

**EXHIBIT 1**



- December 2006 - Emission testing conducted at the scrubber exhaust stack to address a requested increase in steel throughput and to demonstrate compliance with the emission standards outlined in 40 CFR 63.1157 (HCL Concentration limit of 18 parts per million).
- April 2011 - Emission testing conducted at the scrubber exhaust stack to demonstrate compliance with the emission standards outlined in 40 CFR 63.1157 (HCL Concentration limit of 18 parts per million).

4. The April 2002 stack testing program was originally scheduled to be completed in late 2001 as required by Construction Permit 01040081. However, prior to conducting the testing program, the pickling operations were shut down due to financial issues and a resultant plant closure.

5. In late February or early March 2002, the pickling line was re-started and the Illinois EPA was notified of NACME's intention to complete the testing as required by the construction permit. The stack testing was scheduled and conducted in mid-April 2002.

6. Immediately prior to the 2002 testing program, it was determined that only a limited amount of low carbon steel was available for pickling due to economic reasons. At that time, while this process rate was lower than typical process rates, it was decided to continue to conduct the testing program to ensure that the testing requirement of the construction permit was satisfied. However, the process data maintained during the testing program recorded a process rate at which the pickling line was tested was 33.3 tons steel per hour, which was the amount of steel available at the time and below the production rate listed in the construction permit. The results of the stack test indicated that HCL emissions were measured at 6.87 parts per million (ppm)/0.217 lbs HCL per hour (lbs HCL/hr) which is less than 18 ppm and in

compliance with the limitations of 40 CFR 63.1157. Only the scrubber outlet emissions were measured since there was no requirement for measuring the destruction efficiency of the scrubber. Therefore, the scrubber efficiency at the time of this testing program is unknown.

7. The December 2006 stack testing was conducted at the request of the Illinois EPA for the purpose of demonstrating compliance with proposed process limitations and obtaining approval for a proposed increase in the steel pickling process rate associated with the October 2005 Federally Enforceable State Operating Permit application submitted at the direction of the Illinois EPA Permit Engineer Valeriy Brodsky. The average process rate for this testing program was approximately 120 tons per hour, nearly four times the process rate of the 2002 stack testing program.

8. The results of this testing program indicated an HCL emission rate at the scrubber stack of 0.01 ppm/0.0004 lbs HLC/hr which is significantly lower than the emission rate measured during the 2002 stack testing program while pickling steel at a significantly higher process rate. Only the scrubber outlet emissions were measured at the time of this test program and the scrubber efficiency is unknown.

9. The April 2011 Stack testing program was conducted to ensure that the pickling line was in compliance with the emission standards outlined on the 40 CFR 63.1157. Based upon the process data recorded during the testing program, the average steel pickling process rate during this testing program was 88.0 tons per hour. At this time, HCL emission rates, measured at the scrubber exhaust stack, were 0.35 ppm/0.012 lbs HCL/hr. These rates were also in compliance with applicable emission standards, and nearly 20 times lower than the than the emission rates measured during the 2002 stack test, and also consistent with the emission rates measured during the 2006 stack test.

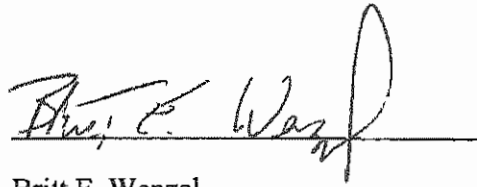
10. After reviewing each of the emission test reports and associated process data and based upon the inconsistency in the process rates and associated emission rates measured during the three stack testing programs conducted from April 2002 through April 2011 and the fact that the 2002 testing program was completed soon after a plant shutdown, it is apparent that the 2002 stack testing program did not accurately reflect normal pickling line operations at the facility. The abnormally high emission rate coupled with the lower than normal process rates during the 2002 stack testing program are inconsistent with the results of the subsequent testing and puts in question whether the pickling line and associated scrubber were operating properly at the time of the 2002 stack test program.

11. With regard to operations at the facility from 2002 through 2007, raw material throughput and emissions data was reviewed and the data indicates that the facility did not operate at the higher requested throughput in the interim and maintained annual throughputs in accordance with the original operating permit which is below the 2001 SOP limit of 600,000 tons steel/yr and 1.4 tons HCl/yr based upon the following throughput data provided to IEPA (calculated based on 1999 stack test data based on emission factor of 4.8 lbs/HCL 1000 tons):

- 2002 – 157,970 tons steel/yr and 0.50 tons HCl Emitted/yr
- 2003 – 256,873 tons steel/yr and 0.7833 tons HCl Emitted/yr
- 2004 – 328,158 tons steel/yr and 0.99 tons HCl Emitted/yr
- 2005 – 219,592 tons steel/yr and 0.664 tons HCl Emitted/yr
- 2006 – 259,549 tons steel/yr and 1.09 tons HCl Emitted/yr
- 2007 – 247,800 tons steel/yr and 1.03 tons HCl Emitted/yr

- 2008 – 228,674 tons steel/yr and 0.968 tons HCl Emitted/yr
- 2009 – 40,753 tons steel/yr and 0.306 tons HCl Emitted/yr

Further affiant sayeth not:

A handwritten signature in black ink, appearing to read "Britt E. Wenzel", is written over a horizontal line.

Britt E. Wenzel

9/16/14

## **EXHIBIT 2**



Original Transcript

**In the Matter Of:**

**STATE OF ILLINOIS vs. NACME STEEL**

PCB No. 13-12

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**VALERIY BRODSKY**

*September 26, 2013*

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VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013

1

1           BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2  
3           PEOPLE OF THE STATE OF           )  
4           ILLINOIS,                            )

5           Complainant,                        )

6           vs.                                    ) PCB No. 13-12

7           NACME STEEL PROCESSING,           )  
8           LLC, a Delaware limited           )  
9           liability corporation,           )

10           Respondent.                            )

11  
12  
13  
14  
15  
16           DISCOVERY DEPOSITION OF VALERIY BRODSKY

17           TAKEN OF BEHALF OF THE RESPONDENT

18                           SEPTEMBER 26, 2013

## I N D E X

QUESTIONS BY:	PAGE
MR. WALSH	5

## E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
1	Notice of electronic filing	--
2	9-28-10 inspection	35
3	Lay witnesses disclosure	28
4	1996 construction permit	26
5	7-10-95 traveler sheet	40
6	2-20-96 traveler sheet	42
7	4-15-96 calculation sheet	45
8	2-22-00 permit application	50/52
9	3-9-00 fax message	63
10	2-22-00 traveler sheet	67
11	4-19-00 fax message	80
12	3-22-00 fax message	82
13	5-15-00 letter & 5-11-00 letter	88
14	7-25-00 permit revision application	90
15	8-29-00 letter	94
16	9-13-00 email chain	98
17	9-18-00 violation notice	102

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013

3

	EXHIBITS CONT'D.	PAGE
1		
2	18 11-13-00 calculation sheet	104
3	19 7-27-00 operating permit	110
4	20 11-13-00 traveler sheet	113
5	21 1-10-02 letter	114
6	22 4-11-02 calculation sheet	115
7	23 4-12-02 traveler sheet	121
8	24 5-20-02 permit denial	126
9	25 8-21-02 memorandum	127
10	26 4-16-02 emissions test	130
11	27 4-4-05 traveler sheet	132
12	28 4-4-05 calculation sheet	134
13	29 4-13-05 notice of incompleteness	146
14	30 9-20-05 notice of incompleteness	148

15  
16 (Exhibits not attached. Original exhibits retained  
17 by Mr. Walsh and copy sent to court reporter and  
18 counsel.)  
19  
20  
21  
22  
23  
24

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013

4

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
ILLINOIS, )

Complainant, )

vs. ) PCB No. 13-12

NACME STEEL PROCESSING, )  
LLC, a Delaware limited )  
liability corporation, )

Respondent. )

DISCOVERY DEPOSITION OF VALERIY BRODSKY,

produced, sworn, and examined on the 26th day of

September, 2013, between the hours of 2:00 P.M.

and 5:14 P.M. of that day, at the offices of

Midwest Litigation Services, 15 S. Old State

Capitol Plaza, Suite 1, Springfield, Illinois

62701, before Robin A. Enstrom, a Registered

Professional Reporter, Certified Shorthand

Reporter, and a Notary Public within and for the

State of Illinois.

A P P E A R A N C E S

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1                   IT IS HEREBY STIPULATED AND AGREED by  
2 and between Counsel for the Complainant and  
3 Counsel for the Respondent that this deposition  
4 may be taken in shorthand by Robin A. Enstrom,  
5 RPR, CSR, and Notary Public, and thereafter  
6 transcribed into typewriting, with the signature  
7 of the witness being expressly reserved.

8  
9                   \* \* \* \* \*

10  
11                   (Deposition began at 1:51 P.M.)

12                   VALERIY BRODSKY,

13                   of lawful age, having been produced, sworn, and  
14 examined on the part of the Respondent, testified  
15 as follows:

16                   EXAMINATION

17                   QUESTIONS BY MR. WALSH:

18                   Q.       Let the record reflect that this is  
19 the discovery deposition of Valeriy Brodsky,  
20 taken pursuant to agreement and the applicable  
21 provisions of the Illinois Pollution Control  
22 Board regulations and Illinois Code of Civil  
23 Procedure.

24                   Good afternoon, Mr. Brodsky.

1 A. Good afternoon.

2 Q. Let me just -- have you ever had your  
3 deposition taken before?

4 A. No. It's first time.

5 Q. Okay. So let me just explain the  
6 ground rules to try and make it easy for Robin,  
7 our court reporter here today. She's taking down  
8 your testimony and my questions, and she can't do  
9 both at the same time. So please wait until I  
10 finish my question entirely before you respond.

11 A. I understand.

12 Q. And if you could respond verbally --  
13 a "Yes," a "No," or whatever -- instead of with a  
14 shrug or an "Uh-huh" or something like that.  
15 Okay?

16 A. Okay.

17 Q. Thank you. You've just told me that  
18 you've never had your deposition taken before.  
19 Have you ever testified in any hearing of any  
20 sort?

21 A. I participated in public hearings on  
22 some of my permits.

23 Q. In some of your what?

24 A. Permits which we were issuing.



1 Q. All right. And just for the record,  
2 you have an accent --

3 A. Yes.

4 Q. -- and it may be a little difficult  
5 for me or the court reporter to understand. So  
6 we may ask for interpretation from time to time.

