  
5 Q. You didn't keep copies of permits of  
6 the landfill?  
7 A. No.  
8 Q. So you weren't familiar with all of  
9 the details of the permits?  
10 A. Not at all.  
11 Q. And so, obviously, you weren't  
12 responsible for the permit applications?  
13 A. No.  
14 Q. And you didn't read the applications  
15 before they were submitted to Illinois EPA?  
16 A. No.  
17 Q. Okay. Are you familiar with KMS  
18 Energy, the people that installed the landfill gas  
19 energy system at the landfill?  
20 A. Yes, sir.  
21 Q. And they had some sort of a deal with  
22 Community Landfill Company or the city?  
23 A. I believe it was the city.  
24 Q. You weren't involved in the

0017  
1 negotiation of that deal yourself?  
2 A. No.  
3 Q. But KMS was out on the property  
4 installing the wells while you were there; isn't  
5 that true?  
6 A. Yes.  
7 Q. Who told you that they were going to  
8 come out? Who told you to let them on and do the  
9 work; do you recall?  
10 A. I really don't.  
11 Q. Once the KMS system started, do you  
12 know who got the royalties from the electrical  
13 generation?  
14 A. I believe it was the City of Morris.  
15 Q. CLC didn't get any of those royalties,  
16 did they?  
17 A. No, sir.

18 (Whereupon, a discussion  
19 was had off the record.)  
20 MR. GRANT: May I approach?  
21 HEARING OFFICER HALLORAN: You may  
22 approach. What are we look at, Mr. Grant?  
23 MR. GRANT: This is Respondent's  
24 Exhibit No. 9 and we jointly agreed to

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1 stipulate to its admissibility as evidence.  
2 Do you have it?  
3 THE WITNESS: I've looked through it.  
4 MR. GRANT: No, Mr. Halloran.  
5 HEARING OFFICER HALLORAN: I have it.



6 Thank you.  
7 BY MR. GRANT:  
8 Q. Jim, this affidavit isn't dated but I  
9 think it's from 2002.  
10 A. I don't recall the date.  
11 MR. LAROSE: It was sworn to on  
12 March -- the 1st day of March of 2002.  
13 MR. GRANT: Okay.  
14 BY MR. GRANT:  
15 Q. Illinois EPA inspectors go out to the  
16 landfill or went out to the landfill during the '90s  
17 from time to time?  
18 A. Every three months.  
19 Q. And you would usually accompany them  
20 on those inspections; isn't that true?  
21 A. Yes.  
22 Q. And you usually got along with them  
23 okay?  
24 A. Yeah. You tried to.  
0019  
1 Q. I've never had a complaint.  
2 A. Okay.  
3 Q. And I'm asking that question only  
4 because I know that Mr. LaRose would ask the  
5 inspectors and universally they felt they were  
6 treated extremely courteously every time.  
7 A. Absolutely.  
8 Q. After they finished their inspections  
9 would you write a report on the fact that they  
10 inspected the landfill?  
11 A. No.  
12 Q. Would you make any other record of the  
13 inspection when they came out?  
14 A. Just for my own use that they were  
15 there that day, you know.  
16 Q. Take a look at Paragraph 5.  
17 A. All right.  
18 Q. And, for the record, you state that at  
19 no time did I ever advise Warren Weritz that we were  
20 not picking up litter or that our litter was not  
21 being collected at the end of each operating day as  
22 required, correct?  
23 A. No, definitely not.  
24 Q. Now when you signed this affidavit,  
0020  
1 that statement was based on your recollection at the  
2 time that you signed it; isn't that true?  
3 A. Right.  
4 Q. Can you take a look at Paragraph 8,  
5 please?  
6 A. Yeah.  
7 Q. You mention numerous excavations in  
8 the Morris area in locations away from the landfill  
9 and you described the color of the water and that  
10 sort of thing?  
11 A. Right.  
12 Q. Can you tell me where those

13 excavations were, in general?  
14 A. Yeah, they could be anywhere around  
15 the site, at the other landfill, they all have it.  
16 It's -- that was all strip mines and they say it was  
17 iron deposits and it's a brownish water. Leachate  
18 is black, that's why I didn't agree with Mr. Weritz.  
19 Q. As far as -- well, I guess where you  
20 say away from the landfill, do you mean at another  
21 landfill or do you mean at --  
22 A. There's a landfill across the street  
23 and there's old strip mines. They all had that  
24 brown water.

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1 Q. I'm thinking about excavations away  
2 from a landfill, say, you know, half a mile away  
3 from a landfill.  
4 A. Yes. You'll run into that.  
5 Q. Okay.  
6 A. As soon as you hit the water table you  
7 run into it.  
8 Q. At these excavations that you describe  
9 away from the landfill, was there an odor to the  
10 water?  
11 A. A slight, slight odor.  
12 Q. What kind of odor? How would you  
13 describe it?  
14 A. Like a rotten egg deal, you know, like  
15 if you had a bad well.  
16 Q. Okay. Did you ever take samples of  
17 any of these locations away from the landfill and  
18 have them tested for iron content?  
19 A. No, sir.  
20 Q. Did you ever take any samples at the  
21 perimeter ditch at the landfill --  
22 A. No, sir.  
23 Q. -- and have them tested for iron  
24 content?

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1 A. No, sir.  
2 Q. If you can take a look at  
3 Paragraph 11?  
4 A. Okay.  
5 Q. Essentially, it discusses a  
6 conversation that you had with Ms. Kovaszny, right?  
7 A. Tina, yeah.  
8 Q. Now was this based on your  
9 recollection at the time of signing this affidavit?  
10 A. I don't understand you.  
11 Q. Well, in other words, you didn't  
12 have -- I think what you said is you didn't write a  
13 report after the inspections?  
14 A. No.  
15 Q. So when you signed this affidavit in  
16 2002, this was based on your recollection at the  
17 time, right?  
18 A. Yeah, right.  
19 Q. Okay. If you can look at Paragraphs

20 12 and 13?

21 A. Okay.

22 Q. And, essentially, 12 and 13 deal with  
23 KMS and when they started operating the system;  
24 isn't that correct?

0023

1 A. Yes, sir.

2 Q. Now you didn't have any responsibility  
3 for the KMS activities, correct?

4 A. None at all.

5 Q. You didn't report to them, they didn't  
6 report to you?

7 A. No.

8 Q. In Paragraph 13 where you state that  
9 you believe that KMS was simply testing an engine  
10 and don't recall Ms. Kovasznay -- telling  
11 Ms. Kovasznay the system was operating, is that --  
12 that's pretty much in Paragraph 13, isn't it?

13 A. Right.

14 Q. Okay. But you didn't make a written  
15 report after that inspection, correct?

16 A. She did?

17 Q. You didn't?

18 A. No.

19 Q. Okay. And these statements were also  
20 based on your recollections at the time that you  
21 signed the affidavit, correct?

22 A. Yes.

23 Q. You're aware of the overheight issue  
24 in this case, aren't you?

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1 A. I recall being advised on it, but  
2 there was never any proof of it.

3 Q. It wasn't really your responsibility?

4 A. No.

5 Q. Do you remember when you first learned  
6 that Parcel B had an over-capacity or an overheight  
7 issue?

8 MR. LAROSE: Objection to form of the  
9 question, assumes that Parcel B was actually  
10 overheight as opposed to just allegedly  
11 overheight.

12 MR. GRANT: I think we actually have  
13 summary judgment against CLC on all of the  
14 overheight counts, so that's been determined.

15 HEARING OFFICER HALLORAN: For  
16 purposes of here, could you rephrase the  
17 question, Mr. Grant?

18 MR. GRANT: Sure.

19 BY MR. GRANT:

20 Q. Are you aware that there was an  
21 overheight issue in this case?

22 A. We were notified by the EPA that it  
23 was over height.

24 Q. Do you remember when you were notified

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1 by EPA that it was over height?

2 A. No, I don't.  
3 Q. Did you ever -- were you ever involved  
4 in submitting landfill capacity certifications to  
5 the Illinois EPA?

6 A. No.  
7 Q. Now in the period in the mid '90s in  
8 your position at Community Landfill Company did you  
9 have authority to cease operations? Could you  
10 personally have shut down the landfill?

11 A. No.  
12 Q. That would have required the approval  
13 of Bob or Ed Pruim, wouldn't it?

14 A. Bob or Ed or the IEPA.  
15 MR. GRANT: That's it.  
16 HEARING OFFICER HALLORAN: Thank you.  
17 Mr. LaRose.

18 MR. LAROSE: Before we get started,  
19 Mr. Halloran, I just want to make sure it's  
20 clear on the record that we had intended to  
21 put Mr. Pelnarsh on the stand one time, both  
22 in the government's case in chief and our  
23 redirect of that, if you will, and in our  
24 case in chief.

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1 So when I ask him questions, I  
2 want to make sure that everybody is clear  
3 that this could be either a redirect or a  
4 part of our case in chief.

5 HEARING OFFICER HALLORAN: Thank you  
6 for making that clear on the record,  
7 Mr. LaRose. And I think that was agreed to  
8 yesterday, as well.

9 MR. GRANT: Yes, we agreed.  
10 HEARING OFFICER HALLORAN: Thank you.

11 CROSS EXAMINATION  
12 By Mr. LaRose

13 Q. JP, do you believe that there's still  
14 available permitted disposal capacity at Parcel B?

15 A. Parcel B, yes.

16 Q. And do you believe that that capacity  
17 was available when Community Landfill Company  
18 stopped placing waste in Parcel B?

19 A. I believe, yes.

20 Q. What, if any, directives do you recall  
21 from either Bob Pruim or Ed Pruim for you to place  
22 waste in Parcel B above the permitted height of the  
23 landfill?

24 A. I don't recall that at any time.

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1 Q. What, if anything, do you recall about  
2 any directive that you received from Bob Pruim or Ed  
3 Pruim to place waste in Parcel B above its permitted  
4 volume capacity?

5 A. I don't recall.

6 Q. In the years 1994, 1995 and 1996 who  
7 made the decision where to place waste in Parcel B?

8 A. I did.

9 Q. And in order to make that decision,  
10 you didn't have to talk to anybody in the front  
11 office, you didn't have to talk to Bob Pruim or Ed  
12 Pruim?

13 A. Neither. That was just my job to put  
14 it wherever.

15 Q. And not only did you not have to talk  
16 to them, you didn't talk to them about that?

17 A. No.

18 Q. As a matter of fact, from 1982 or '83,  
19 when you started working there, until today,  
20 25 years, have you been the one to make the decision  
21 as to where waste is to be placed either on Parcel B  
22 or Parcel A?

23 A. Right or wrong, yeah, either/or.

24 Q. With respect to the operation of the

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1 landfill since you've been there, who has been the  
2 operator?

3 A. I have.

4 Q. Since 1983 when you started working  
5 there who's made the day-to-day decisions with  
6 respect to the operation of the landfill?

7 A. I did.

8 Q. When Mr. Grant says that you couldn't  
9 close down the landfill without the approval of the  
10 Pruiims or the IEPA, that's not really true, is it?  
11 If it was bad weather or some other emergency came  
12 up, you could close the gates on your own authority,  
13 couldn't you?

14 A. I think on one or two occasions I've  
15 called them and said that the wind was so bad, you  
16 know, that it was impossible.

17 Q. Right. And you closed that down?

18 A. Yeah.

19 Q. Your authority --

20 A. Like half a day, you know.

21 Q. At some time you were advised that the  
22 EPA was making an allegation that the waste on  
23 Parcel B was too high; do you remember that?

24 A. Yes, sir.

0029

1 Q. Do you happen to remember when that  
2 was?

3 MR. GRANT: I want to point out --

4 BY THE WITNESS:

5 A. No.

6 MR. GRANT: Excuse me, I'm going to  
7 object to this. You know, I don't mind him  
8 leading to a certain extent, but this is the  
9 same thing that he objected to my questions  
10 on.

11 I'd appreciate if he just wouldn't  
12 lead quite as much and let Mr. Pelnarsh  
13 answer the questions.

14 MR. LAROSE: I'll do better, except  
15 this is the exact same question that he just

16 asked him. I was just following up on that.  
17 MR. GRANT: I had to point out that  
18 you objected to my remarks.

19 HEARING OFFICER HALLORAN: Overruled.  
20 You may proceed, Mr. LaRose.

21 BY MR. LAROSE:

22 Q. When you found out about the  
23 allegation of the overheight, you weren't still  
24 filling in at Parcel B?

0030

1 A. No.

2 Q. That was closed?

3 A. Closed.

4 Q. And at that time where was the waste  
5 being deposited?

6 A. Everything went to Parcel A.

7 Q. For the record, so the Board  
8 understands, Parcel B is on what side of Ashley  
9 Road?

10 A. West side.

11 Q. And Parcel A?

12 A. East side.

13 Q. Did you ever do anything personally to  
14 verify whether or not waste had actually been  
15 deposited in Parcel B above the permitted elevation?

16 A. No.

17 Q. Did you ever do anything personally to  
18 verify whether or not waste had been deposited in  
19 Parcel B above its permitted volume capacity?