7 A. Absolutely.

8 Q. Do you have any trouble understanding  
9 spoken or written English at all?

10 A. No.

11 Q. Not at all?

12 A. I mean, I cannot say at all, but --

13 Q. Okay.

14 A. -- some word I will ask maybe to  
15 repeat or express another way.

16 Q. Okay. That's fine. Fair enough.

17 The hearings that you referred to --  
18 you said they were public. You participated in  
19 public hearings. What does that mean?

20 A. It is standard procedure to send some  
21 permits for public notice. Notice is published  
22 in local newspaper, and local public, if they  
23 have interest, they can request public hearing --

24 Q. Okay. Have you --

1           A.     -- on -- okay.

2           Q.     Are you done?

3           A.     Yeah.

4           Q.     Have you ever testified in an

5 enforcement case?

6           A.     No.

7           Q.     Have you ever testified in a case

8 where the parties were adverse? Where one party

9 was demanding something of the other?

10          A.     No.

11          Q.     And I assume that that also pertains

12 to general lawsuits outside of your job?

13          A.     Never.

14          Q.     Never been involved in a lawsuit?

15          A.     No.

16          Q.     Okay. Did you review anything in

17 preparing for your deposition today?

18          A.     Briefly, yes.

19          Q.     What did you review?

20          A.     Permits which I issued to NAMCE Steel

21 during the last several years.

22          Q.     And when did you look at those?

23          A.     From our database.

24          Q.     I'm sorry?

1 A. From computer database.

2 Q. And when did you do that?

3 A. Yesterday.

4 Q. Yesterday?

5 A. Yeah, yesterday. Today a little bit.

6 Q. Did you do that by yourself or was  
7 someone with you?

8 A. By myself.

9 Q. And you mentioned NACME Steel. You  
10 understand that NACME Steel has been sued by the  
11 State of Illinois?

12 A. Yes.

13 Q. And it's been sued in conjunction  
14 with a facility that it owns at 429 West 127th  
15 Street, Chicago, Illinois?

16 A. I believe, yes. I do not remember  
17 exactly address but --

18 Q. Okay. We'll get to that. You do  
19 know that NACME has a facility in Chicago,  
20 Illinois?

21 A. Yes.

22 Q. And, to your understanding, that's  
23 the subject matter of the litigation?

24 A. Yes.

1 Q. Do you have a general idea of what  
2 the allegations are in the lawsuit?

3 A. I would say pretty general idea is  
4 that operation without proper -- with expired  
5 permit and without federal enforceable state  
6 operating permits.

7 MR. WALSH: Okay. Did you get that,  
8 Robin?

9 COURT REPORTER: I think so.

10 Q. (By Mr. Walsh) Did you meet with  
11 anybody before your deposition?

12 A. What do you mean "with anybody"?  
13 Related to this matter?

14 Q. Yes. I'm sorry.

15 A. And in what time span?

16 Q. Well, let's make it the -- from the  
17 beginning of the universe to today. Did you meet  
18 with anybody about this deposition?

19 A. Oh, no. About this deposition, no.

20 Q. All right. So you -- regardless of  
21 time frame, you did not meet with anyone in  
22 advance of your deposition regarding your  
23 deposition?

24 A. Just some explanation of --

1 procedural explanation from our lawyer, from  
2 Maureen Wozniak.

3 Q. Okay. So you met with Ms. Wozniak,  
4 and she explained to you the procedures --

5 A. Yes.

6 Q. -- that might -- that might occur in  
7 a deposition?

8 A. Yes.

9 Q. Was there anybody else there?

10 A. No. We had telephone conversation  
11 with Nancy.

12 Q. With Ms. Tikalsky?

13 A. Yeah.

14 Q. Okay. Thank you.

15 How long have you been employed by  
16 IEPA?

17 A. Nineteen-and-a-half years.

18 Q. And what is your current title?

19 A. Environmental protection engineer

20 III.

21 Q. Is that the highest grade of  
22 environmental protection engineer?

23 A. Yes.

24 Q. How long have you had that title?

1 A. I believe it was 1998. So 15 years,  
2 maybe.

3 Q. And before that, what was your title?

4 A. I started in 1994 as engineer I and  
5 couple years later engineer II and then engineer  
6 III.

7 Q. And were you employed prior to IEPA?

8 A. Yes. I had one employment in the  
9 United States before EPA.

10 Q. And what was that?

11 A. It started as Illiana Technology.

12 Q. Illini?

13 A. Illiana Technology.

14 Q. How is that spelled?

15 A. I-l-l-i-a-n-a.

16 Q. Okay.

17 A. Technology.

18 Q. And what did they do?

19 A. They produce various electronic  
20 devices. Then this company was purchased by  
21 Fargo International and then by John Deere.

22 Q. John Deere?

23 A. Yeah.

24 Q. When did you come to the United

1 States?

2 A. I came in July 1992.

3 Q. '92?

4 A. Yes.

5 Q. From where?

6 A. From Ukraine.

7 Q. Were you educated in Ukraine?

8 A. Yes.

9 Q. And what college level education do  
10 you have -- college and above?

11 A. It's comparable with American master  
12 degree. I finish six years of education in  
13 engineering field.

14 Q. What kind of engineering?

15 A. Electronic field.

16 Q. Electrical?

17 A. Electrical field. Measuring  
18 equipment and techniques.

19 Q. So was that equivalent to an  
20 electrical engineering degree --

21 A. Yeah.

22 Q. -- in the United States, you believe?

23 A. Yeah.

24 Q. Okay. Make sure you wait till I get

1 everything out before you answer. Okay? Thank  
2 you.

3 Have you taken any courses or had any  
4 education here in the United States?

5 A. I took some courses in environmental  
6 matters.

7 Q. Can you tell me what they are?

8 A. I am afraid I cannot remember exact  
9 names.

10 Q. When did you take the courses?

11 A. In Illinois EPA.

12 Q. I'm sorry?

13 A. In Illinois EPA.

14 Q. When?

15 A. Oh, when. Last time it was months  
16 ago I took courses. We travel to Indiana in  
17 National -- what was exact name --

18 Q. Well, that's all right. I don't need  
19 the exact name.

20 A. Yeah. Internal combustion --

21 Q. Are these -- are these, like,  
22 seminars, you mean? Seminar training?

23 A. No. It was training. Just  
24 listening, lectures, having tests.



1 Q. Okay. Lectures, did you say?

2 A. Yeah.

3 Q. And were these courses where you --  
4 that lasted weeks or --

5 A. Three days.

6 Q. So these were a few-day courses?

7 A. Yes.

8 Q. And is that -- is that typical of the  
9 type of, quote, courses that you took --

10 A. Yeah.

11 Q. -- have taken in the United States?

12 A. Yeah. One, two days in different  
13 places.

14 Q. Okay. And those are in the  
15 environmental area, sir?

16 A. Yes, all were environmental.

17 Q. And all related to air?

18 A. Not only. I took general chemistry  
19 courses with representatives from in other  
20 bureaus.

21 Q. Who do you report to currently at  
22 IEPA.

23 A. My immediate manager, Robert  
24 Bernoteit.

1 COURT REPORTER: Robert?

2 A. Robert Bernoteit.

3 MR. WALSH: I'll give you the  
4 spelling on that at the break.

5 Q. (By Mr. Walsh) What's  
6 Mr. Bernoteit's title?

7 A. Okay. Now there is some shift in  
8 assignments. So currently he is acting manager  
9 of permit section.

10 Q. How long has he had that title?

11 A. Couple months.

12 Q. And how long have you been reporting  
13 to him?

14 A. I was reporting to him -- before he  
15 was unit manager, FESOP unit manager, and I was  
16 engineer under him. Now he is acting section  
17 manager. I am acting FESOP unit manager.

18 Q. And how long have you been reporting  
19 to Mr. Bernoteit?

20 A. Oh, how long? Approximately from  
21 year 2000. So 13 years.

22 Q. Okay. The year 2000. 13 years is --  
23 about 13 years. Is that what you said?

24 A. Yeah. 2000, 2001, when previous

1 manager retired.

2 Q. All right. When did you first become  
3 aware of the NACME facility?

4 A. Also I believe around year 2000.

5 Q. And how did you become aware of  
6 NACME?

7 A. Application for operating permit  
8 renewal, and we issued this permit.

9 Q. All right. So at the time you became  
10 aware of NACME, it was already a permitted  
11 facility?

12 A. Yes.

13 Q. Did you have anything to do with the  
14 earlier permitting?

15 A. No.

16 Q. Have you ever been to the NACME  
17 facility?

18 A. No.

19 Q. Can you tell me what your current --  
20 well, let's step back.

21 In 2000 what were your job  
22 responsibilities?

23 A. Pretty much the same: analysis of  
24 permit application and preparation of permit.

1 Q. All right. So in 2000 you pretty  
2 much did the same thing, and that is you would  
3 review permit applications?

4 A. Yes.

5 Q. For their technical validity?

6 A. Yeah. Compliance with environmental  
7 regulations.

8 Q. Do you have any legal training?

9 A. No.

10 Q. So you have an understanding of the  
11 regulations from reviewing them in general?

12 A. Yes.

13 Q. Have you taken any courses that  
14 provide legal training with regard to Illinois  
15 environmental regulations?

16 A. I cannot call it legal training.  
17 It's training in some, let's say, for example,  
18 new source review --

19 Q. New source review?

20 A. -- review regulation. It has little  
21 of technical details but a lot of explanations --  
22 not explanation -- of timing -- I would say legal  
23 terms. How to treat facilities on being subject  
24 or not being subject to this particular

1 regulation.

2 Q. Okay. Let me go off the record for a  
3 moment, if I will.

4 (Discussion off the record.)

5 Q. (By Mr. Walsh) Okay. So if I  
6 understand correctly, you've taken some courses  
7 that essentially train someone like yourself in  
8 the regulations that you have to interpret and  
9 apply. Is that a fair statement?

10 A. Yes. Yes.

11 Q. And how many times have you had such  
12 training, if you recall?

13 A. For sure I remember one such  
14 extensive training. It was several days. And we  
15 had periodically new regulations introduction to  
16 us with detail explanation of their  
17 applicability, interpretation of regulation by  
18 itself. It happens. I cannot tell how many  
19 times but once in a while.

20 Q. And you know what the Clean Air Act  
21 Permit Program is; right?

22 A. Yes.

23 Q. Do you remember when that first went  
24 into effect -- the Title V permit program?

1 A. Yes.

2 Q. When did that go into effect?

3 A. 1995.

4 Q. And did you have training at that  
5 time with regard to the legal requirements of  
6 Title V?

7 A. If it may be called legal. We had  
8 training in procedural requirements.

9 Q. That's fine.

10 A. Yeah.

11 Q. And that was when?

12 A. It was continuous training in 1995,  
13 '96, when we started working with these type of  
14 applications.

15 Q. '95 and '96?

16 A. Maybe -- yeah, '95. Starting '95.

17 Q. And have there been continuous  
18 updates --

19 A. Yeah.

20 Q. -- through the years?

21 A. Especially first several years we had  
22 continuous training.

23 Q. In the first few years?

24 A. Yes.

1 Q. Okay. And then after the first few  
2 years -- '95, '96, '97, say -- were there  
3 refresher courses on the program?

4 A. I do not recall special courses. It  
5 was done on the local level. Any updates, new  
6 significant set -- sets of new regulations -- you  
7 were informed about them.

8 Q. All right. So let's step back to  
9 your job responsibilities. As I understand it,  
10 you review permits to determine -- to make a  
11 recommendation if a permit should issue?

12 A. Yes. That's correct.

13 Q. And to do that, you compare the  
14 application to the applicable regulations?

15 A. Yes.

16 Q. And then you make a recommendation --  
17 yes, no, or whatever; right?

18 A. Not recommendation. I'm drafting  
19 permit with my conclusions.

20 Q. Okay. And then what do you do with  
21 it?

22 A. Present to my manager for his review.

23 Q. That would be Bob Bernoteit?

24 A. Now it's Bob Bernoteit. Before year

1 2000, 2001, it was different manger.  
2 Q. Who was that?  
3 A. Harish Desai.  
4 Q. Harish Desai?  
5 A. Yes.  
6 Q. D-e-s-a-i?  
7 A. Yes.  
8 Q. Is he still with the agency?  
9 A. No. He retired.  
10 Q. So there are various types of permits  
11 that you -- permit applications you might review;  
12 right?  
13 A. Yes.  
14 Q. State operating permits?  
15 A. Yes.  
16 Q. Federally enforceable state operating  
17 permits?  
18 A. Yes.  
19 Q. And CAAPP permits?  
20 A. Not CAAPP permits.  
21 Q. No CAAPP permits?  
22 A. No.  
23 Q. So your -- and is this true from 2000  
24 on to date?



1 A. Yes.

2 Q. So you don't look at Title V permit  
3 applications?

4 A. I look in this application, for  
5 example, when company which operates on the Title  
6 V decides to change -- to switch to FESOP. So in  
7 this case we have to use their Title V  
8 application as source of our information.

9 Q. All right. So let me just try and  
10 get a better understanding. Do you deal with  
11 major source facility permitting?

12 A. Not.

13 Q. Well, I think you've already answered  
14 that you do FESOPs which can be in lieu of a  
15 CAAPP permit; right?

16 A. Yes. You are right. Until FESOP is  
17 issued, the source is treated as a major.

18 Q. Okay. But, I mean, in your -- in  
19 your permitting work, are you permitting major  
20 source facilities other than with a FESOP --  
21 other than with a FESOP?

22 A. No.

23 Q. Okay. Thank you.

24 Do you know what "potential to emit"

1 means?

2 A. Yes.

3 Q. What does it mean to you?

4 A. Potential to emit means capability of  
5 the source to emit pollutant -- certain pollutant  
6 on the maximum operation, presuming maximum  
7 operation time.

8 Q. Okay. I think you said the same  
9 thing. I'm going to read from the statute and  
10 see if you agree with me. "Potential to emit  
11 means the maximum capacity of a stationary source  
12 so emit any air pollutant under its physical and  
13 operational design." Is that a correct  
14 statement?

15 A. Yes.

16 Q. And how does -- how does one  
17 determine potential to emit?

18 A. As it said in the regulation, we need  
19 to determine what is physical capacity of the  
20 source to emit, what are operational physical  
21 limitation on its operations, and presume maximum  
22 annual hours of operations.

23 Q. So it can be a matter of simple math,  
24 I think. Do you agree with that?

1           A.       In very simple cases, yes,  
2                   MR. WALSH:  Would you mark that as --  
3 we're on 4.

4                               (Exhibit No. 4 was  
5                               marked for identification.)

6           Q.       (By Mr. Walsh)  Let me show you  
7 what's been marked as Exhibit 4.

8           A.       Okay.

9           Q.       Have you seen that exhibit before?

10          A.       Do not recall.

11          Q.       Let me ask you:  You testified that  
12 you weren't involved with NACME facility prior to  
13 the year 2000; correct?

14          A.       No.

15          Q.       You were not involved?

16          A.       Yes, I was not involved.

17          Q.       All right.  And when you became  
18 involved, did you have a permit file of the  
19 earlier --

20          A.       Yes.

21          Q.       Okay.  And would that have included  
22 the various permits already issued?

23          A.       Yes.

24          Q.       And applications?

1 A. Yes.

2 Q. Okay. And as you look at this  
3 construction permit, do you recall whether this  
4 was in the permit file?

5 A. Which one? This?

6 Q. The thing in front of you, yeah.  
7 Exhibit 4.

8 A. It's very possible that it wasn't  
9 because we're -- I was dealing with operating  
10 permit, and file for operating permit contains  
11 only operating permit. So it could be in the  
12 different file.

13 Q. All right. Well, let me direct your  
14 attention without your knowledge or not -- you're  
15 familiar with this general format of a  
16 construction --

17 A. Yeah.

18 Q. -- permit that's issued by IEPA?

19 A. Yes.

20 Q. Let me direct your attention to the  
21 section where it says "Item of Equipment." It  
22 says "Pickle Line"?

23 A. Uh-huh.

24 Q. Right?

1 A. Yes.

2 Q. And then it says "Material  
3 Throughput" on one column and "Particulate Matter  
4 Emissions" in another?

5 A. Yes.

6 Q. And is it correct to say that one  
7 could determine the potential to emit particulate  
8 matter emissions from this facility by  
9 multiplying 8,760 times .72 and dividing by  
10 2,000?

11 A. Yes.

12 Q. And that yields the 3.15 tons per  
13 year; right?

14 A. Supposedly, yes.

15 Q. Thank you. So the 8,760 hours a  
16 year -- that's the total number of hours in a  
17 year?

18 A. That's potential.

19 Q. All right. But it assumes that the  
20 source operates continuously; correct?

21 A. Yes.

22 Q. Let me show you what's previously  
23 been marked Exhibit 3.

24 That's the lay witness disclosure,

1 Nancy.

2 If you could just flip through that  
3 for a moment. Have you seen this document  
4 before?

5 A. Do not recall. Or maybe it was in  
6 the recent communications about this deposition.  
7 I see some -- yeah, maybe I saw it.

8 Q. All right. When you say "the recent  
9 communications," you mean the meeting you had --

10 A. Yeah.

11 Q. -- with Ms. Wozniak?

12 A. Related to this meeting, yeah.

13 Q. All right. Was something sent to you  
14 in advance of your meeting with Ms. Wozniak?

15 A. This kind of document. I believe it  
16 was one of the attachment informing me about  
17 this -- to this meeting.

18 Q. How many documents were sent to you  
19 before you met with Ms. Wozniak?

20 A. No special documents. Just  
21 informational, like, kind of this.

22 Q. All right. How many documents like  
23 the one in front of you were you provided before  
24 meeting with Ms. Wozniak?

1           A.     No.  I cannot recall any other  
2 documents.

3           Q.     Okay.  So you do have a recollection  
4 of this lay witness disclosure --

5           A.     Yeah.

6           Q.     -- that's in front of you?

7           A.     Yes.

8           Q.     All right.  Look at number 3, if you  
9 would.

10          A.     Yes.

11          Q.     And that's a summary provided by the  
12 state of what your expected testimony will be in  
13 this case.  Can you read that, please, to  
14 yourself.

15          A.     Okay.

16                    Yes, I read.

17          Q.     Do you agree that you'll be able to  
18 testify to what's stated here?

19          A.     Yes.

20          Q.     Okay.  Is there anything else that  
21 you believe you can testify about that's not  
22 stated here?

23          A.     No.

24          Q.     And you haven't been told that you're

1 expected to testify about something that's not  
2 already stated here?

3 A. I do not remember that Maureen  
4 referred to this particular list, but  
5 basically -- basically, yes, about my involvement  
6 in dealing with NACME.

7 Q. All right. Let me just go through  
8 some background questions. Have you discussed  
9 this case with Yasmine Keppner-Bauman?

10 A. NACME in general case.

11 Q. Well, no, this litigation.

12 A. No.

13 Q. Let's stick to the litigation.

14 A. No.

15 Q. All right.

16 A. Excuse me. Litigation?

17 Q. The lawsuit. This lawsuit. The  
18 reason we're here today.

19 A. Yes. What is going for years, not  
20 today's meeting.

21 Q. Well, no. The lawsuit that brings us  
22 here. The complaint that was filed by the state.

23 A. Definitely Yasmine Keppner was  
24 involved.



1 Q. No. I'm asking have you discussed  
2 the lawsuit with her.

3 A. It's hard to say. Yes, I discuss  
4 with her.

5 Q. Okay. And when did you discuss it  
6 with her?

7 A. Not recently. I do not recall when  
8 we had meeting with the company as -- in process  
9 of preparation for the meeting, we had some  
10 discussions.

11 Q. Are you talking about the meeting  
12 that we had in Springfield when myself and others  
13 came down to meet with IEPA personnel?

14 A. Yes. Maybe this meeting. And I do  
15 not recall significant discussion with her after  
16 that.

17 Q. After that?

18 A. Yeah.

19 Q. Okay. Thank you.

20 How about -- excuse me. Bob  
21 Bernoteit -- have you discussed the lawsuit with  
22 him?

23 A. No.

24 Q. Not at all?

1           A.     We discuss this matter but technical  
2 issues, not lawsuit.

3           Q.     All right. How about David  
4 Bloomberg?

5           A.     No.

6           Q.     All right. Now let's just back up,  
7 and how many discussions did you say you've had  
8 with Yasmine Keppner-Bauman with regard to the  
9 NACME facility and any of the issues that might  
10 pertain to it?

11          A.     It's going on for so many years that  
12 I cannot recall how many. There were several, I  
13 can tell for sure.

14          Q.     Do you recall the last one? Was  
15 it -- would that have been the meeting you just  
16 talked about?