20 A. No.

21 Q. You said earlier that you still  
22 believe that there's available permitted capacity in  
23 Parcel B. What area is that?

24 A. It would be on the east side and --

0031

1 it's the east side of Parcel B, which would be just  
2 over the hill.

3 Q. Okay. And there's no waste there  
4 today?

5 A. Nothing.

6 Q. When you were advised that the  
7 government was claiming that the waste in Parcel B  
8 was over the permitted height, what, if anything,  
9 did you do with respect to dirt on Parcel B?

10 A. When we were putting C&D, construction  
11 and demolition, in Parcel A for daily cover, we'd  
12 use that soil from Parcel B and take it to A.

13 Q. And how long did you do this for?

14 A. Couple of years.

15 Q. Did you do it on a regular basis?

16 A. Yes.

17 Q. Do you know how much dirt you moved  
18 from Parcel B to Parcel A?

19 A. A lot.

20 Q. Can you give me any type of volumetric  
21 information?

22 A. It'd be a guess.

23 Q. What's your best guess?

24 A. 100,000 yards.

0032

1 Q. Why did you stop doing that?

2 A. They told us to -- they told us we  
3 couldn't take C&D over there anymore, so I didn't  
4 need the soil.

5 Q. When you say they told us we couldn't  
6 take C&D over there anymore, was that the EPA told  
7 you that?

8 A. Right.

9 MR. LAROSE: Give me a minute.

10 (Brief pause.)

11 BY MR. LAROSE:

12 Q. Mr. Pelnarsh, you got Defendant's  
13 Exhibit 9 in front of you?

14 A. Yeah.

15 Q. That's the affidavit that you signed  
16 back in March of 2002, right?

17 A. Whenever, yeah.

18 Q. And you swore to --

19 A. Right.

20 Q. -- it, correct?

21 A. Right.

22 Q. Mr. Grant asked you if that was your  
23 recollection of the events back in March of 2002  
24 when you signed this thing, right?

0033

1 A. Right.

2 Q. The paragraphs and the informatioin  
3 you swore to in here, you still believe that to be  
4 the facts and the truth today, correct?

5 A. Yes, sir.

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

7 (Brief pause.)

8 MR. LAROSE: I have one more question.

9 BY MR. LAROSE:

10 Q. Did you ever tell Warren Weritz that  
11 any water from the landfill flowed into the Illinois  
12 River?

13 A. No.

14 Q. Do you know that to be the case?

15 A. Do I know it to be the case?

16 Q. Yes.

17 A. No, I'm not positive.

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

19 HEARING OFFICER HALLORAN: Thank you,  
20 Mr. LaRose. Mr. Grant, redirect?

21 MR. GRANT: Just a couple.

22 REDIRECT EXAMINATION

23 By Mr. Grant

24 Q. When was the last time that waste was

0034

1 disposed of in Parcel B?

2 A. I don't know.

3 MR. LAROSE: Don't guess.

4 BY THE WITNESS:

5 A. I don't know.  
6 BY MR. GRANT:  
7 Q. I believe that you testified that the  
8 time you first -- in response to Mr. LaRose's  
9 question, the first time that you -- when you first  
10 learned of this overheight issue, that Parcel B was  
11 closed; is that correct?  
12 A. We weren't dumping there at the time.  
13 Q. Did you dump there afterward?  
14 A. No.  
15 Q. Okay. Now do you remember when it was  
16 that you first learned about the overheight issue?  
17 A. No, I don't.  
18 MR. GRANT: That's it.  
19 HEARING OFFICER HALLORAN: Thank you.  
20 Mr. LaRose.  
21 MR. LAROSE: Nothing further.  
22 HEARING OFFICER HALLORAN: Thank you.  
23 Thank you, sir. You may step down.  
24 (Brief pause.)

0035

1 HEARING OFFICER HALLORAN: The State  
2 can call its next witness, please.  
3 MR. GRANT: We call Robert Pruim.  
4 (Witness sworn.)  
5 HEARING OFFICER HALLORAN: You may  
6 proceed, Mr. Grant.

7 WHEREUPON:

8 ROBERT PRUIM  
9 called as a witness herein, having been first duly  
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Grant

13 Q. Good morning, Mr. Pruim. Could you  
14 state your name for the record?

15 A. Robert Pruim.

16 Q. And where do you reside?

17 A. Palos Heights, Illinois.

18 Q. Are you the president of Community  
19 Landfill Company?

20 A. Yes.

21 Q. And part owner of Community Landfill  
22 Company?

23 A. Yes.

24 Q. Who are the owners besides yourself?

0036

1 A. My brother, Edward Pruim.

2 Q. And the officers of CLC?

3 A. Edward and myself.

4 Q. Was that the case from 1990 through  
5 2000?

6 A. I believe so.

7 HEARING OFFICER HALLORAN: Could you  
8 speak up just a tad, Mr. Pruim? Thank you.

9 BY MR. GRANT:

10 Q. You were also part owner of Excel  
11 Disposal, correct?



12 A. Yes.  
13 Q. And Edward Pruim also owned part of  
14 Excel Disposal?  
15 A. Yes.  
16 Q. And Excel Disposal was a waste  
17 transfer station business, correct?  
18 A. Waste hauling and transfer.  
19 Q. It was located in Crestwood, Illinois?  
20 A. Yes.  
21 Q. And at various times you also were  
22 involved with Crest Disposal, Industrial Fuels,  
23 Will-Cook Waste, Waste Systems and Land Reclamation  
24 Services; is that correct? I mean, I'm not talking

0037

1 specifically about ownership, but involved with  
2 those companies?  
3 A. Yes.  
4 Q. And they're all involved in the waste  
5 handling, disposal and transportation business; is  
6 that correct?  
7 A. Yes.  
8 Q. Community Landfill Company was formed  
9 to operate the Morris Community Landfill, correct?  
10 A. Correct.  
11 Q. Between 1990 and 2000 the Community  
12 Landfill offices were located at various times in  
13 Riverdale and Crestwood, Illinois, correct?  
14 A. Correct.  
15 Q. The Crestwood address was 4330 West  
16 137th Place, correct?  
17 A. Yes.  
18 Q. The building was owned by Edward  
19 Pruim?  
20 A. Yes.  
21 Q. And Crest Disposal, Industrial Fuels,  
22 Will-Cook Waste and Waste Systems also had their  
23 office at that address at various times, correct?  
24 A. Yes.

0038

1 Q. Do you know Jim Pelnarsh?  
2 A. Yes.  
3 Q. And did he work for you and Edward  
4 Pruim at Excel Disposal?  
5 A. Correct.  
6 Q. Then he became site manager at the  
7 Morris Community Landfill, correct?  
8 A. Yes.  
9 Q. In 1985 you and Edward Pruim took over  
10 100 percent of ownership of Community Landfill  
11 Company, correct?  
12 A. Around that date, I think.  
13 Q. And after that date you and Edward  
14 Pruim managed, operated and co-owned Community  
15 Landfill Company?  
16 MR. LAROSE: Objection to the form of  
17 the question, assumes that they managed and  
18 operated it. They certainly owned it.

19 HEARING OFFICER HALLORAN: Could you  
20 rephrase that, Mr. Grant, please?  
21 MR. GRANT: This is a statement right  
22 out of a deposition.  
23 HEARING OFFICER HALLORAN: Rephrase  
24 it, please.

0039

1 MR. GRANT: Okay.  
2 BY MR. GRANT:  
3 Q. After 1985 did you and Mr. Edward  
4 Pruim manage Community Landfill Company?  
5 A. Partially.  
6 Q. And what do you mean by partially?  
7 A. We didn't have anything to do with the  
8 site operations.  
9 Q. Okay. Are you denying -- would you  
10 deny then that you and Edward Pruim managed  
11 Community Landfill Company?  
12 A. Yes, I guess.  
13 Q. Okay. How about operated, using the  
14 term operated, Community Landfill Company?  
15 A. We weren't the daily operator, no.  
16 Q. So co-owned, I think you've already  
17 testified to that?  
18 A. Yes.  
19 MR. GRANT: Give me a moment.  
20 HEARING OFFICER HALLORAN: Sure.  
21 (Brief pause.)

22 BY MR. GRANT:

23 Q. Mr. Pruim, do you recall being deposed  
24 in this case?

0040

1 A. Yes.  
2 Q. And at the deposition you swore an  
3 oath as you did here?  
4 A. I believe so.  
5 Q. On Page 24 at the bottom were you  
6 asked this question -- let me direct you to the  
7 second page, it's actually marked Page 2 of the  
8 answer, and specifically to Paragraph 4.  
9 Paragraph 4 is the allegations  
10 from the complaint. Summing up, it says that Edward  
11 Pruim and Robert Pruim managed, operated and  
12 co-owned Community Landfill Company; do you agree  
13 with that statement? Answer: Yes.  
14 Were you asked that question and  
15 did you give that answer?  
16 A. I think you're taking that out of  
17 context. You need to read a little more of the  
18 deposition because I think it was disputed at that  
19 time, the management issue.  
20 Q. Okay. So you're saying you did not  
21 give that answer?  
22 A. I said you're taking it out of  
23 context. You need to read a little more of it than  
24 that one sentence.

0041

1 Q. My question is were you asked that  
2 question and did you give that answer?

3 A. Yeah, I guess.

4 Q. Thank you. In the Community Landfill  
5 Company lease agreement with the city of Morris, you  
6 and Mr. Edward Pruim personally guaranteed the  
7 royalties to the City of Morris; is that correct?

8 A. I think so.

9 Q. And during the period between 1990 and  
10 2000 you also personally guaranteed certain bank  
11 loans on behalf of Community Landfill Company; is  
12 that correct?

13 A. Correct.

14 Q. And at various times between 1990 and  
15 2000 you and Mr. Edward Pruim also personally  
16 guaranteed surety bonds issued by Frontier Insurance  
17 Company; is that correct?

18 A. Yes.

19 Q. As far as the tipping fees charged to  
20 dumpers as Morris Community Landfill between that  
21 period, between 1990 and 2000, who set the tipping  
22 fees?

23 A. Basically the market, other landfills  
24 in the area.

0042

1 Q. Was that your and Mr. Edward Pruim's  
2 responsibility?

3 A. Partially, yes.

4 Q. Who else would have been involved in  
5 that?

6 A. I think JP would have had some input  
7 in that because he was working with the landfill  
8 across the street, also.

9 Q. You heard his testimony this morning  
10 that he had no involvement in setting the fees,  
11 correct?

12 A. Yes, I did.

13 Q. Do you believe that to be an incorrect  
14 statement?

15 A. Partially incorrect, yes.

16 Q. Who arranged for the customers for  
17 Community Landfill during this period?

18 A. It's pretty much you have a landfill,  
19 they'll come.

20 Q. I'm sorry?

21 A. Who said what?

22 Q. The customers, who arranged for the  
23 customers for dumping at Morris Community Landfill  
24 during 1990 to 2000?

0043

1 A. It's an open landfill. Anybody can  
2 come there.

3 Q. So did you and Mr. Edward Pruim  
4 arrange for the business?

5 A. No, not really. I mean, it's an open  
6 landfill. Anybody who wanted to -- who had some  
7 waste to dump can come to the landfill.

8 Q. You heard Mr. Pelnarsh's testimony  
9 that most of the business was done on credit,  
10 correct?  
11 A. Yes.  
12 Q. Okay. And who arranged for that  
13 credit?  
14 A. I think they were faxed credit apps  
15 either from the office or the landfill.  
16 Q. Would that be approved at the  
17 Crestwood office?  
18 A. It probably was.  
19 Q. Okay. Regarding Andrews Engineering,  
20 you -- and I mean you personally, not the company --  
21 began working with Andrews Engineering in the 1970s,  
22 correct?  
23 A. Sometime in the '70s, yes.  
24 Q. And then you and Mr. Edward Pruim  
0044  
1 retained them to do work at Community Landfill  
2 Company, as well, correct?  
3 A. Yes.  
4 Q. And they did the permit work for  
5 Community Landfill from 1989 through 2000, correct?  
6 A. I think so.  
7 Q. I'm speaking of Illinois EPA permits,  
8 not local permits.  
9 And Andrews was working on your  
10 and Mr. Edward Pruim's authority during that period,  
11 correct?  
12 A. I guess.  
13 Q. And they were authorized to file  
14 permit applications, for example, on behalf of  
15 Community Landfill Company?  
16 A. Yes.  
17 Q. Mr. Pruim, you're aware that the Board  
18 has found that Community Landfill Company did not  
19 increase financial assurance to a 1,342,500 by July  
20 20th, 1993, correct?  
21 A. I'm not positive about the dates,  
22 but...  
23 Q. That's a pretty complex question. But  
24 you're aware that there was a failure to increase  
0045  
1 financial assurance from 1993 to 1996?  
2 A. I guess.  
3 Q. Can you state why Community Landfill  
4 Company did not increase its financial assurance on  
5 July 20th, 1993?  
6 A. Not for sure. It was probably an  
7 issue of changing the structure of the closure bond.  
8 Q. And that was done in 1996, correct,  
9 where the performance bond was --  
10 A. I don't know the date.  
11 Q. Okay. Can you look in one of the  
12 white binders for Exhibit 14D?  
13 MS. VAN WIE: It would be in the  
14 second volume.