17          A.     It's my guess, yes.

18          Q.     So you probably haven't spoken to her  
19 about NACME since that meeting?

20          A.     Do not recall.

21          Q.     Don't recall?

22          A.     No.

23          Q.     Okay. How about -- same question for  
24 Mr. Bernoteit.

1 A. Even less with Mr. Bernoteit.

2 Q. And Mr. Bloomberg?

3 A. No.

4 Q. Didn't discuss with him at all?

5 A. (Shook head from side to side.)

6 Q. Do you know who Mr. Bloomberg is?

7 A. Yes. Yes. He change his position  
8 also.

9 Q. Everybody's changed position.

10 A. Yeah. So he was previously more  
11 involved in this matter, but I do not recall  
12 discussions with him.

13 Q. Okay. I know that you've had  
14 conversations from time to time with Britt Wenzel  
15 of Mostardi Platt; right?

16 A. Yes.

17 Q. Have you had conversations with John  
18 DuBrock? Does that name ring a bell?

19 A. No.

20 Q. How about Bob Hendrickson?

21 A. Do not remember.

22 Q. Tom Beach?

23 A. No.

24 Q. William Reichel?

1 A. No.

2 Q. Is it -- Bob Wisdom? Does that name  
3 ring a bell? Okay. I'm sorry. You have to  
4 answer verbally.

5 A. No.

6 Q. Is it correct to say that, other than  
7 Mr. Wenzel, you really haven't spoken to anybody  
8 about the facil -- dealing on the facility's  
9 behalf other than Mr. Wenzel?

10 A. Yes. I remember around year 2005,  
11 2006, when they submitted FESOP application, I  
12 had communication with some lady working for  
13 Mostardi Platt.

14 Q. Do you recall the lady's name?

15 A. No.

16 Q. It wasn't Gail? Was it Gail?

17 A. No.

18 Q. No. All right. Jamie?

19 A. No.

20 Q. I think Jamie is a guy. All right.

21 A. I just saw it yesterday when I go  
22 through file but do not recall this name.

23 Q. Let me show you what's previously  
24 been marked Exhibit 2. Have you seen that

1 document before?

2 A. No.

3 Q. Do you know who Mr. George Ordija is?

4 A. Yes.

5 Q. Who is he?

6 A. He's field inspector in Chicago --

7 Q. And when you say -- I'm sorry.

8 A. He is field inspector in Chicago's  
9 field office.

10 Q. Okay. And when you say "field  
11 inspector," what does that mean?

12 A. That his responsibility is to visit  
13 facilities and check their compliance with  
14 permit, with regulations.

15 Q. All right. Can you turn to the  
16 second page of this document.

17 A. Yes.

18 Q. Just let me direct your attention  
19 down to this text down here.

20 A. Uh-huh.

21 Q. Do you recall having a conversation  
22 with Mr. Ordija on or about September 29, 2010?

23 A. No.

24 Q. Do you have -- well, you're saying

1 you don't recall?

2 A. I do not recall this particular  
3 conversation.

4 Q. All right. You're not saying that  
5 the conversation did not occur?

6 A. Oh, no.

7 Q. All right. And do you have any  
8 reason to doubt that he's mistaken when he says  
9 that he talked to you the day after the  
10 inspection?

11 A. Let me read. I need to read the  
12 whole --

13 Q. Sure. Go ahead.

14 A. -- paragraph.

15 Q. Uh-huh.

16 A. Yes. I agree with this statement.

17 Q. You agree with the statement "On the  
18 day after inspection, the author confirmed with  
19 Valeriy Brodsky (permit section) that the  
20 facility was subject to the operating permit and  
21 not the construction permit"?

22 A. Yes.

23 Q. And when he says "the operating  
24 permit," there was only one operating permit in

1 effect at that time; right?

2 A. Yes.

3 Q. And that was a state operating  
4 permit?

5 A. Yes.

6 Q. And if you look at the front page  
7 under the -- about right here. See, I have the  
8 handy yellow -- the highlighting. I didn't put  
9 that on yours.

10 A. I see this number.

11 Q. Do you see the permit number  
12 96020074?

13 A. Yes.

14 Q. And that indicates a state operating  
15 permit; right?

16 A. Yes.

17 Q. And that's the permit -- the  
18 operating permit he's talking about --

19 A. Yes.

20 Q. -- in here? Yes?

21 A. Yes.

22 Q. And that you talked to him about?

23 A. Yeah.

24 Q. Okay. Thank you.

1                   What is a traveler sheet?

2           A.     It's attachment to permit file which  
3 allow us to tracks most of steps in processing  
4 permit application.

5           Q.     Tracks the steps in a permit  
6 application?

7           A.     Yes.   In processing permit  
8 application.

9           Q.     And that's an internal document --

10          A.     Yes.

11          Q.     -- that -- I'm sorry -- that you use  
12 in your job?

13          A.     Yes.

14          Q.     Has that -- have you used them since  
15 2000?

16          A.     Oh, yes.

17          Q.     All right.   And what is the purpose?  
18 You said it tracks something, but what is the  
19 purpose of the traveler sheet?

20          A.     I cannot tell you.   It's some  
21 internal procedures for --

22          Q.     Internal procedure for?

23          A.     To maintain traveler sheet; so --

24          Q.     All right.   Do you fill out traveler



1 sheets?

2 A. Pertaining portion. There are  
3 several people who mark -- make -- record marks  
4 on the traveler sheet.

5 Q. Okay. And it's not a trick question.  
6 I'm going to show you some traveler sheets in a  
7 minute. I'm just trying to understand how the  
8 process works.

9 So you're reviewing a permit, say.  
10 Do you -- after you review the file, do you then  
11 fill out a traveler sheet to pass on to  
12 your -- the next step?

13 A. It depends. In new traveler sheet,  
14 it was changed. Yes, we have such mark. On old  
15 traveler sheet, we put only date when permit was  
16 ready to be issued.

17 Q. All right. Well, let's move to a  
18 traveler sheet, and maybe I can -- you can help  
19 me out.

20 (Exhibit No. 5 was  
21 marked for identification.)

22 Q. (By Mr. Walsh) All right. Let me  
23 hand you Exhibit 5.

24 A. Yes.

1 Q. And do you recognize that?

2 A. Yes.

3 Q. And what do you recognize it to be?

4 A. Standard traveler sheet.

5 Q. All right. Did you have anything to  
6 do with the preparation of this traveler sheet?

7 A. No. I do not see my initials. It  
8 was done by another engineer.

9 Q. So it predates your familiarity with  
10 NACME; right?

11 A. Yeah.

12 Q. All right. Can you tell me: Do you  
13 recognize the initials on the traveler sheet?

14 A. Yes. It's initials of my  
15 then-manager, Harish Desai.

16 Q. Where -- which -- where is that?

17 A. Here, Unit Manager.

18 Q. Okay. So that's in the middle in the  
19 Review Action section of the form?

20 A. Yes.

21 Q. And whose initials are BE or -- at  
22 the very bottom? BE or PE? Do you know?

23 A. This one.

24 Q. Yes.

1           A.     No.  It's -- it may be made in clerk  
2 who mailed.  I don't know this part.

3           Q.     All right.  And then up at the top,  
4 in the right-hand corner, there's a scribble  
5 there.  Do you recognize those initials?

6           A.     No.

7           Q.     Or the date?  No?

8           A.     No.

9           Q.     How about in this section, the  
10 Project Emissions Data section?  Do you recognize  
11 those initials?

12          A.     No.

13                     (Exhibit No. 6 was  
14                     marked for identification.)

15          Q.     (By Mr. Walsh)  Let me show you  
16 what's been marked Exhibit 6, and before I ask  
17 you about this, these traveler sheets -- would  
18 they have been in the file that you inherited in  
19 2000?  In the normal course, would they be in  
20 there?

21          A.     Yes.

22          Q.     They would?

23          A.     Yeah.

24          Q.     So do you believe that more likely

1 than not Exhibit 5, which we just looked at, was  
2 in the permit file that you inherited?

3 A. If it's operating permit, yes, it  
4 should be in the file.

5 Q. And if it's not an operating permit?

6 A. Located in the file with this number,  
7 application number. So if it's construction  
8 permit, it stays with construction permit file.  
9 Operating permit usually has -- may have  
10 significant number of these traveler sheets.

11 Q. All right. So when you're looking at  
12 a permit application for an operating permit as  
13 opposed to a construction permit, is there any  
14 need for you to go and look in the construction  
15 permit file and see what they've already asked  
16 for in terms of building out whatever they  
17 ultimately seek to operate?

18 A. Usually there is some reason for  
19 submitting this operating permit application,  
20 usually through -- related to some revision.

21 Q. Yeah. But the question I have is,  
22 when you get the application for an operating  
23 permit, are you interested then in going and  
24 looking at the construction permit file to see

1 what's in there just to inform yourself about  
2 what's going on?

3 A. It's possible. Not always, but it  
4 happens.

5 Q. Okay. Do you know if you did that in  
6 this case when you inherited the file in 2000?

7 A. I'm pretty sure not because it was  
8 pretty simple, straightforward case in year 2000;  
9 so --

10 Q. Why was it simple and  
11 straightforward?

12 A. I believe it was just operating  
13 permit renewal.

14 Q. Didn't require a lot of analysis?

15 A. No.

16 Q. All right. Looking at No. 6, do you  
17 recognize the document? I think you've already  
18 told me, so we can kind of shortcut this, that  
19 you didn't have any -- you didn't have any  
20 involvement before 2000, and this form is dated  
21 2-20-96.

22 A. Yeah.

23 Q. All right. Do you recognize the  
24 signature in the upper right-hand box?

1 A. You mean this signature?

2 Q. Yes, sir.

3 A. No.

4 Q. Do you recognize the initials in the  
5 next box down? Right here. This here.

6 A. No.

7 Q. And do you recognize the initials --  
8 I think it's Mr. Harish, maybe --

9 A. Yes.

10 Q. -- in the middle there under Unit  
11 Manager?

12 A. Yes.

13 Q. In the Review Action box; right?

14 A. Uh-huh.

15 Q. And then who is it to the right of  
16 him? Do you know?

17 A. No.

18 Q. Do you have an idea who his -- it  
19 says "Special Review." What does that mean?

20 A. I don't know.

21 Q. Don't know?

22 A. No.

23 (Exhibit No. 7 was  
24 marked for identification.)

1 Q. (By Mr. Walsh) Let me show you  
2 what's been marked as Exhibit 7 and ask you if  
3 you've seen that before.

4 A. No, I didn't see.

5 Q. I'm sorry?

6 A. I didn't see this calculation sheet.

7 Q. All right. You see that this was  
8 produced under a Freedom of Information Act  
9 request. That's what that stamp means down in  
10 the lower right-hand corner.

11 A. Uh-huh.

12 Q. So where in IEPA -- would this have  
13 been in the construction permit file, do you  
14 believe?

15 A. Yeah.

16 Q. As opposed to the operating permit  
17 file? Or could they both be in the same file  
18 together?

19 A. Yeah. It says granting construction  
20 permit. So it likely was in the construction  
21 permit file.

22 Q. Okay. And you'll see that it talks  
23 about applicant is requesting a construction  
24 permit for a steel picking line consisting of

1 hydrochloric acid. Do you see that?

2 A. Yes.

3 Q. And then there's some calculations  
4 down below. Do you see that?

5 A. Yes.

6 Q. Do you know what those calculations  
7 mean?

8 A. Yes.

9 Q. What do they mean?

10 A. It's calculation of allowable  
11 particulate matter emission, so-called process  
12 weight rate emission.

13 Q. So help me out here. Particulates --  
14 would they -- would particulates include  
15 hydraulic acid?

16 A. Yes.

17 Q. And how is that -- tell me what  
18 particulate form that occurs in.

19 A. It's in a mist, inorganic mist. We  
20 treat as particulate matter.

21 Q. Okay. Thank you. So in 1996 the  
22 record -- the IEPA's documents reflect a facility  
23 was proposing to build a facility that was going  
24 to pickle steel and from which there would be



1 hydraulic acid emissions; is that correct?

2 MR. GRANT: Do you mean hydrochloric?

3 MR. WALSH: Hydrochloric, yes. Thank  
4 you. What did I say?

5 MR. GRANT: Hydraulic. That would  
6 mess the record up.

7 A. Yes. But --

8 Q. (By Mr. Walsh) Okay. Go ahead.

9 But?

10 A. Now we treat differently.

11 Q. I understand.

12 A. Yeah.

13 Q. But back in this day -- all right.

14 You've answered the question. Thank you.

15 All right. Let's figure this out  
16 here.

17 Let's go back to the traveler sheets  
18 that are in front of you. If you could take a  
19 look at both of them. Do either of them make any  
20 mention of hydrochloric acid, HCL?

21 A. That's correct.

22 Q. No, they do not?

23 A. No.

24 Q. And you remember the -- okay. You

1 see the number, on Exhibit 6, in the Permit  
2 Emissions section? It says 3.15?

3 A. Yes.

4 Q. Okay. What do you interpret those to  
5 pertain to?

6 A. It describes actual and potential  
7 emissions of total suspended particles.

8 Q. And would that, without saying it,  
9 include HCL?

10 A. Yes.

11 Q. So it's your conclusion that the  
12 315 -- does it relate -- look at Exhibit 4 for a  
13 moment, if you would.

14 A. Yeah.

15 Q. Do you have Exhibit 4 there? So does  
16 that 315 -- 3.15, in your mind, relate to the  
17 data that's contained on the first page of  
18 Exhibit --

19 A. Yes.

20 Q. -- 4, which is particulate matter  
21 emissions; right?

22 A. Yeah.

23 Q. And those particulate matter  
24 emissions were in the form of HCL mist. Is that

1 your interpretation?

2 A. Yes.

3 MR. WALSH: All right. Mark that,  
4 please.

5 (Exhibit No. 8 was  
6 marked for identification.)

7 Q. (By Mr. Walsh) All right. I'm  
8 showing you a document marked Exhibit 8 and ask  
9 you if you recognize that document.

10 A. Already possible that I was dealing  
11 with this application.

12 Q. All right. And that was going to be  
13 my next question. Do you remember when in 2000  
14 you first picked up the NACME file?

15 A. No.

16 Q. But as you look at this, you don't  
17 discount that it could have been as of this date,  
18 on or about February 22, 2000?

19 A. Yeah, it's very possible.

20 Q. And while we're at it, this does  
21 pertain to a facility at 429 West 127th Street;  
22 right?

23 A. Yes.

24 Q. Okay. So I'm referring to that as

1 the NACME facility, and you'll understand that --

2 A. Yes.

3 Q. -- as we -- okay. Thank you.

4 And this is a -- well, it's a joint  
5 application; right?

6 A. Yes.

7 Q. Okay. And that means joint  
8 construction and operating permit?

9 A. Yes.

10 Q. And so this would have been in your  
11 operating permit file. It would have come to  
12 you, and you would have kept it in the operating  
13 permit file?

14 A. Yes. I should receive both files,  
15 construction separate and operating permit.

16 Q. So you would have -- you also would  
17 have been given the construction permit file when  
18 this facility was assigned to you; is that  
19 correct?

20 A. Yes.

21 Q. All right. And this states that it's  
22 for a pickle line, proposed pickle line; right?

23 A. Uh-huh.

24 Q. Let me direct your attention down to

1 the lower left-hand corner. You see that form  
2 designation, APC 200? Way down here. The little  
3 print.

4 A. It's cut here.

5 Q. Is it cut off on yours?

6 A. Yeah. But I can recognize it.

7 MR. WALSH: Is it cut off on yours,  
8 Nancy?

9 I'm sorry? Well, the official  
10 exhibit should have it on there, though, is the  
11 problem. All right.

12 Nancy, could I see your copy, please?  
13 All right. It doesn't. So I'll be right back.  
14 Take a short break

15 (Short recess.)

16 MR. WALSH: All right. What I'd  
17 like -- what I'd like to do is replace Exhibit 8  
18 with a different Exhibit 8, this one here,  
19 because the form number is cut off in the lower  
20 left-hand corner.

21 (Exhibit No. 8 was

22 marked for identification.)

23 Q. (By Mr. Walsh) All right. So I'm  
24 showing you the replacement Exhibit 8.

1                   And, Nancy, you'll have to just lean  
2 over and look at it with him, if you don't mind.

3                   MS. TIKALSKY: May I have my old copy  
4 back then?

5                   MR. WALSH: Sure.

6                   MS. TIKALSKY: Thanks.

7                   Q.        (By Mr. Walsh) All right. Let me  
8 ask you about the little designation down in the  
9 left-hand corner there. Do you see it, APC 200?

10                  A.        Yes.

11                  Q.        What does that mean? Do you know?

12                  A.        Air pollution control.

13                  Q.        And is that a form number of a  
14 certain type?

15                  A.        Yes, 200.

16                  Q.        And what is that form used for?  
17 State operating permits?

18                  A.        For both. It's used for state  
19 permits, both construction and operating.

20                  Q.        All right. Is it used for FESOPs?

21                  A.        No.

22                  Q.        Has it ever been used for FESOPs?

23                  A.        Maybe in the very beginning of Title  
24 V program.

1 Q. Was it at this time, as in February  
2 of 2000?

3 A. No. It was already after.

4 Q. And this application proposes to  
5 build a pickling line with an emission control  
6 device by Pro-Eco. Your understanding is there  
7 was a scrubber at the NACME facility; right?

8 A. Yes.

9 Q. And the scrubber, essentially, is an  
10 air pollution control device; is that right?

11 A. Yes.

12 Q. And if you turn to the page marked  
13 NMLP 0829, it indicates that hydraulic --  
14 hydrochloric acid will be a raw material used at  
15 the facility; right?

16 A. Yes.

17 Q. And is proposed that hydrochloric  
18 acid emissions will be controlled by the  
19 scrubber; correct?

20 A. Yes.

21 Q. And if you look NMLP 0837, there are  
22 some figures there for Results. Do you see the  
23 section Results?

24 A. Yes.

1 Q. And that -- what does that mean to  
2 you? HCL is hydrochloric acid, but what do the  
3 numbers mean, to your understanding?

4 A. Usually we, first of all, look in  
5 this number, low line, what is emission rate  
6 pounds per hour.

7 Q. Okay.

8 A. And it indicates very low emission  
9 rate.

10 Q. And this is at the scrubber outlet;  
11 correct?

12 A. Yes.

13 Q. And there's something called a  
14 scrubber inlet too; right?

15 A. Yes.

16 Q. What's the difference between the  
17 two?

18 A. Inlet usually, to any control device,  
19 contains high emission level. Outlet, much  
20 lower. It's purpose of control device to  
21 decrease emission of some particular pollutant.

22 Q. So the inlet emissions -- the inlet  
23 to the scrubber -- are uncontrolled emissions  
24 from a facility, a source; right?



1 A. Yes.

2 Q. So describe to me, if you would, the  
3 steps you went through in reviewing this permit,  
4 if you recall. Or if you don't recall, describe  
5 to me what you --

6 A. Yeah.

7 Q. Describe to me what you would  
8 normally do when you get a permit application  
9 like this back in the year 2000.

10 A. Start from reviewing of list of  
11 equipment for which permit is --

12 Q. Sought?

13 A. -- sought, if I understand it, and  
14 then compare it against their current operating  
15 permit, if there are any changes or not, and then  
16 verifying their emission calculations --

17 COURT REPORTER: I'm sorry. Start  
18 again. "And then" --

19 A. Verifying their emission  
20 calculations --

21 Q. (By Mr. Walsh) Refine, do you say?

22 A. Verifying.

23 Q. Very fine -- verify.

24 A. Verify.

1 Q. Okay. Thank you.

2 A. In this case, I don't need to perform  
3 special calculation because all information is  
4 provided.

5 Q. All right. What special calculation  
6 would you have performed if all the information  
7 wasn't provided?

8 A. I need to find related information to  
9 this kind of operation to look for source of  
10 emission factors. In every case it's different  
11 approach based on pollutant content and raw  
12 materials being used, expected emission rate.  
13 It's hard to describe.

14 Q. Okay. Well -- and then what do you  
15 do with that information? What does it help you  
16 decide?

17 A. Again, in this particular case  
18 only -- let's turn back. When we are dealing  
19 with HCL, it's hazardous air pollutant.

20 Q. When you're dealing with a what?

21 A. HCL.

22 Q. HCL? Okay.

23 A. Yes. Not with acid but with gas.

24 HCL --

1 COURT REPORTER: Start over. I'm  
2 lost.

3 A. Okay.

4 Q. (By Mr. Walsh) HCL.

5 A. When we are dealing with hydrogen  
6 chloride emission, abbreviation HCL, because this  
7 is hazardous air pollutant, we need to verify  
8 that emission from this source cannot exceed  
9 major source threshold.

10 Q. And how did you do that in this case  
11 working off of this application?

12 A. In this case it's very easy. I  
13 multiplied hourly emission rate by potential  
14 hours of operation, 8760 hours per year, and  
15 receive result much lower than ten tons per year.