15 MR. LAROSE: D as in dog?  
16 MR. GRANT: Yeah.  
17 THE WITNESS: Okay.  
18 BY MR. GRANT:  
19 Q. Have you had a chance to take a look  
20 at it?  
21 A. Yes.  
22 Q. This document was provided to Illinois  
23 EPA by Andrews Environmental Engineering, correct?  
24 A. Probably.  
0046  
1 Q. And Andrews was Community Landfill  
2 Company's consultant at the time, correct?  
3 A. An environmental engineering company,  
4 yes.  
5 Q. If you can turn to the last page,  
6 Edward Pruum signed this document, correct?  
7 A. Yes.  
8 Q. And as an owner and officer of  
9 Community Landfill Company, he was authorized to  
10 sign this document, correct?  
11 A. Yes.  
12 Q. If you can turn to Page 3, please?  
13 On Page 3 it states that as of January 1, 1995,  
14 there was no remaining disposal capacity at the  
15 landfill, correct?  
16 A. It looks that way.  
17 Q. Can you turn to 14E?  
18 A. Okay.  
19 Q. If you can turn to the fourth page, it  
20 states that 540,135 cubic yards of waste were  
21 deposited January 1, 1995, through December 31,  
22 1995, correct?  
23 A. That's what it shows.  
24 Q. Can you turn to the next page? You  
0047  
1 signed this document, didn't you?  
2 A. Yes.  
3 Q. And by signing it, you certified that  
4 the information was true, accurate and complete,  
5 correct?  
6 A. I guess.  
7 MR. GRANT: That's all I have.  
8 HEARING OFFICER HALLORAN: Thank you,  
9 Mr. Grant. Mr. LaRose.  
10 CROSS EXAMINATION  
11 By Mr. LaRose  
12 Q. Let's stick with the one that's in  
13 front of you, Mr. Pruum, 14E. Look at the last  
14 page. You signed that document as corporate  
15 president, correct?  
16 A. Yes.  
17 Q. Is there anything in 14E that talks  
18 about the elevation of the landfill or waste being  
19 deposited at any elevation?  
20 A. I did not see anything to that effect.  
21 Q. Do you believe that there is available

22 permitted disposal capacity remaining in Parcel B?

23 A. Yes, I do.

24 Q. And what's the basis of that belief?

0048

1 A. The area where the garage offices at  
2 is permitted space and no waste has been deposited  
3 there.

4 Q. Did you have that belief when this  
5 document was signed in 1996?

6 A. Yes.

7 Q. Did you understand when you signed  
8 this document that you were saying that there was no  
9 available permitted capacity in Parcel B?

10 A. I did not believe there was -- all the  
11 capacity was used up at that time. There was  
12 capacity remaining and I disputed this number with  
13 Vince Madonia from Andrews at that time.

14 Q. And the discussions that you had with  
15 Mr. Madonia, was there a resolution to that  
16 discussion?

17 A. He told me it was a mathematics issue  
18 and at some point that he needed to make an  
19 adjustment to the remaining airspace. It had a lot  
20 to do with the compaction ratio of the garbage and  
21 the numbers that they were submitting. And in these  
22 reports there was also some discrepancy over gate  
23 cubic yards and airspace cubic yards.

24 Q. And he was telling you at some time

0049

1 they were going to have to make an adjustment?

2 A. He said it would probably be down the  
3 line when they submitted the SIGMOD or something  
4 with Part A, combining the two.

5 Q. Did that adjustment ultimately get  
6 made?

7 A. I believe it did.

8 Q. Take a look at 14F in that same book.

9 A. Okay.

10 Q. Do you see that?

11 A. Yes, I do.

12 Q. That's a January 1st, 1997 document,  
13 which is solid waste landfill capacity certification  
14 from the previous year, which was 1996. Turn to the  
15 last page. Did you sign that document?

16 A. Yes.

17 Q. You signed it as president of the  
18 Community Landfill Company?

19 A. Yes.

20 Q. Is this the document that -- wherein  
21 Mr. Madonia made the adjustment to the available  
22 landfill capacity?

23 A. I believe so.

24 Q. And it shows on Page 3 under Section B

0050

1 that the remaining capacity was 1,774,789 cubic  
2 yards?

3 A. That's correct.

4 Q. And this took into -- if you look at  
5 the cover letter -- consideration available capacity  
6 of both Parcels A and B?

7 A. Yes.

8 Q. With respect to the gas collection  
9 system, was it Community Landfill Company that put  
10 that system in to the Morris Community Landfill?

11 A. No, it was not. It was KMS something  
12 or other.

13 Q. Explain for the Board what KMS was and  
14 what they proposed to do at the Morris Community  
15 Landfill.

16 A. At that particular time there were  
17 some tax credits to companies for doing the gas  
18 collection on landfills. KMS was going to install,  
19 operate the gas collection for Community Landfill.

20 Q. Were they also going to pay for it and  
21 permit it?

22 A. They were paying all expenses,  
23 installation, permitting and would also be paying  
24 the royalty for the gas that was collected.

0051

1 Q. And, again, Mr. Grant asked you  
2 whether or not CLC got the royalties -- maybe he  
3 asked Mr. Pelnarsh. I don't know, he asked one of  
4 you guys. Did CLC get any royalties from that  
5 collection system?

6 A. We were supposed to originally get a  
7 royalty on that. The City was required to also sign  
8 off on that lease and they refused to sign it unless  
9 they received all the money for the gas sales.

10 Q. So did CLC get any royalties from  
11 that?

12 A. Absolutely none.

13 Q. Was it your understanding that as a  
14 result of what KMS proposed to do, that you  
15 understood that they were going to do the  
16 installation, the financing for it, the permitting  
17 and anything required by the permitting?

18 A. It was my understanding they were and  
19 they also hired Andrews Environmental Engineering as  
20 part of their engineering team to prepare all these  
21 documents.

22 Q. So with respect to the gas collection  
23 system, the engineering work done by Andrews was  
24 done on behalf of KMS, not on behalf of CLC?

0052

1 A. On behalf of KMS and paid by KMS.

2 Q. So when the government says that you  
3 failed to increase -- you, meaning CLC, failed to  
4 increase the financial assurance with respect to the  
5 gas collection system, what, if anything, was your  
6 expectation regarding increasing the financial  
7 assurance?

8 A. It was my understanding KMS was going  
9 to pay that.

10 Q. You said under examination by

11 Mr. Grant there was some question about your  
12 deposition and either managing or operating CLC.  
13 Have you ever admitted that you managed the  
14 day-to-day operations at the landfill?

15 A. No, I did not.

16 Q. In fact, is that true?

17 A. That's correct, I do not.

18 Q. You don't?

19 A. No.

20 Q. And have you ever admitted that you  
21 operated the site on a day-to-day basis?

22 A. I do not operate it on a day-to-day  
23 basis.

24 Q. Or make decisions with respect to the  
0053 operation of the site on a day-to-day basis?

1 A. I do not.

2 Q. Who does that?

3 A. Jim Pelnarsh.

4 Q. Okay. There was a question that  
5 Mr. Grant asked where he said you and Bob hired  
6 Andrews to do work for -- excuse me, you and Ed  
7 hired Andrews to do work for Community Landfill.  
8 Wasn't it Community Landfill Company that hired  
9 Andrews?

10 A. I believe they might have even been  
11 there before we were the sole owners.

12 Q. And if you had discussions with  
13 respect to Andrews and their engineering work, would  
14 that have been in your personal capacity or in your  
15 capacity as an officer of the company?

16 A. As an officer of the company.

17 Q. And you never paid Andrews personally  
18 to do work for CLC, that came out of the company  
19 funds, right?

20 A. To the best of my knowledge.

21 Q. Mr. Pruim, there's two cases  
22 consolidated here and the one that's made  
23 allegations against you and your brother personally  
24

0054 1 is Pollution Control Board case 04-207 in which the  
2 government makes specific allegations against you.

3 For the next few minutes I'm going  
4 to talk to you about those allegations and about  
5 your involvement in them, okay?

6 A. Okay.

7 Q. With respect to Count I of 04-207, the  
8 government alleges failure to adequately manage  
9 litter and refuse and in that count alleges specific  
10 acts in furtherance of that allegation.

11 My question to you is what, if  
12 any, direct or personal involvement did you have in  
13 the acts alleged in Count I of that case?

14 A. None.

15 Q. In Count II the government alleges  
16 failure to prevent or control leachate flow and  
17 alleges specific acts that they say proves that



18 allegation.

19 My question to you is what, if  
20 any, direct or personal involvement did you have in  
21 the acts alleged in Count II?

22 MR. GRANT: I'm going to object at  
23 this point. I think these questions are  
24 inappropriate. He's got an answer on file

0055

1 where he admitted or denied the allegations.

2 If he's trying to amend the  
3 answer, it's too late.

4 HEARING OFFICER HALLORAN: The record  
5 will reflect whether he's going to try to  
6 amend the answer, but he may proceed.

7 Objection overruled. Thank you.

8 BY THE WITNESS:

9 A. None.

10 BY MR. LAROSE:

11 Q. With respect to Count III, the  
12 government alleges the failure to properly dispose  
13 of landscape waste and alleges specific acts that  
14 they say prove that count.

15 I want to know what, if any,  
16 direct and personal involvement did you have in the  
17 acts alleged in this count?

18 A. None.

19 Q. In Count IV the -- I'm going to skip  
20 Counts IV and V for a minute and come back to them.

21 A. Okay.

22 Q. Count VI alleges water pollution and  
23 it alleges specific acts that the government says  
24 amount to water pollution.

0056

1 What, if any, direct and personal  
2 involvement did you have in the acts alleged in  
3 Count VI of the complaint?

4 A. None.

5 Q. Counts VII, VIII, IX and X are all  
6 similar in that they refer to the allegations that  
7 we've been talking about, about either overweight or  
8 overfilling Parcel B of the landfill. I'll take  
9 them one at a time.

10 Count VII alleges that you  
11 deposited waste in an unpermitted portion of the  
12 landfill and makes specific allegations that the  
13 waste was over height.

14 What, if any, direct and personal  
15 involvement did you have in the acts alleged in  
16 Count VII?

17 A. None.

18 Q. Count VIII alleges conducting waste  
19 disposal operation without a permit. Again, relates  
20 to the government's allegations that CLC deposited  
21 waste -- actually, in this case, that you deposited  
22 waste in unpermitted portions of the landfill over  
23 the permitted elevation.

24 What, if any, direct and personal

0057

1 involvement did you have in the acts alleged in  
2 Count XIII?

3 A. None at all.

4 Q. Count IX alleges open dumping, same  
5 thing. They're saying since you didn't have a  
6 permit to dispose in an area above the permitted  
7 elevation, that anything that went there was open  
8 dumping. What, if any, direct and personal  
9 involvement did you have in the acts alleged in the  
10 Count VIII?

11 A. None.

12 Q. Excuse me, Count IX.

13 A. None.

14 Q. Count X, this was an allegation of the  
15 violation of the standard condition number three.  
16 Basically, they're alleging that you failed to get a  
17 supplemental permit to put waste above the permitted  
18 elevation.

19 My question to you is what, if  
20 any, direct and personal involvement did you have in  
21 the acts alleged in Count X?

22 A. None.

23 Q. Count XII alleges the improper  
24 disposal of used tires. What, if any, direct and

0058

1 personal involvement did you have in the acts  
2 alleged in Count XII?

3 MR. GRANT: I'm going to make another  
4 objection here. He's going through the  
5 entire complaint. He's not reading from the  
6 complaint, he's reading from his notes. And  
7 this is just a general denial of all  
8 liability.

9 I don't think it's relevant at all  
10 and I don't think it's based on any facts.

11 HEARING OFFICER HALLORAN: You know,  
12 again, the record will so reflect and I'll  
13 allow Mr. LaRose to continue.

14 And if what you say is true,  
15 Mr. LaRose is trying to amend his answer,  
16 obviously, it's a belated attempt and I would  
17 ask the Board to take note and you can  
18 respond to it in your post-hearing brief.  
19 Thank you, Mr. Grant.

20 MR. LAROSE: And I appreciate the  
21 ruling, Mr. Hearing Officer, but every one of  
22 these was denied in the complaint. That's  
23 merely a pleading.

24 HEARING OFFICER HALLORAN: I don't

0059

1 have the complaint in front of me, so...

2 MR. LAROSE: It would really be our  
3 answers. But personal involvement in these  
4 activities was denied each and every -- on  
5 each and every occurrence with respect to  
6 Edward and Robert Pruim. That's a pleading

7 in this case.

8 It's now testimony time. I think  
9 he's entitled to get on the witness stand,  
10 raise his right hand and deny personal  
11 involvement in these specific allegations.

12 MR. GRANT: If I can be heard on this,  
13 I understand, you know, the Board is going to  
14 take notice of this. But this is a  
15 fact-pleading jurisdiction and we pled facts  
16 and he pled facts in his answer and I believe  
17 his answer was verified, you know, just for  
18 the record.

19 HEARING OFFICER HALLORAN: Thank you,  
20 Mr. Grant.

21 BY MR. LAROSE:

22 Q. The Count XVII alleges the failure to  
23 provide and maintain adequate financial assurance  
24 pursuant to the gas collection permit. We've just

0060  
1 talked about that.

2 You had some involvement in the  
3 KMS situation, but did you have any direct and  
4 personal involvement in the allegations of  
5 Count XVII that you failed to provide financial  
6 assurance?

7 A. No.

8 Q. In any of the actions that you took  
9 with respect to the gas collection system and KMS  
10 and any negotiations with them were taken on behalf  
11 of the company, not on behalf of yourself  
12 personally, correct?

13 A. Correct.

14 Q. In Count XIX the government alleges  
15 the failure to provide revised cost estimates by --  
16 I think that's cost estimates for closure and  
17 post-closure by December 26th, 1994.

18 What, if any, direct and personal  
19 involvement did you have in the acts alleged  
20 therein?

21 A. None.

22 Q. Let's go back to Count IV, and that's  
23 the failure to provide and maintain adequate  
24 financial assurance pursuant to the April 20th, 1993

0061  
1 permit. That was discussed a little bit with you  
2 with Mr. Grant. The allegation is that we should  
3 have increased financial assurance from '93 to '96.

4 Any involvement that you had with  
5 respect to financial assurance, was that on behalf  
6 of you or was that on behalf of the company?

7 A. On behalf of the company.

8 Q. You didn't take any personal actions  
9 with respect to increasing, decreasing,  
10 supplementing, replacing financial assurance; that  
11 was all done on behalf of the company?

12 A. Correct.

13 Q. And as a corporate officer you don't

14 deny that you have had some responsibility to  
15 maintain adequate financial assurance?

16 A. There always was financial assurance,  
17 it was just an issue of trying to get it increased.

18 Q. Okay. Count V alleges the failure to  
19 timely file a required application for significant  
20 modification. It's my understanding that that issue  
21 was more Ed and not you?

22 A. That's correct.

23 Q. So with respect to that allegation  
24 under Count V, failure to file the required

0062

1 application for significant modification, what, if  
2 any, direct and personal involvement did you have in  
3 the acts alleged in that count?

4 A. None.

5 Q. Did you ever direct anybody to put  
6 waste above the permitted elevation on Parcel B?

7 A. No.

8 Q. Did you ever direct anybody to take in  
9 more waste than was permitted at Parcel B?

10 A. No.

11 MR. LAROSE: Give me one minute.  
12 (Brief pause.)

13 BY MR. LAROSE:

14 Q. You said that credit applications  
15 would be sent to the office. The office, whether it  
16 was in Riverdale or Crestwood, was what 60 miles  
17 from the landfill?

18 A. Fifty-five.

19 Q. Fifty-five miles from the landfill?

20 A. (Witness nodding.)

21 Q. So they would fax credit applications  
22 over to the office?

23 A. A lot of times they'd get faxed to the  
24 landfill and the landfill would fax them to the

0063

1 office.

2 Q. Did you understand approving of the  
3 credit applications to be part of your typical  
4 corporate function?

5 A. Actually, for a good period at that  
6 time we had, like, a credit manager in the office  
7 who was doing collections and approving credit and  
8 applications.

9 Q. So you didn't do that yourself?

10 A. No.

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

12 HEARING OFFICER HALLORAN: Thank you,  
13 Mr. LaRose. Mr. Grant?

14 REDIRECT EXAMINATION

15 By Mr. Grant

16 Q. Mr. Pruim, did you ever direct CLC to  
17 file a permit application or a modification to the  
18 permit to correct what you now claim is an  
19 inaccurate landfill capacity report?

20 A. Restate that. Did I direct who?

21 Q. Did you direct CLC or anybody to  
22 correct the landfill capacity report that you filed  
23 that shows there was no more remaining capacity?  
24 You testified to a conversation with Vince Madonia

0064

1 where you disagreed with him. Did you ever correct  
2 that and report it to Illinois EPA?

3 A. I didn't report it. Vince Madonia had  
4 told me that with the filing of that report wasn't  
5 the right time to do that.

6 Q. Let's go back to Exhibit 14F for a  
7 minute.

8 A. Okay.

9 Q. This is the landfill capacity report.  
10 At the time that this one was filed there was  
11 both -- you were reporting Parcel A and Parcel B  
12 capacity, correct?

13 A. It appears that way, yes.

14 Q. And can you grab the other binder and  
15 look at Exhibit 1F?

16 A. In the other binder?

17 Q. Yeah, 1F as in Frank.

18 A. What should I look for?

19 Q. If you can look at the front of it  
20 first. Can you see the date of that document up at  
21 the top, the date stamp?

22 A. April 30th, '97.

23 Q. I'm going to ask you to turn to Page  
24 11. It's not the 11th page, but it's marked Page 11

0065

1 at the bottom. Were you able to find it?

2 A. Yes.

3 Q. Okay. If you can look at the second  
4 paragraph from the bottom?

5 A. Okay.

6 Q. Do you see where it states that  
7 475,000 cubic yards, essentially, have to be removed  
8 from Parcel B?

9 MR. LAROSE: Objection. That's not  
10 what it states, mischaracterization.

11 HEARING OFFICER HALLORAN: If you  
12 could read the whole paragraph, Mr. Grant?

13 MR. GRANT: Sure.

14 HEARING OFFICER HALLORAN: Thanks.

15 MR. GRANT: If he could or if I could?

16 HEARING OFFICER HALLORAN: I'm sorry?

17 MR. GRANT: If I could or if he could?

18 HEARING OFFICER HALLORAN: If you  
19 could read the whole paragraph?

20 BY MR. GRANT:

21 Q. It says, presently, the amount of  
22 waste identified as overweight based upon the  
23 flyover topographic survey contours taken in July  
24 1996 to the permitted waste height is in the order

0066

1 of 440,000 cubic yards. Waste receipts since the  
2 topographic survey date of July total 35,000 cubic

3 yards. Therefore, a total of 475,000 cubic yards  
4 may require disposal in a permitted landfill is  
5 (sic) siting approval is not secured. And I assume  
6 that's a typo and should be "if siting approval is  
7 not secured; do you see that?

8 A. Yes.

9 Q. Now that refers to Parcel B, doesn't  
10 it?

11 A. I guess.

12 Q. Parcel A just started operating. It  
13 wouldn't have been over height at that point, would  
14 it?

15 A. No.

16 Q. Who besides you and Edward Pruim could  
17 have directed CLC to increase its financial  
18 assurance? Who besides you and Edward Pruim could  
19 have made CLC increase its financial assurance?

20 A. Gotten it or made -- I don't  
21 understand.

22 Q. You were the sole shareholders --

23 A. Yes.

24 Q. -- and the sole owners of the company?

0067

1 Who besides the two of you could  
2 have increased the financial assurance for CLC?

3 A. Nobody.

4 Q. Besides you and Edward Pruim as sole  
5 shareholders sole owners of the company, who could  
6 have shut down the landfill as a business decision  
7 and begun a closure?

8 A. EPA, I guess, could have shut it down.

9 Q. Who could have expended the funds to  
10 shut down the landfill and to begin closure of  
11 Parcel B besides you and Edward Pruim?

12 A. The EPA.

13 Q. EPA using state funds, is that what  
14 you're saying?

15 A. The closure fund.

16 Q. So you're saying that besides -- the  
17 only party besides yourself who could close the  
18 landfill, properly close it would be the EPA using  
19 taxpayer money; is that correct?

20 A. Or the City of Morris, too, possibly.  
21 I don't know.

22 MR. GRANT: That's all I've got.

23 HEARING OFFICER HALLORAN: Okay.

24

0068

1 RE-CROSS EXAMINATION

2 By Mr. LaRose

3 Q. Take a look at that last page of 1F?

4 A. Okay.

5 Q. Did anyone ever provide you with any  
6 survey documentation or any empirical evidence that,  
7 in fact, 475,000 cubic yards were above the  
8 permitted height?

9 A. Never. Not even until today.

10 Q. Okay.  
11 HEARING OFFICER HALLORAN: Is that  
12 Exhibit 14F, Mr. LaRose?

13 MR. LAROSE: I'm sorry, it's 1F.  
14 BY MR. LAROSE:

15 Q. And Andrews is saying here on Page 11,  
16 therefore, a total of 475,000 cubic yards may  
17 require disposal in a permitted landfill. Wasn't  
18 there disposal capacity still available below the  
19 permitted elevation on B?

20 A. Yes, there was.

21 Q. So if it was, in fact, over height, it  
22 could have just been pushed down the hill into a  
23 permitted area?

24 A. Yes.

0069

1 Q. I'm going to hand you what's been  
2 marked as Defendant's Exhibit No. 11. That's a  
3 survey report that was commissioned by the State  
4 from a company named Rapier, and their report is  
5 dated August 30th, 2000.

6 If you turn to the second page of  
7 that and look under item number four, if you don't  
8 assume the placement of a 1.5 foot cap, Rapier is  
9 saying that there are 66,589 yards above the  
10 permitted capacity elevation of 580, right?

11 A. Yes.

12 Q. If you assume the cap, they say  
13 there's 96,340 above the permitted elevation, right?

14 A. Correct.

15 Q. So even the government's survey  
16 company in 2000 didn't find 475,000 cubic yards  
17 above the permitted capacity, they found less than  
18 100,000?

19 A. Correct.

20 Q. And when -- regardless of whether the  
21 waste was deposited over the permitted elevation,  
22 when that allegation was made, your understanding is  
23 that Mr. Pelnarsh moved dirt from Parcel B to Parcel  
24 A to use as cover?

0070

1 A. That's correct.

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

3 HEARING OFFICER HALLORAN: Thank you.  
4 Mr. Grant?

5 MR. GRANT: Nothing.

6 HEARING OFFICER HALLORAN: You may  
7 step down, Mr. Pruim. Thank you so much. I  
8 think we'll take a ten-minute break. Thanks.

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

13 HEARING OFFICER HALLORAN: We're back  
14 on the record from a short break. Mr. Grant,  
15 your next witness?

16 MR. GRANT: I call Edward Pruim.

17 (Witness sworn.)  
18 WHEREUPON:  
19 EDWARD PRUIM  
20 called as a witness herein, having been first duly  
21 sworn, was examined and testified as follows:  
22 DIRECT EXAMINATION  
23 By Mr. Grant  
24 Q. Mr. Pruim, would you state your name

0071

1 for the record?  
2 A. My name is Edward H. Pruim.  
3 Q. Where do you reside?  
4 A. I live in Orland Park, Illinois.  
5 Q. And you are the part owner of  
6 Community Landfill Company along with your Brother,  
7 Robert Pruim?  
8 A. That's correct.  
9 Q. And you're the only owners -- the two  
10 of you are the only owners of Community Landfill  
11 Company, correct?  
12 A. That's correct.  
13 Q. And you're the only officers of  
14 Community Landfill Company, correct?  
15 A. Yes.  
16 Q. You were also a part owner of Excel  
17 Disposal?  
18 A. Yes.  
19 Q. Along with Robert Pruim, correct?  
20 A. Correct.  
21 Q. And was Excel Disposal a customer of  
22 Community Landfill Company?  
23 A. Yes, they were.  
24 Q. Excel Disposal is located in

0072

1 Crestwood, Illinois, or was?  
2 A. Was. It's no longer in business.  
3 MR. GRANT: I'm skipping over a lot of  
4 the same questions.

(Brief pause.)

6 BY MR. GRANT:  
7 Q. Just to confirm, in the lease  
8 agreement with the City, both you and Mr. Pruim  
9 personally guaranteed the royalties to the City of  
10 Morris; is that correct?  
11 A. I believe we did. The lease goes back  
12 to, I think, 1982.  
13 Q. And you also, along with Mr. Robert  
14 Pruim, personally guaranteed the Frontier bonds --  
15 surety bonds issued by the Frontier Insurance  
16 Company for financial assurance at the landfill?  
17 A. This was the bonds that we took out in  
18 the late '90s, early 2000?  
19 Q. I think my question is really at any  
20 time did you provide personal guarantees to secure  
21 bonds issued for financial assurance at the  
22 landfill?  
23 A. I believe that's correct. That's



24 required.

0073

1 Q. And during the period from 1990 to  
2 2000 you and Robert Pruim were the only persons  
3 authorized to sign checks for Community Landfill  
4 Company, correct?

5 A. Yes.

6 Q. I will ask same question I asked  
7 Mr. Robert Pruim, which was who arranged for the  
8 customers for the dumping business for Community  
9 Landfill during the period of 1990 to 2000?

10 A. I don't know if anybody specifically  
11 arranged for customers. It was common knowledge in  
12 the industry that we had the landfill open at the  
13 time and the customers would come and dump there.  
14 Maybe some of them called to, you know, arrange to  
15 dump.