16 Q. All right. Can you take -- walk me  
17 through how you did that? What did you -- 8760  
18 times what? What did you multiply it --

19 A. 0.02.

20 Q. 0.02. So you took the scrubber  
21 outlet number and multiplied it by --

22 A. Yes.

23 Q. -- 8760?

24 A. And in this way I determine that

1 their actual emission doesn't exceed major source  
2 threshold.

3 Q. Okay. Thank you. Is there a manual  
4 that you -- that the IEPA has for permit writing?  
5 You call yourself a permit writer? Is that what  
6 you call yourself?

7 A. Yeah.

8 Q. Okay. Is there a manual that, you  
9 know, you can look up and this is how to do it?  
10 Like, a cookbook for permit writers? Yes?

11 A. Yes.

12 Q. What's it called?

13 A. Oh, I don't remember. I looked last  
14 time maybe during my first year, first couple of  
15 years. It's called permit writer manual or  
16 something of this kind.

17 Q. So you don't -- you haven't looked at  
18 it for a long time --

19 A. Yes.

20 Q. -- because you've been doing this for  
21 so long you don't really need to. Is that what  
22 you're saying?

23 A. Yeah.

24 Q. Has it been revised from time to

1 time?

2 A. Not manual itself. We just receive  
3 from time to time new instructions how to deal  
4 with some particular situations.

5 Q. And what do you do with those? Do  
6 you put them in the manual?

7 A. Yeah. Now we keep it on our  
8 computer. It's much more convenient.

9 Q. Well, I understand. But back in 2000  
10 through, say, 2005, did you get updates like that  
11 to the manual?

12 A. Yeah.

13 Q. And what did you do with them?

14 A. I store in special folder.

15 Q. Special folder?

16 A. Yeah.

17 Q. Okay. So does the manual have, like,  
18 a checklist that you go through when looking at a  
19 permit?

20 A. Yes.

21 Q. And tell me what the -- tell me what  
22 the checklist is. Where do you start and --

23 A. It includes verifying signature on  
24 the application, that they're consistent; that

1 the address on the application is the same as it  
2 was on the previous permit. Such administrative  
3 type checkoffs. And then going through  
4 application forms. I don't remember exact  
5 guideline, but idea was to understand what  
6 application about and reminder what -- against  
7 what regulations should we check different types  
8 of emission unit rates.

9 Q. Going back to Exhibit 8, the last  
10 page, at the top it says date 5-7-97. Do you  
11 recall why the date --

12 A. Oh, yeah.

13 Q. Do you recall why it says that?

14 A. It's the date when this test was  
15 performed.

16 Q. When you say "this test," what do you  
17 mean "this test"?

18 A. This is a summary -- typical summary  
19 from the stack test.

20 Q. And can you tell me what a stack test  
21 is?

22 A. Stack test is instrumental  
23 measurements of emission from particular emission  
24 units usually done in the stack.

1 Q. And is there a particular method that  
2 is supposed to be followed -- an EPA method?

3 A. Yes, there is.

4 Q. What -- I'm sorry. What is the EPA  
5 method?

6 A. There is set of methods, how to  
7 measure air movement velocity, volume,  
8 temperature, and what analyzing methods should be  
9 used for detecting hydrogen chloride emission.

10 Q. Okay. And do you recall what the EPA  
11 back in this era in 2000 -- or let's say '97 --  
12 what the EPA method would have been? Is there a  
13 number?

14 A. If -- yes. If it didn't change  
15 because I remember recent number is Method 26.

16 Q. Is what?

17 A. Method 26.

18 Q. Method 26?

19 A. 26.

20 Q. And do you agree that, if one does  
21 not follow the correct method, the validity of  
22 the results could be affected?

23 A. Yes.

24 MR. WALSH: If you could mark that,

1 please.

2 (Exhibit No. 9 was  
3 marked for identification.)

4 Q. (By Mr. Walsh) I'm showing you  
5 what's been marked Exhibit 9. Have you had a  
6 minute to look at Exhibit 9 there, Mr. Brodsky?

7 A. Maybe. It's addressed to me; so --

8 Q. Well, that was -- first of all, do  
9 you remember a woman named Blythe Cozza?

10 A. No.

11 Q. Do you remember Corporate  
12 Engineering, Inc.?

13 A. No.

14 Q. All right. So do you have any doubt  
15 that you received this exhibit based on your name  
16 being on it?

17 A. No, I don't have such doubts.

18 Q. All right. And do you have any  
19 recollection of -- well, let me back up.

20 Do you believe that this submittal  
21 was in connection with the joint construction and  
22 operating permit that we've just been discussing?

23 A. Yeah. Judging by date, it's very  
24 likely that I requested from the company



1 substantiation of their emission data.

2 Q. All right. Thank you. Who is John  
3 Blazes?

4 A. Another permit engineer.

5 Q. Another permit engineer?

6 A. Yes.

7 Q. All right. And why is -- why would  
8 he -- if you were -- well, did you take this file  
9 over from him?

10 A. It's possible. I remember that he  
11 filled in several times manager position when  
12 manager was on vacation, was absent. Usually it  
13 was John Blazes who -- so it's possible that he  
14 assigned this permit to me.

15 Q. All right. And do you have any  
16 recollection, looking at the first page, that --  
17 the fax page, do you have any recollection -- did  
18 you request information from -- from someone in  
19 connection with the permit application?

20 A. It's very likely. I don't remember,  
21 but pretty sure that it was this way, that I  
22 requested and they presented it.

23 Q. In the Message section, you see it  
24 says Pickle Tank No. 1. Then it has some

1 percentages, HCL, and it looks like temperature?

2 A. Yes.

3 Q. Is that the kind of information you  
4 would have asked for in reviewing a permit  
5 application?

6 A. Yes.

7 Q. And why would you have asked for that  
8 information?

9 A. Because emission of hydrogen chloride  
10 is almost exponentially -- depends on the  
11 concentration and temperature of the acid  
12 solution in the pickling tank.

13 Q. All right. But hadn't you already  
14 gotten the information from a stack test about  
15 what the emissions were? We looked at Exhibit 8,  
16 remember, and it had --

17 A. Yes. Yes.

18 Q. Okay. So I'm just -- I don't  
19 understand the process. Why would you be  
20 asking -- are you just -- is this verification?

21 A. Maybe I lack some data on their  
22 current operations. It's hard to say why I  
23 requested but --

24 Q. And the next page on this, NMLP

1 0825 -- and you may already have answered this,  
2 but do you have a recollection that Mr. Blazes  
3 was working on this matter and then you worked on  
4 it? There was a transition?

5 A. It's possible. I do not remember.

6 Q. All right.

7 A. It happens when application cover  
8 letter is addressed to engineer who previously  
9 issued permit; so I suspect it was.

10 Q. All right. Let me direct your  
11 attention to that middle paragraph there where it  
12 says "Please." It says, "Please also note that  
13 revised emission figures have been established  
14 based upon a stack test performed by Microbac in  
15 May 1997." Do you see that?

16 A. Okay.

17 Q. Right here?

18 A. Yeah, I see.

19 Q. And then continues, "Originally they  
20 were based upon published rates from the  
21 manufacturer." What does "published rates from  
22 the manufacturer" mean?

23 A. Equipment manufacturer may test this  
24 equipment in production planned and provide his

1 customers with this data, and in many cases we  
2 accept manufacturer data.

3 Q. All right. But in this case do you  
4 agree, based on what we've already looked at,  
5 Exhibit 8, that you didn't have to accept that  
6 because you had actual stack test results?

7 A. Yes.

8 MR. WALSH: I've got to take a  
9 minute. I'm sorry.

10 (Short recess.)

11 (Exhibit No. 10 was  
12 marked for identification.)

13 Q. (By Mr. Walsh) All right. Let me  
14 show you what's been marked Exhibit 10.

15 Did I give you -- did I hand you a  
16 copy, Nancy? I'm sorry. Of 0030?

17 MS. TIKALSKY: No.

18 MR. WALSH: I thought she made two  
19 copies of each. All right. Well, then, let's  
20 just go. You'll have to just lean over, if you  
21 don't mind. Thank you. Let counsel see it.  
22 Thanks.

23 All right. So this is a -- Exhibit  
24 10 is a traveler sheet; right?

1 A. Yes.

2 Q. We talked about those earlier. And  
3 in this instance, it does have your initials in  
4 the Review Action box; correct?

5 A. Yes.

6 Q. VJB? Those are your initials, sir?

7 A. Yes.

8 Q. And do you -- do you recognize the  
9 exhibit? Does it ring a bell?

10 A. Standard traveler sheet, but my  
11 initials.

12 Q. Let me just ask you a few questions.  
13 First of all, there's a notation here, HCL 0.09.  
14 Do you recall -- what does that mean?

15 A. Yes.

16 Q. Do you know?

17 A. It's emission, potential emission.

18 Q. Okay. That's the -- when you say  
19 "potential emission," are we talking about PTE?

20 A. Technically, yes.

21 Q. All right. And the section next to  
22 that has a bunch of check boxes. Yes-no check  
23 boxes; right?

24 A. Yes.

1 Q. And what are those designed to do?  
2 Why are those there?

3 A. It's supposed to indicate major --  
4 applicability of major regulation. Possible  
5 applicability of major important regulations.

6 Q. All right. And in this instance --  
7 you filled this form out, did you, sir?

8 A. Yes.

9 Q. In this instance, neither "Yes" or  
10 "No" are checked; right? "Yes" nor "No."

11 A. Yes.

12 Q. And do you recall why neither is  
13 checked? Did you do an analysis of the various  
14 lines for applicability? Do you recall?

15 A. We were never instructed to make  
16 these marks.

17 Q. Let me show you again Exhibit 6 and  
18 7. Do you have those in front of you?

19 A. 7.

20 Q. 6 and 7?

21 A. 6, 7. Yes.

22 Q. All right. Do you see that -- the  
23 check boxes there on --

24 A. Oh.

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
70

1 Q. -- on 6 --

2 A. Yes.

3 Q. -- and 7? And in that instance,  
4 they're all checkmarked "No"; right?

5 A. Yeah.

6 Q. I'm sorry?

7 A. Yes, I see.

8 Q. So for whatever reason, the person  
9 that filled this traveler sheet out decided that  
10 he needed to check -- or did check a box; right?

11 A. Yes.

12 Q. All right. When you filled out this  
13 traveler sheet, did you do any analysis to  
14 determine whether the source was subject to the  
15 new source performance standards?