16 Q. The same question I asked Mr. Robert  
17 Pruim, are you aware that the Board has found that  
18 Community Landfill Company -- found them in  
19 violation for failure to increase their financial  
20 assurance by July 20th, 1993?

21 A. Yes.

22 Q. Considering that you and Mr. Robert  
23 Pruim are the sole officers and owners of CLC, only  
24 you could have taken action to increase that

0074

1 financial assurance, correct?

2 A. Yes, as officers of Community  
3 Landfill.

4 Q. Can you turn to Exhibit 14D within of  
5 our books? It would be Volume II of the white book.

6 A. What is the exhibit?

7 Q. 14D, as in David. If you can turn to  
8 the last page? You signed this document, didn't  
9 you?

10 A. Yes, I did. It looks like in January  
11 of '95.

12 Q. And as an owner and officer of  
13 Community Landfill Company, you were authorized to  
14 sign this document, correct?

15 A. Yes. It says here I signed as  
16 secretary.

17 Q. Can you turn to the previous page? On  
18 Page 4 it states that on -- that as of January 1,  
19 1995, there was no remaining disposal capacity at  
20 the landfill, correct?

21 A. That's what it states, yes.

22 Q. This was affirmed by your signature on  
23 the next page, correct?

24 A. Yes.

0075

1 Q. Please turn to the next one, it's 14E.  
2 On the fourth page it states that 540,135 cubic  
3 yards of waste were deposited January 1, 1995,  
4 through December 31, 1995, correct?

5 A. Yes.

6 Q. And if you can turn to the next page,  
7 Mr. Robert Pruim signed this document, correct?  
8 A. That's correct.  
9 Q. Mr. Pruim, have you and Mr. Robert  
10 Pruim reserved funds for the closure of Parcel B?  
11 A. At the present time?  
12 Q. Yes.  
13 A. There's a bond that's out there, a  
14 closure fund bond.  
15 Q. Are those the Frontier bonds?  
16 A. Yes.  
17 Q. And you're aware that those bonds have  
18 been deemed noncompliant as financial assurance by  
19 Illinois EPA, correct?  
20 A. It's my understanding, yes.  
21 Q. Aside from the Frontier bonds that are  
22 out there, have you and Robert Pruim reserved any  
23 other money for closure of Parcel B?  
24 A. There are some funds that Frontier is

0076

1 holding. I'm not sure of the exact number.  
2 Q. Aside from that, are there any other  
3 funds that you and Mr. Robert Pruim have reserved  
4 for closure of Parcel B?  
5 A. Not that I'm aware of.  
6 MR. GRANT: That's all I have.  
7 HEARING OFFICER HALLORAN: Thank you,  
8 Mr. Grant. Mr. LaRose.

CROSS EXAMINATION

By Mr. LaRose

10 Q. Let's turn back, Ed, to 14D. You  
11 signed that document as a corporate secretary,  
12 right?  
13  
14 A. Correct.  
15 Q. Nothing in Exhibit 14D says anything  
16 about the elevation or the height at which any waste  
17 was placed, right?  
18 A. I don't see anything here, no.  
19 Q. Look to Page 3. Under the remaining  
20 capacity, Section 5A, there's an asterisk after the  
21 number 264,290; is that right?  
22 A. Yes.  
23 Q. And the asterisk goes down to a  
24 "provided by IEPA"; do you know what that means?

0077

1 A. I assume that number was given to the  
2 engineer when they reported this that that's the  
3 remaining capacity.  
4 Q. Okay. And do you know whether that  
5 was report in the airspace or in gate yards?  
6 A. It's my assumption it's reported in  
7 airspace.  
8 Q. Okay. And what about the amount that  
9 was received at the landfill, the 457,008, is that  
10 waste as received at the gate?  
11 A. There's also two asterisks there and  
12 that's a number that was reported by the operator,

13 which is Community Landfill.

14 Q. And is that gate yards?

15 A. That would be gate yards, yes.

16 Q. And you were taking, at this time on  
17 Parcel B, what type of waste?

18 A. We were taking all permitted waste,  
19 which included C&D, commercial waste, residential  
20 waste.

21 Q. Okay. Are you familiar with the  
22 concept of compaction?

23 A. Yes.

24 Q. What do you know about compaction with  
0078

1 respect to how compaction relates to what comes in  
2 the gate versus what space it takes up in the  
3 landfill?

4 A. It depends on the type of waste that's  
5 accepted. C&D has less compaction because it  
6 contains a lot of bricks and broken concrete and  
7 maybe dirt, where residential could have a  
8 compaction rate as high as 5 to 1 or 6 to 1.

9 Q. And what about like corrugated  
10 cardboard or paper waste?

11 A. That probably would fall in the same  
12 category as residential, maybe 5 to 1.

13 Q. So based on your knowledge of what  
14 they were taking in in 1994 and the compaction  
15 ratio, what do these numbers mean to you on Page 3  
16 of Exhibit 14D?

17 A. Well, if you take a 5 to 1 compaction  
18 ratio on the 457,000, it's less than 100,000 cubic  
19 yards of airspace was used.

20 Q. Do you agree -- strike that.

21 Do you believe that there's still  
22 remaining permitted capacity in Parcel B?

23 A. Yes, I do.

24 Q. Today?

0079

1 A. Yes.

2 Q. And where is it on Parcel B?

3 A. The footprint of the original permit  
4 for Parcel B included an area where the buildings  
5 are and then there's an area that runs between the  
6 buildings and the east slope of the existing  
7 landfill across the whole frontage of the landfill.  
8 I don't know the, you know, square footage or how  
9 many cubic yards, but it's substantial.

10 Q. And do you have an estimate of the  
11 cubic yards that would fit into that area that's  
12 never been filled?

13 A. From my recollection of what I've seen  
14 there, it's probably in the range of 100 to 200,000  
15 yards.

16 Q. You saw -- I'm going to hand you  
17 what's been previously marked and admitted as  
18 Defendant's Exhibit No. 11, which is the survey that  
19 was conducted -- or commissioned by the State by

20 Rapier in 2000. It's a survey of the landfill  
21 capacity.

22 In 2000 Rapier reported that the  
23 depending on whether you put a cap on the landfill  
24 or whether you didn't put a cap on the landfill,

0080  
1 that the amount over the permitted elevation of the  
2 landfill of 580 above sea level ranged between --  
3 what is it on there, like, 66,000 to 98,000? I  
4 don't have if in front of me.

5 A. Yeah. The one number is 66,000 and  
6 the other number would be -- and I don't know the  
7 difference here. I'd have to look at this.

8 Q. What's the other number, though?

9 A. One is with a cap and one is without a  
10 cap. The other number is 96,340.

11 Q. Right. And based on your knowledge of  
12 the available space at the landfill, would there  
13 have been enough space permitted at the landfill to  
14 accommodate any waste in those volumes that was over  
15 height on Parcel B?

16 A. Yeah, I believe there's more than  
17 adequate space there to even handle the 96,000 yard  
18 figure.

19 Q. In addition to that, after you  
20 learned -- strike that.

21 At sometime you learned that the  
22 government was alleging that waste was placed above  
23 elevation of 580?

24 A. Yes, sir.

0081  
1 Q. Did anyone ever supply you with  
2 empirical proof of that?

3 A. I never did see any, no.

4 Q. Regardless of whether it was over 580  
5 or not over 580, do you know anything about whether  
6 dirt was removed from Parcel A and used as cover in  
7 Parcel B?

8 A. Yes, it --

9 Q. I think I said that wrong. Removed  
10 from Parcel B and used as cover in Parcel A?

11 A. Yes, it was.

12 Q. Okay. What do you know about that?

13 A. Well, when this report first came to  
14 us or this violation I recall -- I don't know when  
15 exactly -- we talked to Jim Pelnarsh about it. He  
16 said that he really wasn't aware that he was over,  
17 but he kind of thought of an area that maybe could  
18 be over and he needed fill or he needed cover  
19 material on Parcel A, which we were dumping at the  
20 time on Parcel A.

21 So he said he would move, you  
22 know, a substantial amount of that over as each  
23 day's waste had to be covered.

24 Q. And do you know whether or not he did

0082  
1 that or do you understand that he did that?

2 A. I'm sure he did because I know we  
3 leased a large haul truck to move that material  
4 across.

5 Q. So whether or not the landfill was, in  
6 fact, over height or waste was placed over height, a  
7 significant portion of the top of the landfill was  
8 moved over to the permitted portion on A and used as  
9 daily cover?

10 A. Yes.

11 Q. Did you ever tell JP or anybody that  
12 they should fill Parcel B above the permitted  
13 elevation?

14 A. No.

15 Q. Did you ever authorize JP or anyone to  
16 fill Parcel B above the permitted elevation?

17 A. No.

18 Q. Before you got the notice from the  
19 EPA, did you have any knowledge that anyone was  
20 alleging that Parcel B was filled over the permitted  
21 elevation?

22 A. No, I did not.

23 Q. Same questions with respect to rather  
24 than the elevation, the permitted capacity of the

0083

1 landfill. Did you ever tell JP to take in waste on  
2 B in excess of the permitted capacity?

3 A. No.

4 Q. Did you ever authorize JP or anyone  
5 else to do that?

6 A. No.

7 Q. And prior to allegations being made by  
8 the government, were you aware that even potentially  
9 Parcel B was filled beyond its capacity?

10 A. No. I assumed that we had capacity.  
11 We talked about that area that wasn't filled, so I  
12 figured we had a lot of capacity there.

13 Q. And that area is still not filled  
14 today?

15 A. No, it's not.

16 Q. And you still believe today that that  
17 Parcel B is not beyond its permitted capacity?

18 A. Yes, I do.

19 Q. Let's talk for a second about the  
20 financial assurance. You're not denying that as an  
21 officer of the corporation that you had  
22 responsibility to maintain financial assurance --

23 A. No.

24 Q. -- for the landfill?

0084

1 In fact, that was one of your  
2 primary jobs, right?

3 A. That's correct.

4 Q. And you're accused of not having  
5 proper financial assurance from the period of 1993  
6 to 1996. What was going on with the corporation  
7 financially at that time?

8 A. We were in real bad financial shape at

9 that time.

10 Q. Okay. Was there ever no financial  
11 assurance placed for the landfill?

12 A. No.

13 Q. There was always some?

14 A. There was always some, yes.

15 Q. And over time it needed to either be  
16 increased or supplemented or replaced?

17 A. Correct.

18 Q. You ultimately got that done in 1996,  
19 right --

20 A. That's correct.

21 Q. -- when you got the first Frontier  
22 bond for about a million-four?

23 A. Correct.

24 Q. You paid, for that bond, a premium of  
0085

1 2 percent per year. Was that the going rate at that  
2 time?

3 A. Well, there was a range in what bond  
4 costs were. For a strong company with good  
5 financial statements, it could be as low as  
6 three-quarters to 1 percent. We didn't qualify for  
7 that, so we had to pay 2 percent.

8 Q. Did the fact that you were in any type  
9 of a time crunch to get this done and get it put in  
10 place have anything to do with the rate that you  
11 paid?

12 A. I'm sure it did. The broker that we  
13 were dealing with, we were calling him on a regular  
14 basis and he was aware that we were under some  
15 pressure to get it done and I'm sure he, you know,  
16 relayed that to the people that did the bonding.

17 Q. When you were first notified that the  
18 financial assurance needed to be increased and from  
19 that time until the time that you did it, did you  
20 make any effort whatsoever to obtain substitute  
21 financial assurance?

22 A. Yeah. We worked on it on a constant  
23 basis.

24 Q. You didn't just ignore it?  
0086

1 A. No, absolutely not.

2 Q. And you worked on it on behalf of the  
3 corporation?

4 A. Yes, I did.

5 Q. You didn't do this for your own  
6 account?

7 A. No.

8 Q. Let's talk for a second about the  
9 significant modification application. You're  
10 accused of not filing significant modification  
11 application for the landfill from 1993 to 1996.

12 As an officer of the corporation,  
13 you were involved in that activity, correct?

14 A. Yes.

15 Q. You're not denying that?

16 A. No.  
17 Q. That was part of your responsibility?  
18 A. Yes, it was.  
19 Q. Okay. In 1993 did Community Landfill  
20 Company have any rights with respect to Parcel A?  
21 A. No. The original lease was only for  
22 Parcel B.  
23 Q. And in 1993 what was the status of  
24 your intentions with respect to Parcel A?

0087

1 A. Well, when we first started looking at  
2 the application for the permit -- the modification  
3 permit, we were alerted by the engineer that there  
4 was one permit for the whole landfill and we would  
5 have to get control of Parcel A to apply.

6 Q. Apply for --  
7 A. For a significant modification permit.  
8 Q. Okay. And what did you do in  
9 furtherance of that?

10 A. Well, we approached the City of Morris  
11 and we explained our situation that we had a  
12 deadline to apply and they said they would review  
13 it, which they did, and it took some time.

14 Q. Were you ultimately successful in your  
15 negotiations with the City of Morris to get a lease  
16 on Parcel A?

17 A. Yes.  
18 MR. LAROSE: Mr. Halloran, this isn't  
19 in your book, it's an additional one.

20 BY MR. LAROSE:

21 Q. I'm going to hand you what's been  
22 marked as Exhibit 51, Ed, Defendant's Exhibit 51.

23 A. Okay.  
24 Q. It's a third amendment to the lease

0088

1 agreement by the City of Morris. My question to you  
2 is whether this is the document by which you  
3 obtained a lease agreement on Parcel A with the City  
4 of Morris?

5 A. Yes, it is.  
6 Q. And that became effective  
7 November 14th, 1994, correct?

8 A. Correct.  
9 Q. And that lease agreement was between  
10 the City of Morris and Community Landfill Company,  
11 correct?

12 A. Yes.  
13 Q. It was approved by ordinance -- if you  
14 look in the back, approved by ordinance of the City  
15 of Morris?

16 A. Yes, ordinance 2956.  
17 Q. At that time, November 14th, 1994,  
18 were you prepared to file the SIGMOD?

19 A. Yes.  
20 Q. Had you employed anybody to do so?  
21 A. We employed Andrews Engineering  
22 Company.

23 Q. What happened then?  
24 A. Well, they proceeded after we were  
0089  
1 given the go-ahead on this lease.  
2 Q. And what happened to the application?  
3 A. I'm not sure of the time frame, but he  
4 did all the preparations and submitted it to the  
5 EPA.  
6 Q. And what did they say?  
7 A. They rejected it because we were --  
8 didn't have it submitted at a given time.  
9 Q. And what did they tell you you had to  
10 do?  
11 A. We had to file for a variance with the  
12 Pollution Control Board.  
13 Q. So instead of them accepting the  
14 SIGMOD and processing it, you were required to file  
15 for a variance. Did you, in fact, do that?  
16 A. Yes, we did.  
17 Q. And took it to the Pollution Control  
18 Board?  
19 A. Yes.  
20 Q. And what happened at the Pollution  
21 Control Board level?  
22 A. They ruled with the EPA against us on  
23 this matter.  
24 Q. That it was late so you couldn't file  
0090  
1 the SIGMOD?  
2 A. That's correct.  
3 Q. What did you do then?  
4 A. We proceeded to the Appellate Court.  
5 Q. And what happened there?  
6 A. The Appellate Court ruled in our  
7 favor.  
8 Q. That you were able to file SIGMOD?  
9 A. Right.  
10 Q. And you ultimately did on August 5th,  
11 1996?  
12 A. The court directed the EPA to accept  
13 our application.  
14 Q. Okay. The EPA now says that for the  
15 period that you didn't file this application, that  
16 they want a \$44,000 penalty plus interest, and I  
17 think the number is somewhere in the \$70,000 range.  
18 You were trying to file this on a  
19 timely basis as soon as you possibly could, right?  
20 A. Yes. And we did.  
21 Q. Did you -- when you were ready to file  
22 this document, were you also ready to do the things  
23 necessary that the permit required, the testing and  
24 the monitoring and the things that they now say you  
0091  
1 saved the money on?  
2 A. Yes.  
3 Q. Did you save money the way things  
4 turned out?



5 A. No. It actually cost us substantially  
6 more with engineering costs and, you know, legal  
7 fees.

8 Q. How much more?

9 A. I don't have an exact number. I would  
10 guess somewhere in the range between 100 and  
11 \$150,000.

12 Q. So instead of spending money on  
13 environmental controls that you were willing to do  
14 because the EPA rejected the application, you spent  
15 \$150,000 on lawyers and engineers?

16 A. That's correct.

17 Q. And then once you got the permit, you  
18 did the things that the permit required you to do?

19 A. Correct.

20 MR. LAROSE: Mr. Halloran, just so we  
21 don't forget, I would move Exhibit 51 into  
22 evidence.

23 HEARING OFFICER HALLORAN: Mr. Grant?

24 MR. GRANT: No objection.

0092

1 HEARING OFFICER HALLORAN:

2 Respondent's Exhibit No. 51 is admitted.

3 BY MR. LAROSE:

4 Q. Mr. Pruiim, when the case first  
5 started -- I think you had black hair and I was  
6 skinny -- 12 years ago, it was a case against  
7 Community Landfill Company. But later on in 2004  
8 the government made allegations against you and your  
9 brother, Bob, personally; do you understand that?

10 A. Yes.

11 Q. Okay. And the allegations made  
12 against you personally were really a mirror image of  
13 the allegations made against CLC, but in addition to  
14 trying to hold the corporation responsible, they  
15 were trying to hold you and your brother personally  
16 responsible; did you understand that?

17 A. Yes.

18 Q. Okay. That case is PCB 04-207. I'm  
19 going to take you down the counts of that case and  
20 ask you questions with respect to your personal  
21 involvement of each of the counts, okay?

22 A. Okay.

23 Q. In Count I the government alleges the  
24 failure to adequately manage refuse and litter and

0093

1 specific acts that they say substantiates those  
2 allegations.

3 What, if any, direct and personal  
4 involvement did you have in the acts alleged in  
5 Count I?

6 A. None.

7 MR. GRANT: Let me just, for the  
8 record, enter my objection to these questions  
9 as I did in Robert Pruiim's testimony.

10 HEARING OFFICER HALLORAN: Okay.

11 Thank you. My ruling stands the same as it

12 was under Robert Pruim. But the transcript  
13 will note your objection. Mr. LaRose.

14 BY MR. LAROSE:

15 Q. Sir?

16 A. None.

17 Q. Count II alleges the failure to  
18 prevent or control leachate and acts that the  
19 government says substantiate those allegations.

20 What, if any, direct and personal  
21 involvement did you have in the acts alleged in  
22 Count II?

23 A. None.

24 Q. Count III alleges the failure to

0094

1 properly dispose of landscape waste at the landfill  
2 and alleges specific acts.

3 What, if any, personal and direct  
4 involvement did you have in the acts alleged in  
5 Count III of the complaint?

6 A. None.

7 Q. By the way, just as a general matter,  
8 who was responsible from 1983 to the present for the  
9 day-to-day decisions and operation of the Morris  
10 Community Landfill?

11 A. It was the site manager, Jim Pelnarsh.

12 Q. And he was a certified landfill  
13 operator by the state of Illinois?

14 A. Yes.

15 Q. And you relied on him to make  
16 decisions with respect to the day-to-day management  
17 of the site, correct?

18 A. Yes.

19 Q. Decisions with respect to where to  
20 place waste, how to place waste, decisions with  
21 respect to compliance with the regulations?

22 A. Yes. He was the expert.

23 Q. Okay. Count IV alleges the failure to  
24 provide and maintain adequate financial assurance

0095

1 from 1993 to 1996. We just talked about that a  
2 second ago, right?

3 A. Correct.

4 Q. You're not denying that on behalf of  
5 the corporation you didn't have involvement in that,  
6 right?

7 A. No, I'm not denying.

8 Q. But the testimony that you gave a  
9 minute ago with respect to this count, that was  
10 actions that you took on behalf of the corporation  
11 rather than on behalf of yourself personally, right?

12 A. Yes, as an officer of the corporation.

13 Q. Okay. Count V alleges the failure to  
14 timely file the required application for significant  
15 modification. We just talked about that in the last  
16 four or five minutes, right?

17 A. Yes.

18 Q. And you don't deny that you were

19 involved in the decisions regarding Parcel A and the  
20 lease and when to file the SIGMOD and the legal  
21 matters that flowed from there, right?

22 A. Yes, I was involved in that --

23 Q. But --

24 A. -- as an officer of the company.

0096

1 Q. And not on behalf of yourself  
2 personally?

3 A. Correct.

4 Q. Count VI alleges water pollution and  
5 specific acts alleged therein.

6 What, if any, direct and personal  
7 involvement did you have in any of the acts alleged  
8 in Count VI?

9 A. None.

10 Q. Count VII alleges -- VII, VIII, IX and  
11 X are all related to the overheight.

12 MR. LAROSE: Excuse me one second.  
13 (Brief pause.)

14 BY MR. LAROSE:

15 Q. Counts VII, VIII, IX and X are all  
16 variations of kind of the same thing, they all  
17 relate to either filling the landfill above the  
18 permitted elevation or filling the landfill beyond  
19 its permitted capacity.

20 Count VIII is for the disposition  
21 of waste in an unpermitted portion of the landfill  
22 over the permitted elevation and alleges specific  
23 actions.

24 Did I say VIII? I mean Count VII.

0097

1 Let's start again.

2 Count VII alleges disposition of  
3 waste in an unpermitted portion of the landfill and  
4 makes specific allegations and alleges specific  
5 acts.

6 What, if any, direct and personal  
7 involvement did you have in any of the allegations  
8 of Count VII?

9 A. None personally.

10 Q. Count VIII alleges conducting a waste  
11 disposal operation without a permit. In other  
12 words, they're saying since you were either beyond  
13 or above the permitted area, the waste disposal was  
14 without a permit and alleges specific acts.

15 What, if any, direct and personal  
16 involvement did you have in the allegations of Count  
17 VIII?

18 A. None.

19 Q. Count IX alleges open dumping on the  
20 theory that since it was outside the permitted area,  
21 it wasn't permitted dumping, therefore, it was open  
22 dumping. It alleges specific acts.

23 What, if any, direct and personal  
24 involvement did you have in any of the acts alleged

0098

1 in Count IX?  
2 A. None personally.  
3 Q. Count X, a violation of standard  
4 condition number three alleges various acts with  
5 respect to either, again, the overheight or over  
6 fill of Parcel B.  
7 What, if any, direct and personal  
8 involvement did you have in any of the allegations  
9 of Count X?  
10 A. None.  
11 Q. Count XII alleges improper disposal of  
12 used tires.  
13 What, if any, personal involvement  
14 and direct involvement did you have in the  
15 allegations and acts alleged in the Count XII?  
16 A. None.  
17 Q. Count XVII alleges the failure to  
18 provide and maintain adequate financial assurance  
19 pursuant to the October 1996 gas collection permit.  
20 You were here when your brother testified about  
21 that; do you remember that testimony?  
22 A. Yes.  
23 Q. Did you hear his testimony with  
24 respect to KMS and understanding them to be  
0099 responsible for this?  
1 A. Yes, I did.  
2 Q. Do you agree with the testimony you  
3 heard?  
4 A. Yes.  
5 Q. So we don't have to rehash it?  
6 A. Yes, I do.  
7 Q. So what, if any, personal and direct  
8 involvement did you have in the allegations of  
9 Count VXII of the complaint?  
10 A. I was not involved in that at all  
11 personally.  
12 Q. So the answer would be none?  
13 A. Yes.  
14 Q. Finally, Count XIX, the failure to  
15 provide a revised cost estimate by December 26th,  
16 1994, what, if any, personal and direct involvement  
17 did you have in that?  
18 A. None.  
19 Q. When you signed any of the solid waste  
20 certifications to the government, did you understand  
21 that you were certifying at any time that there was  
22 no space left in Parcel B?  
23 A. No. I believed there was space left  
0100 in Parcel B.  
1 Q. Okay. And that's not something you're  
2 just making up today for the hearing? Ever since  
3 Parcel B closed you've believed that there was space  
4 left in Parcel B?  
5 A. Yes. I discussed it many times.  
6 Q. Eventually -- and, actually, the next  
7

8 year after the ones that the government showed you,  
9 Exhibit 14F, which is the solid waste capacity  
10 report for the year 1996, the remaining life of the  
11 landfill was adjusted, it included both Parcels A  
12 and B for a number of over 1.74 million cubic yards?

13 A. That's correct.

14 Q. Okay. And that document was signed by  
15 your brother?

16 A. Yes, it was.

17 Q. As president of Community Landfill  
18 Company?

19 A. Yes, it was.

20 MR. LAROSE: One second.

21 (Brief pause.)

22 MR. LAROSE: That's all we have,  
23 Mr. Halloran.

24 HEARING OFFICER HALLORAN: Thank you,

0101

1 Mr. LaRose. Mr. Grant, your witness.

2 MR. GRANT: Thank you.

3 REDIRECT EXAMINATION

4 By Mr. Grant

5 Q. Mr. Pruiam, I want to ask you some  
6 questions about the late filed SIGMOD application.  
7 That permit application was for the purpose of  
8 continuing to operate the landfill, correct, after a  
9 certain date in the 1990s?

10 A. Yeah. And I believed that would be to  
11 expand into -- our lease brought us back into Parcel  
12 A, which we never had. That was also included in  
13 the permit application.

14 Q. I understand. But as of 1993 you were  
15 required to either file a SIGMOD application or to  
16 shut the landfill down, correct?

17 A. Yes, we were.

18 Q. And you decided to continue operations  
19 and to file the SIGMOD application, correct?

20 A. Yes.

21 Q. And, eventually, you were granted a  
22 SIGMOD in 2000, correct?

23 A. Yes.

24 Q. Now it wasn't one permit, there were

0102

1 actually two permits that were granted, correct?