16 A. Yes, I did.

17 Q. And -- but you didn't check a box?

18 A. No.

19 Q. Okay. Did you do anything to  
20 determine whether the source was subject to the  
21 National Emission Standards for Hazardous Air  
22 Pollutants?

23 A. Yes, I did.

24 Q. Okay. But you didn't check a box;

1 right?

2 A. Yeah.

3 Q. All right. And you did not check a  
4 box for the line that says, "Is project a major  
5 source or major modification?" Right?

6 A. Yes.

7 Q. Did you complete a major source  
8 traveler sheet after doing this traveler sheet?

9 A. No.

10 Q. What does "CROPA" mean? C-R-O-P-A?

11 A. It's some coordinated program --

12 COURT REPORTER: It's some what  
13 program?

14 A. Coordinated. Coordinated.

15 Q. (By Mr. Walsh) I'm not laughing at  
16 you. I'm laughing at the coordinated program.

17 COURT REPORTER: Coordinated program.

18 Thank you.

19 Q. (By Mr. Walsh) All right. Well --

20 A. -- in the different bureaus.

21 Q. In the third box down, do you see the  
22 CROPA/FESOP?

23 A. Yes, I see.

24 Q. What does that mean?



1           A.       Usually -- I don't know why it's  
2 FESOP.   Usually we mark this box if we had to  
3 fill out CROPA letter to another bureau to see  
4 if this facility may be subject to their  
5 regulation -- bureau of water, bureau of land.

6           Q.       All right. Well, it also says  
7 "FESOP." What why does it say "FESOP"?

8           A.       I don't know.

9           Q.       All right. Is it fair to say that,  
10 if you would determine that this was a -- that  
11 the facility was a major source, you would have  
12 taken -- there would have been another track to  
13 take after this; right? If you had checked "Yes"  
14 for major source, then this seems to suggest that  
15 you would have had to complete a major source  
16 traveler sheet; right?

17          A.       Not exactly. Because if application  
18 was submitted for minor source or non-major  
19 source, I do not have such right to move them to  
20 major source. I could deny this application on  
21 the ground not being eligible for non-major  
22 source permit.

23          Q.       Well, let's assume for a moment that  
24 the Exhibit 4 had stated that the emissions were

1 major, okay, out the stack. If it had indicated  
2 that it was more than ten tons per year, you  
3 would have then changed tracks; right? It would  
4 have been on a different track. You wouldn't  
5 have kept looking at it as a state operating  
6 permit application. You would have said, "This  
7 is the wrong permit application. You need a  
8 CAAPP permit or a FESOP because you're a major  
9 source."

10 A. Yes. You would tell the company, but  
11 I cannot change this application.

12 Q. Okay. Thank you.

13 MS. TIKALSKY: And you were referring  
14 to Exhibit 8?

15 MR. WALSH: No. I referred back to  
16 Exhibit 4.

17 MS. TIKALSKY: The construction  
18 permit?

19 MR. WALSH: Yeah. Now we're on  
20 Exhibit 10 but --

21 Q. (By Mr. Walsh) The initials next to  
22 yours, who are those?

23 A. Harish Desai.

24 Q. Those are Harish's?

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
74

1 A. Yes.

2 Q. And in this instance, you're  
3 indicating grant; right?

4 A. Yes.

5 Q. And that's to grant a joint  
6 construction and operating permit; right?

7 A. Yes. It's marked "Joint."

8 Q. And would it be your assumption that  
9 that's the joint application we had looked at,  
10 Exhibit 4?

11 A. Exhibit 4. It was received in 1996.  
12 So it may be Exhibit --

13 Q. Yeah. I'm sorry. It's Exhibit 8.  
14 Exhibit 8.

15 A. Exhibit 8, yeah. Yeah.

16 Q. All right. And I have to go back and  
17 correct the record. The Exhibit 8 is the one  
18 that includes the scrubber outlet data that you  
19 relied on; right?

20 A. Yeah.

21 Q. What does the "R" mean? Does it mean  
22 revised? Revision?

23 A. I don't know.

24 Q. Don't know. Is that your

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
75

1 handwriting?

2 A. No, not mine.

3 Q. On this form, which is your

4 handwriting and which isn't?

5 A. Only initials and date.

6 Q. That's it?

7 A. Yes.

8 Q. So who filled out the rest of this

9 form?

10 A. This part is filled by --

11 Q. The top you're pointing to.

12 A. Yes. Top portion is filled by record

13 unit which receives application, indicate date

14 received, name the company. So this is record

15 unit.

16 Q. All right. So let's just walk

17 through that for a minute. I mail in -- say back

18 in 2000 I mail in an application for a permit,

19 and it's addressed to the IEPA, bureau of air.

20 All right. What happens to it? Who picks it up

21 first? The records unit?

22 A. Yeah. This from mailing room. It

23 comes to record unit of our bureau.

24 Q. All right. And then -- so the record

1 unit in this case filled out the top box; right?

2 A. Yes.

3 Q. And then the next box, who -- who --  
4 is that your writing, the HCL --

5 A. Yes.

6 Q. It is. Okay. So you -- I'm sorry.  
7 Go ahead.

8 A. I forgot to mention also this line  
9 when you asked --

10 Q. Oh, that's fine.

11 A. Yeah.

12 Q. So you did some kind of review and  
13 then made a notation HCL 0.09; right?

14 A. It's done when permit is ready to be  
15 issued. When permit is approved, that my manager  
16 agree with my calculation. After that, we enter  
17 this number.

18 Q. All right. So let me just get the  
19 timing down. The record unit fills out the top  
20 form, and then they hand it down the line; right?

21 A. Yes.

22 Q. With the permit application,  
23 presumably?

24 A. Yes.

1 Q. It travels with it?

2 A. Yes.

3 Q. All right. And then it comes to a  
4 permit writer's desk is next?

5 A. It comes to unit manager.

6 Q. Unit manager, and then he doles out  
7 the assignments?

8 A. Yeah. And he distributes to  
9 engineers.

10 Q. Okay. And, generally, if you had  
11 already worked on that facility, you're going to  
12 get whatever comes in the door --

13 A. Yes.

14 Q. -- on that facility. All right. So  
15 you're telling me the unit manager looked at this  
16 first. Who was the unit manager? That's Harish?

17 A. Harish Desai.

18 Q. All right. And then do you recall  
19 his having given this to you?

20 A. Yes.

21 Q. You assume that he did?

22 A. I assume, yeah.

23 Q. All right. And then you did a  
24 further review of the application, and you made

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013

78

1 this notation, HCL 0.09; is that right?

2 A. As I mention before, this notation  
3 was made when permit was ready to be issued.

4 Q. All right. So this thing sits in a  
5 file. Everybody does their thing to it. You're  
6 working on it. And then when the permit's ready  
7 to be issued and you had indicated grant there  
8 down the -- the second to last box --

9 A. Yes.

10 Q. -- would you have done it on the same  
11 day, you think? Put that HCL 0.09 in there on  
12 the same day that you initialed it on 5-15-00?

13 A. Yes.

14 Q. Okay. Now, I notice that the date --  
15 the receipt of the traveler sheet would have --  
16 is that -- that's the same date that the  
17 application comes in the door, presumably; right?

18 A. Yes.

19 Q. And it took about three months for  
20 you to sign off on 5-15-00. Is that a standard  
21 amount of time?

22 A. A little bit too long.

23 Q. Little bit too long. What's the  
24 usual turnaround?

1           A.     It depends on our general backlog but  
2 usually two months.

3           Q.     Okay. Do you recall about -- in the  
4 year 2000 about how many files you were handling?

5           A.     No.

6           Q.     I'm sorry?

7           A.     No.

8           Q.     Was it more than 25?

9           A.     What do you mean 25? Per month? Per  
10 year?

11          Q.     Well -- yeah. Well, that's a fair  
12 question. I guess I'd say within a year how many  
13 total facilities are you dealing with in terms of  
14 writing a permit -- reviewing and writing a  
15 permit for in the year 2000?

16          A.     Several dozens.

17          Q.     Several dozen?

18          A.     Yes.

19          Q.     Do you have any help?

20          A.     No.

21          Q.     So you can't delegate it to somebody  
22 to say, "Here, take this and" --

23          A.     No. If it's assigned to me, it's my  
24 responsibility to issue. We receive help for



1 stack test analysis. We have special person  
2 assigned for stack test reviews, basically, is  
3 all. I do not receive any external help except  
4 when I need to have stack test review done  
5 professionally.

6 Q. All right. So I think we've seen --  
7 well, a state operating permit was subsequently  
8 issued after you did this review; right?

9 A. Yes.

10 Q. And you did not at any time suggest  
11 that this facility instead needed a CAAPP permit  
12 or a FESOP, did you?

13 A. No.

14 MR. WALSH: Mark that, please.

15 (Exhibit No. 11 was  
16 marked for identification.)

17 Q. (By Mr. Walsh) All right. Let me --  
18 we'll try and move through some of these pretty  
19 quickly. Do you recognize that document? I know  
20 it's been a long time.

21 A. Yes. I do not recognize, but I see  
22 addressed to me.

23 Q. Yeah. So you don't doubt that you  
24 received it. There's no reason to believe you

1 didn't receive it; right?

2 A. Yes.

3 Q. So I'm just trying to get an  
4 understanding. From time to time do you -- did  
5 you -- do you believe that you requested  
6 information from time to time about the -- this  
7 facility?

8 A. Yes.

9 Q. All right. And this is probably --

10 A. A response.

11 Q. A response. Okay. This talks about  
12 capture efficiency. Do you know what she's  
13 talking about there?

14 A. Yes.

15 Q. What?

16 A. Stack test was performed on the  
17 outlet of the scrubber, but we were not sure if  
18 all emissions from the pickling tank was picked  
19 up by the scrubber. Percentage of emission  
20 captured by control device is called capture  
21 efficiency.

22 Q. And in this case do you remember what  
23 the control efficiency was?

24 A. No. No, I don't remember.

1 MR. WALSH: All right. I'm sorry. I  
2 thought I did a much better job of having  
3 multiple copies of this stuff, and I -- fricking  
4 ain't here.

5 (Short recess.)

6 (Exhibit No. 12 was  
7 marked for identification.)

8 Q. (By Mr. Walsh) Let me show you  
9 what's been marked Exhibit 12.

10 MS. TIKALSKY: What is this exhibit?

11 MR. WALSH: Exhibit 12.

12 MS. TIKALSKY: Yeah. I need a copy  
13 of this.

14 MR. WALSH: Okay. We'll get you a  
15 copy.

16 (Short recess.)