2 A. I really can't answer that.

3 Q. You're not aware that there's a  
4 separate permit for Parcel A and a separate permit  
5 for Parcel B?

6 A. I'm not sure. I don't want to answer  
7 that. I'm not sure.

8 Q. I believe -- I don't want to  
9 misrepresent what you said, but I believe that you  
10 said that you were told that you had to file a  
11 permit for the entire landfill in 1993 and that was  
12 the reason why you couldn't file it until 1996,  
13 correct, or at least until later on?

14 A. If I recall right, that's what

15 happened, yes.

16 Q. But, in fact, you ended up getting --  
17 you stated you don't know, but are you aware that  
18 there are two separate permits currently at the  
19 landfill, one for Parcel A and one for Parcel B?

20 A. I'm not aware of that, no.

21 Q. You stated that once the permit was  
22 issued in 1996 you followed all the conditions of  
23 the permit, correct?

24 A. Yes.

0103

1 Q. Isn't it true that after 1996 the  
2 permit required you to, again, increase your  
3 financial assurance up to a million-four something  
4 and that CLC failed to do so?

5 A. We did have a bond in place for the  
6 closure fund of a million-four.

7 Q. I think this is an area where we've  
8 got summary judgment on it, but the bond that you  
9 put forward in 1996 was for a 1,342,500 I think is  
10 the number, but it was a million-three something,  
11 correct?

12 A. I don't know the exact number, no.

13 Q. Okay. Well, I'll tell you. Let's  
14 take a look at it.

15 MR. GRANT: This will take a second.  
16 (Brief pause.)

17 BY MR. GRANT:

18 Q. Can you look in the white book for  
19 Exhibit No. 9, please?

20 A. The book I was looking at?

21 Q. These are our exhibits, yeah.

22 MS. VAN WIE: Volume I.

23 THE WITNESS: Okay.

24

0104

1 BY MR. GRANT:

2 Q. If you can turn to Exhibit 9? Do you  
3 see the second page, just looking for the amount  
4 here?

5 A. Yes.

6 Q. Okay. It's a 1,342,500, correct?

7 A. That's what it says here, yeah.

8 Q. Are you aware that the permit that was  
9 issued in 1996 required CLC to upgrade the financial  
10 assurance to a million-four something? Is it your  
11 statement today that you did, in fact, do that as  
12 required by the permit?

13 A. Well, again, I'm not sure on the exact  
14 numbers. It was my belief that we met the  
15 requirements.

16 Q. Okay. You stated that you believed  
17 that Parcel B -- despite our arguments, that Parcel  
18 B still has waste disposal capacity, correct?

19 A. Yes.

20 Q. Are you saying that, in fact, that  
21 475,000 cubic yard figure is not correct as far as

22 overheight? In other words, for example, the  
23 April 30th, 1997 permit where Andrews discusses  
24 relocation of the waste, they use the term 475,000

0105

1 cubic yards; do you recall that?

2 A. I recall something to that.

3 Q. Are you saying that, in fact, that  
4 number is wrong and there was not 475,000 cubic  
5 yards overheight as of that date, which would have  
6 been in 1997?

7 A. I don't believe it was correct.

8 Q. Okay. When you filed your SIGMOD  
9 application, the second one that resulted in the  
10 existing permits, didn't you agree to reserve  
11 475,000 cubic yards of capacity in Parcel A for  
12 movement of that waste?

13 A. I don't recall.

14 Q. Didn't you also indicate that you were  
15 considering the option of applying for a local  
16 siting of the overheight, wasn't that in your permit  
17 application?

18 A. There was some discussion. I don't  
19 know if it was in a permit application.

20 Q. After 1997 did CLC ever submit an  
21 application for local siting of that 475,000 cubic  
22 yard overheight?

23 A. I don't believe we did, no.

24 Q. You were involved in providing or

0106

1 arranging for the financial assurance for the 2000  
2 permit application, correct?

3 A. Yes, to some extent.

4 Q. That was approximately -- the  
5 requirement at that time was approximately \$17.4  
6 million, correct?

7 A. That could be correct.

8 Q. Wasn't \$950,000 of that amount for  
9 waste relocation of 475,000 cubic yards from Parcel  
10 B to Parcel A?

11 A. I don't know.

12 Q. Mr. LaRose showed you the Rapier  
13 survey, the survey that was performed -- I don't  
14 know who did it, but it was by either Illinois EPA  
15 or the Attorney General's Office that showed a lower  
16 amount overheight; do you recall seeing that?

17 A. Yes. That's what we discussed a  
18 little while ago.

19 Q. Are you aware that the Attorney  
20 General's Office requested additional information  
21 from CLC through Mr. LaRose for specific data so  
22 that it could do a more accurate survey?

23 MR. LAROSE: Objection, that  
24 mischaracterizes the facts of the case,

0107

1 assumes facts not in evidence.

2 HEARING OFFICER HALLORAN: Mr. Grant?

3 MR. GRANT: I'm asking if he's aware

4 of that.  
5 MR. LAROSE: You can ask him if he was  
6 aware that the moon's made out of Swiss  
7 cheese, too. But that didn't happen, what  
8 you just said.  
9 MR. GRANT: Are you saying that he  
10 never received a letter --  
11 MR. LAROSE: No.  
12 MR. GRANT: -- requesting additional  
13 information?  
14 MR. LAROSE: I'm saying what you asked  
15 him did not occur and it's a  
16 mischaracterization.  
17 HEARING OFFICER HALLORAN: Could you  
18 rephrase that, Mr. Grant?  
19 MR. GRANT: He's not on the stand.  
20 Maybe we ought to have --  
21 MR. LAROSE: I did make an objection.  
22 HEARING OFFICER HALLORAN: Excuse me.  
23 Mr. Grant, could you rephrase that and I'll  
24 see what happens next?

0108

1 BY MR. GRANT:  
2 Q. Are you aware that after that survey  
3 was done the Attorney General's Office notified CLC  
4 through its attorney, Mark LaRose, that it needed  
5 additional information to do a more accurate  
6 calculation?  
7 A. Did you state who did the survey?  
8 It's nothing we commissioned correct.  
9 Q. No. We've got it. I think it's been  
10 admitted. If you want, you can take a look at it.  
11 (Document tendered to the  
12 witness.)  
13 THE WITNESS: Okay. I've read it.  
14 BY MR. GRANT:  
15 Q. Do you remember my question?  
16 A. No. Clarify something for me, though,  
17 you said that the State or this engineering company  
18 asked for more information?  
19 Q. No. My question was are you aware  
20 that the Attorney General's Office asked for  
21 information from CLC through its attorney, Mark  
22 LaRose, that would allow the State to come up with a  
23 more accurate calculation?  
24 A. So what you're saying is --

0109

1 MR. LAROSE: Same objection,  
2 Mr. Hearing Officer. That's not an accurate  
3 statement of what happened and assumes facts  
4 not in evidence.  
5 HEARING OFFICER HALLORAN: I'll allow  
6 Mr. Pruim to answer, if he's able.  
7 BY THE WITNESS:  
8 A. So what you're saying is this report  
9 is not accurate because they didn't have  
10 information?



11 BY MR. GRANT:

12 Q. That's where I'm trying to go with it,  
13 obviously. But just basically --

14 A. Why would their -- you know, they're  
15 an engineering company, why would they put something  
16 like this out if it's not accurate?

17 Q. That's a very good question,  
18 Mr. Pruim.

19 A. Yeah.

20 Q. I will say that I was not involved in  
21 the case at the time. I was blissfully unaware of  
22 this landfill at the time that that was done.

23 So my question is merely whether  
24 you were aware or not that the Attorney General

0110  
1 asked CLC for additional information after that?

2 A. The Attorney General or the  
3 engineering company?

4 Q. Actually, the Attorney General asked  
5 for it.

6 A. So the Attorney General is saying that  
7 the engineering company didn't do a good job and  
8 they needed more information to do a better job?

9 Q. My understanding is the engineering  
10 company -- just to give you background on it, and  
11 this is my understanding, the engineering company  
12 said here's what we've got but we had to make some  
13 assumptions, can you see if you can get more  
14 information from these people and we'll do a more  
15 accurate job. That's my understanding of it.

16 A. I still have a problem with the  
17 question. What information is Mark LaRose going to  
18 give the engineering company? They go out there  
19 with their equipment to check elevations. Are they  
20 going to drag Mark out there to have him hold a  
21 stick?

22 Q. No. My question was were you aware  
23 that there was a request to CLC for more  
24 information?

0111  
1 A. I'm not aware of that, no.

2 Q. Okay.

3 A. We finally got to your answer.

4 Q. Your question about the surveyor and  
5 the engineers I think is very apt.

6 A. Yeah.

7 Q. Since, say, 1997 has CLC ever  
8 performed an engineering survey of Parcel B of the  
9 landfill to determine, you know, if the overheight,  
10 in fact, does not exist?

11 A. I don't believe CLC did. I don't  
12 believe anybody did an engineering -- I've never  
13 seen an accurate engineering number on the  
14 overheight where somebody went out and certified  
15 that they're actually is an overheight.

16 Q. Well, since the 1996 permit  
17 application, has CLC performed an overheight

18 evaluation or a survey of Parcel B to determine if  
19 there, in fact, is overheight?  
20 A. No.  
21 MR. GRANT: That's all I have.  
22 HEARING OFFICER HALLORAN: Mr. LaRose.  
23  
24

0112

1 RE CROSS EXAMINATION

2 By Mr. LaRose

3 Q. Mr. Pruim, Mr. Grant was kicking  
4 around the number of 475,000 cubic yards and an  
5 agreement to reserve disposal capacity. When you  
6 did the agreement to reserve the disposal capacity  
7 to move up to 475,000 cubic yards from Parcel B to  
8 Parcel A, at that time were you trying to get the  
9 SIGMOD permit?  
10 A. Yes.  
11 Q. You had been fighting for it since  
12 1994?  
13 A. Yes. There was about a three-year  
14 battle we went through.  
15 Q. A three-year battle just to get it  
16 filed?  
17 A. Right.  
18 Q. And then another three-year battle for  
19 it to get granted?  
20 A. Correct.  
21 Q. Was your agreement with them to  
22 reserve capacity of up to 475,000 cubic yards?  
23 A. Something. I'm not sure of the  
24 number.

0113

1 Q. And it was an agreement to move up to  
2 475,000 cubic yards if, in fact, any of it needed to  
3 be moved, right?  
4 A. Yes. Again, we go back to the issue  
5 of capacity in Parcel B. There was capacity there.  
6 And the numbers are all over the board what the  
7 overheight is, if any. We talked about  
8 400-something thousand.  
9 The report that the Attorney  
10 General has, we talked about 60 to 90,000. So  
11 nobody has ever come up and shown me an accurate  
12 number.  
13 Q. In addition to that, by spending your  
14 own money and not any of CLC's own money and not any  
15 financial assurance money, JP moved some stuff  
16 across the street, moved some soil from B to A?  
17 A. Yes, he did. I don't know how much,  
18 but I know it was substantial. He had the machine  
19 running for quite some time.  
20 Q. The bonds that Mr. Grant talked about,  
21 the \$17.4 million worth of Frontier bonds that  
22 you -- CLC took out to support the SIGMOD  
23 application in 2000, didn't the government accept  
24 those and then just turn around and reject them

0114

1 nine months later after --

2 MR. GRANT: I'm going to object to  
3 this on the basis of relevance. This really  
4 gets into the case we've already done.

5 MR. LAROSE: Excuse me, he asked him  
6 the question about whether those -- whether  
7 he has present financial assurance and  
8 whether those bonds were rejected by the EPA  
9 as noncompliant.

10 HEARING OFFICER HALLORAN: I agree.  
11 He may answer, if he's able.

12 BY MR. LAROSE:

13 Q. Didn't they just turn around and  
14 reject them nine months later after they told us  
15 they were okay when we got the permit?

16 A. Yeah. We submitted the bonds, they  
17 accepted them. And I'm not sure of the nine-month  
18 period, but it was a short time after they were  
19 submitted.

20 Q. And the bonds were rejected as part of  
21 an application to open a new cell to put in a C&D,  
22 right?

23 A. That's correct.

24 Q. And as a result of that rejection,

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1 Community Landfill was -- at least until the appeals  
2 were done, was not allowed to take C&D after that?

3 A. No. We had spent the money on this  
4 cell, preparing the cell, engineers certified  
5 compaction and everything. And then we couldn't  
6 open the cell, so it virtually put us out of  
7 business.

8 Q. Mr. Grant asked you whether there was  
9 financial assurance and you said that there was some  
10 money with Frontier, but haven't you been notified  
11 by Frontier that the government has made claims  
12 against the very bonds that they said were not  
13 compliant with the regulations?

14 A. Yes, we have been notified.

15 Q. And Frontier has told you that  
16 Mr. Grant has filed a lawsuit in the state of New  
17 York against Frontier to collect the very  
18 \$17 million that he now states isn't in financial  
19 assurance or that the government rejected as  
20 compliant financial assurance?

21 A. Yes.

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

23 HEARING OFFICER HALLORAN: Thank you.  
24 Mr. Grant?

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1 MR. GRANT: Nothing further.

2 HEARING OFFICER HALLORAN: You may  
3 step down. Thank you so much.

4 It's my understanding that there  
5 was overlapping witnesses, specifically  
6 Mr. James Pelnarsh -- and by the way, that's

7 a/k/a JP to make the record clear -- Robert  
8 Pruim and Edward Pruim. It's my  
9 understanding then that both parties have  
10 rested in their case in chief.

11 MR. GRANT: I have one more matter. I  
12 have some documents that I want to put in as  
13 an offer of proof. These are the documents  
14 that we were going to seek to put it in in  
15 rebuttal. I think we mentioned it in our  
16 motion in limine and your ruling on the  
17 motion in limine was you denied any reference  
18 to that 1993 criminal case.

19 These are certified copies of  
20 federal records relating to the subject  
21 matter of what was in my motion and what our  
22 intention was. I want to put them in the  
23 record as an offer of proof.

24 HEARING OFFICER HALLORAN: Again,

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1 Mr. Grant is correct. I denied the motion in  
2 limine.

3 MR. GRANT: It was motion in limine  
4 number one, I think.

5 HEARING OFFICER HALLORAN: Right.

6 Okay. I granted that, actually.

7 MR. GRANT: Correct.

8 HEARING OFFICER HALLORAN: Mr. LaRose,  
9 comments for the record?

10 MR. LAROSE: No. We don't have any  
11 objection to the offer of proof. I just want  
12 to make sure what documents we're talking  
13 about. We want to make sure that his package  
14 is the same as our package.

15 HEARING OFFICER HALLORAN: Let's go  
16 off the record momentarily. Before we do,  
17 Mr. Grant, were you going to put on any  
18 rebuttal?

19 MR. GRANT: No rebuttal.

20 HEARING OFFICER HALLORAN: Okay. And  
21 any closing arguments or are you going to  
22 reserve those for post-hearing brief?

23 MR. GRANT: We'll reserve those. We  
24 do have a couple of exhibits that we haven't

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1 formally put into evidence and we'd like to  
2 move into evidence.

3 MR. LAROSE: I think it would be a  
4 good time maybe to take ten just so we can  
5 get together with the State and make sure  
6 we've got all of our exhibits in that need to  
7 be in and all of them in your possession. I  
8 might make a five-minute closing statement.

9 HEARING OFFICER HALLORAN: Okay.  
10 We're off the record.

11 (Whereupon, after a short  
12 break was had, the  
13 following proceedings

14 were held accordingly.)  
15 HEARING OFFICER HALLORAN: We're back  
16 on the record. We've talked about a number  
17 of things. While my memory is still fresh,  
18 let me get this out of the way. We talked  
19 about the post-hearing brief. We figure the  
20 transcript will be ready online by  
21 December 16th, 2008.

22 We've established by agreement the  
23 Complainant's post-hearing brief is due  
24 February 6th, 2009, the Respondent's opening

0119

1 brief is due April 6th, 2009, and  
2 Complainant's reply, if any, is due April  
3 20th, 2009.

4 Again, the State and the  
5 Respondent have rested their case in chief.  
6 The Complainant represents that there will be  
7 no rebuttal. And I believe that Mr. Grant is  
8 going to introduce something or I'm going to  
9 take as an offer of proof.

10 MR. GRANT: Mr. Halloran, I have what  
11 I've marked as Complainant's Exhibit 27 that  
12 I would like to enter as an offer of proof.  
13 It relates to the motion in limine number  
14 one, which you granted.

15 HEARING OFFICER HALLORAN: And,  
16 Mr. LaRose, I think you've already stated  
17 your position on the record.

18 MR. LAROSE: Yes. As long as it's an  
19 offer of proof, that's fine.

20 HEARING OFFICER HALLORAN: Okay. I'll  
21 take it with the case as an offer of proof,  
22 complainant Exhibit 27.

23 I think Mr. LaRose wants to give a  
24 closing, but I have -- just for

0120

1 administrative purposes, I have a list of all  
2 the exhibits that were admitted into  
3 evidence. They're out of order, so if you  
4 could check your records, I'll read them slow  
5 to make sure that I have them all.

6 Complainant's Exhibit 1A,  
7 Complainant's Exhibit 2A, Complainant's  
8 Exhibit 1C, Complainant's Exhibit 2B,  
9 Complainant's Exhibit 1E, Complainant's  
10 Exhibit 1F, Complainant's Exhibit 2C,  
11 Complainant's Exhibit N, as in Nancy, 18,  
12 Complainant's Exhibit --

13 MS. CUTLER: I don't think that was 18  
14 in. I think that was 13.

15 MS. VAN WIE: I think it was 18.

16 HEARING OFFICER HALLORAN: I already  
17 have 13. I have 18 and 19 where they were  
18 both N as in Nancy.

19 MS. VAN WIE: There is no lettering.

20 MR. GRANT: Those are the two reports,

21 one was Chris Roque's calculation.  
22 MS. CUTLER: He said 18N.  
23 MS. VAN WIE: Just 18.  
24 HEARING OFFICER HALLORAN: Just 18.

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1 Okay. Complainant's Exhibit 7, Complainant's  
2 Exhibit 8, Complainant's Exhibit 9,  
3 Complainant's Exhibit 26, Complainant's  
4 Exhibit 17, Complainant's Exhibit 13L, 13M,  
5 as in Mary, 13N, as in Nancy, and 13O, as in  
6 Otis.

7 We also have Complainant's  
8 Exhibit 14C, 14D, as in dog, 14E and I also  
9 took as an offer of proof Complainant's  
10 Exhibit 27.

11 MS. VAN WIE: Was there Exhibit 19 on  
12 that list?

13 HEARING OFFICER HALLORAN: I  
14 just spent -- that's what we were talking  
15 about. I had Exhibits 18 and 19 and it  
16 appeared that both of you said, no, there was  
17 no 19.

18 MS. VAN WIE: There is no N. There is  
19 Exhibit 18 and there is Exhibit 19, but there  
20 is no alphabetical for either of those  
21 exhibits.

22 HEARING OFFICER HALLORAN: Right.

23 MS. VAN WIE: I just wanted to make  
24 sure.

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1 HEARING OFFICER HALLORAN: So now it's  
2 19 again, 18 and 19?

3 MS. VAN WIE: 18 and 19.

4 MS. CUTLER: Mr. Halloran, we also --  
5 I think we moved Exhibit 14F of Complainant's  
6 into evidence.

7 HEARING OFFICER HALLORAN: 14F?

8 MR. GRANT: No objection.

9 HEARING OFFICER HALLORAN: That was  
10 the Respondent's exhibit?

11 MS. CUTLER: No, it was the  
12 Complainant's exhibit, but we used it.

13 HEARING OFFICER HALLORAN: Okay, 14F.

14 MS. CUTLER: Do you need a copy of  
15 that?

16 HEARING OFFICER HALLORAN: It's in  
17 here?

18 MR. GRANT: Yeah.

19 HEARING OFFICER HALLORAN: Onto the  
20 Respondent's exhibits, I sound like a bingo  
21 caller, but Respondent's Exhibit 11,  
22 Respondent's Exhibit 43, Respondent's  
23 Exhibit 45, Respondent's Exhibit 46,  
24 Respondent's Exhibit 47, Respondent's

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1 Exhibit 48, Respondent's Exhibit 49,  
2 Respondent's Exhibit 33, Respondent's

3 Exhibit 34, Respondent's Exhibit 35,  
4 Respondent's Exhibit 37, Respondent's  
5 Exhibit 51, I took Respondent's Exhibit 50 as  
6 an offer of proof, and we also have  
7 Respondent's Exhibit 9.

8 MS. CUTLER: And also Respondent's  
9 Exhibit 36.

10 MR. GRANT: Which one was that,  
11 Clarissa?

12 MS. CUTLER: That's Warren Weritz's  
13 deposition transcript.

14 MR. GRANT: Okay.

15 HEARING OFFICER HALLORAN: Okay. That  
16 is admitted without objection, if it wasn't  
17 before. So Respondent's Exhibit 36, as well.  
18 Is that it, Ms. Cutler?

19 MS. CUTLER: Yes.

20 HEARING OFFICER HALLORAN: Okay.  
21 We're done with the administrative work.

22 Mr. LaRose, you want to give a  
23 closing?

24 MR. LAROSE: Very briefly,

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1 Mr. Halloran. We're going to expound on the  
2 arguments, obviously, in the post-hearing  
3 briefs, but there's really three things that  
4 the Board needs to consider.

5 First and foremost is that every  
6 count of the '04 complaint with respect to  
7 liability against Edward and Robert Pruim  
8 individually, I think the evidence in this  
9 case was not only inadequate to establish  
10 personal liability but woefully so not a  
11 single witness identified any direct  
12 involvement of Edward and Robert Pruim in any  
13 of the acts alleged in the complaint.

14 You know, if this is the type of  
15 exposure that corporate representatives could  
16 expect just by doing their job, then you're  
17 not going to get people to work for waste  
18 disposal companies or companies that could be  
19 charged with environmental crimes because the  
20 only evidence is that the limited involvement  
21 that these owners had were on behalf of the  
22 company and they were doing their job.

23 With respect to the counts in the  
24 complaint that are still at stake -- well,

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1 let me back up.

2 So I guess in sum, the entire  
3 complaint against Robert and Edward Pruim,  
4 the Board ought to rule that every single  
5 count in their favor on the '04 complaint.

6 On the original '97 complaint,  
7 those counts that are still at stake against  
8 CLC, I don't think the government has met  
9 their burden. A particular example would be

10 the water pollution count where Warren Weritz  
11 admitted honestly that he never saw any  
12 leachate, if in fact it was leachate, leave  
13 the site. He's relying on the site operator  
14 to tell him that it gets to river. No  
15 samples were taken. I just don't think this  
16 is the type of evidence that can sustain that  
17 type of violation.

18 There is a definition of water  
19 pollution in the Environmental Protection Act  
20 and I think there has to be some proof that  
21 that definition was met by the actual facts  
22 of the case.

23 Same thing with blowing litter and  
24 leachate seeps. The operators have until the

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1 end of the day to fix those and no evidence  
2 except the inspectors' claims that somebody  
3 told them it wasn't being picked up, but no  
4 evidence that it wasn't.

5 Kind of he said/she said in  
6 running the gas collection system. And all  
7 in all, I think the government has the burden  
8 of proof in this case and I don't think they  
9 proved any of the allegations that are still  
10 at risk.

11 And then, finally, the third thing  
12 is for those counts that the government --  
13 that the Pollution Control Board has already  
14 found in favor of the Complainant and for  
15 which penalty was at stake for Community  
16 Landfill Company, I think these penalties for  
17 the types of things that even the Board found  
18 have been out there, the penalties that they  
19 seek are absolutely astronomical.

20 I think the application of any  
21 interest to the economic benefit is  
22 inappropriate. I think the base numbers that  
23 were used to effect the ultimate  
24 calculations -- you know, they want \$1.4

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1 million in economic benefit alone. This  
2 company didn't take this money and stash it  
3 away. There's no pot of gold that anybody  
4 made by any of these allegations.

5 There's a long history of permits  
6 and lawsuits and fights and battles just to  
7 get stuff done. And I think, you know,  
8 further adding more economic burden to this  
9 company by the way of penalty is just in some  
10 way adding more insult to the injury that's  
11 already occurred.

12 And I ask the Board to be  
13 compassionate, if it will, in its application  
14 of penalties in this case. And if not  
15 compassionate, at least objective and look at  
16 the facts of the case and look at the



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specific calculations that were made.  
We have an auditor who didn't  
conduct any auditing. He did four or five  
mathematical calculations that any one of us  
could do here with a calculator and came up  
with a \$1.4 million figure. Quite frankly, I  
think that's astronomical and outrageous.  
So I would ask the Board upon the

briefing of the case to relieve Robert Pruim  
and Edward Pruim of any responsibility for  
this thing, find in favor of Community  
Landfill Company on those counts that are  
still at stake on the issue of liability and  
find that if any penalty is assessed that it  
be a reasonable and nominal one. Thank you.

And, again, Mr. Halloran, beyond  
reproach in terms of your conduct of the  
hearing, we appreciate the way you do  
business.

HEARING OFFICER HALLORAN: Thank you,  
Mr. LaRose, I appreciate it. And, again, for  
the record, the Complainant has waived its  
closing argument and will address that in the  
post-hearing brief.

And I do want to say as to the  
issue of credibility, I find no issues of  
credibility of any of the witnesses that  
testified on December 2nd, 3rd and 4th here  
at the hearing.

And as Mr. LaRose said, I found  
counsels of both parties their  
professionalism and civility beyond reproach

and out of this world and I really appreciate  
it.

Thank you and have a safe drive  
home. This matter is closed. It will not be  
continued tomorrow, December 5th, 2008. Good  
day.

(Which were all the  
proceedings had in the  
above-entitled cause  
on this date.)

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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

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20 SUBSCRIBED AND SWORN TO  
before me this \_\_\_\_ day  
of \_\_\_\_\_, A.D., 2008.

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\_\_\_\_\_  
Notary Public

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