17 Q. (By Mr. Walsh) All right. You've  
18 had a chance to look at that Exhibit 12, Mr.  
19 Brodsky?

20 A. Just now.

21 Q. Oh, there you go.

22 A. Yeah, I look briefly.

23 Q. All right. Do you recall receiving  
24 this?

1           A.     Do not recall but pretty sure that it  
2 was received.

3           Q.     All right. And there's a -- somebody  
4 had written Region Copy and then crossed it out  
5 and put VB. Do you know why that is?

6           A.     Yes. All documentation received by  
7 our office is also duplicated for regional  
8 office. So it means that copy was sent to the  
9 regional office and original directed to me.

10          Q.     All right. And so your initials  
11 VB -- are those your initials there?

12          A.     Yes.

13          Q.     You wrote that?

14          A.     No.

15          Q.     No. Somebody else?

16          A.     Receiving unit, record unit.

17          Q.     All right. So why did they put your  
18 initials there?

19          A.     Because this fax was addressed to me.  
20 So they receive this fax, made copy, sent to  
21 regional office original. Just to indicate to  
22 whom it should be delivered.

23          Q.     Okay. And who at the regional office  
24 would it be sent to at that time?

1           A.       In this case it's -- now it's Des  
2     Plaines. I do not remember where it was located  
3     before, but Chicago's office.

4           Q.       And what do they do with it?

5           A.       They have exactly the same file as  
6     our file with application, with stack test  
7     results. So they have copies of all  
8     documentation.

9           Q.       And are they reviewing it at the same  
10    time you are?

11          A.       No.

12          Q.       They're just copied so they have it  
13    in their file?

14          A.       Yes.

15          Q.       Does anybody read it?

16          A.       I don't know.

17          Q.       All right. And it states, in the  
18    "From" line, operating permit application  
19    underneath the line; right?

20          A.       Yeah.

21          Q.       Is it your conclusion that this  
22    relates to the same operating permit application  
23    we've been talking about here this morning?

24          A.       Yeah.

1 Q. This afternoon. And it says it's  
2 enclosing a stack test of 5-97; correct?

3 A. Yes.

4 Q. And did you ask for a complete copy  
5 of the stack test, do you believe?

6 A. No. I never ask for complete copy  
7 because it's very big folder, only summary of the  
8 results, procedures, production data.

9 Q. All right. Let me direct your  
10 attention to FOIA page 0033. You see the middle  
11 paragraph there?

12 A. Yes.

13 Q. It says it was -- that it "employed  
14 EPA Source Test Method 26A, utilizing Method 5  
15 isokinetic traverse schemes"; right?

16 A. Yes.

17 Q. Is that the correct method to use for  
18 a stack test during this time period?

19 A. To my knowledge, yes,

20 Q. Was there another method that you  
21 think would be equally applicable or applicable  
22 at all?

23 A. I don't know such methods which can  
24 replace those.

1 Q. Let me direct your attention to page  
2 0037. That's the scrubber outlet data that we  
3 looked at earlier, isn't it?

4 A. Yes.

5 Q. And that was in Exhibit 8, NMLP 0837?

6 A. Yes.

7 Q. Same thing?

8 A. Yes.

9 Q. Now flip to the next page. This  
10 time -- this data presents the scrubber inlet,  
11 uncontrolled emissions data; right?

12 A. Yes, inlet.

13 Q. And that is in the Results section.  
14 If you look at HCL pounds per hour, you'll see  
15 22.91, 22.21, 19.12, 21.41; right?

16 A. Yes.

17 Q. And if you back up to page 0036, it  
18 contains the same data under the Results column;  
19 right?

20 A. Yes, exactly the same.

21 Q. And what did you do with this report?  
22 How did it figure into your processing of the  
23 permit application?

24 A. At that time I believe, based on all

1 these faxes, I tried to determine how much  
2 uncontrolled emission was captured by control  
3 device.

4 Q. And that was important to you  
5 because?

6 A. To know what is actually emitted from  
7 the facility.

8 Q. What is actually emitted from the  
9 facility?

10 A. Yes. We know that capture deficiency  
11 was --

12 COURT REPORTER: I'm sorry. Start  
13 again.

14 A. What was actually emitted from the  
15 facility. Because what company presented what is  
16 emitted through the stack but uncaptured emission  
17 would be emitted to atmosphere.

18 Q. (By Mr. Walsh) And this was -- you  
19 wanted this data, the out-the-stack emissions, so  
20 that you could determine what kind of emissions  
21 limits to put into the permit?

22 A. Yes.

23 Q. The state operating permit we've been  
24 talking about?



1 A. Yeah.

2 Q. Okay.

3 (Exhibit No. 13 was  
4 marked for identification.)

5 Q. (By Mr. Walsh) All right. I'm  
6 showing you what's been marked Exhibit 13 and ask  
7 you if you've seen that before. Do you recall  
8 receiving that document?

9 A. No.

10 Q. Do you have any doubt that you did  
11 receive it?

12 A. Yes, pretty sure I --

13 Q. It's actually stamped received by the  
14 IE --

15 A. Yeah; so --

16 Q. May 18, 2000. And this -- if you  
17 flip to the second page -- it says "Attention:  
18 Val Brodsky"; right?

19 A. Yeah.

20 Q. If you flip to the second page, it's  
21 again more data. It looks like a summary of the  
22 data of both the inlet and outlet emissions in  
23 pounds per hour HCL from the source, the NACME  
24 source; right?

1 A. Yes.

2 Q. And then it has some efficiency  
3 numbers there that -- I think you testified  
4 earlier that's the control efficiency of the  
5 scrubber --

6 A. Yes.

7 Q. -- it's referring to? That's your  
8 understanding?

9 A. No, efficiency 99. -- yes. This is  
10 number efficiency.

11 Q. Right. So that 99.92 and so forth in  
12 the Efficiency column -- that's the control  
13 efficiency of the scrubber?

14 A. Yes.

15 Q. And, again, the second page of the  
16 document shows inlet emission -- uncontrolled  
17 emissions: 22.91, 22.21, 19.12, 21.41; right?

18 A. Yes.

19 Q. Pounds per hour? I'm sorry?

20 A. Yes.

21 Q. Thank you.

22 All right. Now we're making headway  
23 because I'm throwing lots of paper on the floor.

24 All right. Mark that, please.

1 (Exhibit No. 14 was  
2 marked for identification.)

3 Q. (By Mr. Walsh) I'm showing you  
4 what's been marked Exhibit 14.

5 I'm trying to find another copy. You  
6 might have to lean in on that one. Oh, here it  
7 is.

8 Can you take a look at that document  
9 for a minute, Mr. Brodsky?

10 A. Yeah.

11 Q. Do you recognize this document?

12 A. Document itself, I do not recognize;  
13 but, again, it's NACME Steel application. At  
14 that time it's very likely that it was assigned  
15 to me.

16 Q. It's likely that it was assigned to  
17 you?

18 A. Yes.

19 Q. Was there anybody else during this  
20 time period that was reviewing the permit  
21 application at the permit writer level?

22 A. I do not recall that after year 2000  
23 anybody else was working.

24 Q. So is that to say that it's unlikely

1 that anybody else was reviewing it at the permit  
2 writer level?

3 A. Yes. My recollection.

4 Q. Thank you. And to your -- based on  
5 your review, what are we looking at here?

6 A. Nothing special. I believe it's just  
7 application, pretty much like previous one.

8 Q. All right. So the NACME -- to  
9 shorthand it, NACME was looking to revise  
10 something about its permit to allow something  
11 other than what it was -- had already requested.

12 A. Yes.

13 Q. Is that right?

14 A. Yeah.

15 Q. And they actually did that a number  
16 of times through the years; right?

17 A. Yes.

18 Q. Not unusual?

19 A. I would say normal.

20 Q. Normal?

21 A. Yes.

22 Q. And do you recall questions that you  
23 had about this revision application or how you  
24 handled it?

1           A.     I could have questions because, if  
2     you compare this application with the previous  
3     one or with previous permits, they requested  
4     higher steel throughput level, and if this level  
5     exceeds the level at which facility was tested,  
6     they need to retest.

7           Q.     All right. So you're saying -- and  
8     when you say "tested," you mean the stack test?

9           A.     Yeah, stack test.

10          Q.     Okay. So you're saying that, if  
11     someone wants to put more material through the  
12     system and pickle more steel, you would require  
13     another test to determine what the emissions are  
14     at that higher rate?

15          A.     Yes.

16          Q.     And was that done, to your knowledge?

17          A.     Yes. I remember that at some point  
18     around that time we requested to perform stack  
19     test. I don't remember if it was related to this  
20     application or different one, but somewhere  
21     around this time we requested to retest. What  
22     was reason -- I remember they built turbo tunnel  
23     when we requested them. This is just plain  
24     increase in production. But, no, I do not

1 remember what was exact action on this  
2 application.

3 Q. And this is a request for revision of  
4 the state operating permit application that was  
5 pending; right?

6 A. Yes.

7 Q. Are there traveler sheets that would  
8 have been created in connection with this  
9 application?

10 A. Oh, yes, should be.

11 Q. And would they be in your file today?

12 A. Yes.

13 Q. And we've already seen you had the  
14 1997 Microbac stack test in your file at the time  
15 of this revision application; right?

16 A. Yes.

17 Q. You had mentioned an installation of  
18 a turbo tunnel. What was that about?

19 A. Turbo tunnel is capture device.

20 Q. Is it a capture device, or is it  
21 simply a lid that's put on acid baths?

22 A. No, it's device which pick ups all  
23 emission. It covers the whole pickling tank and  
24 capture all emission and directs it to the

1 scrubber.

2 Q. Are there fans or something  
3 associated with the turbo tunnel?

4 A. Fan might be in the scrubber itself  
5 which creates suction action.

6 Q. Okay.

7 A. It's just enclosed. It's mechanical  
8 cover.

9 Q. So it's a physical enclosure --

10 A. Yes.

11 Q. -- for acid baths, and then somehow  
12 the vapor is drawn off to the control device. Is  
13 that --

14 A. Yes.

15 Q. -- how it works? All right.

16 (Exhibit No. 15 was  
17 marked for identification.)

18 Q. (By Mr. Walsh) Let me show you  
19 what's been marked Exhibit 15. Let me direct  
20 your attention -- have you had a minute to look  
21 at it?

22 A. Yeah.

23 Q. -- to the second page. Are those  
24 your initials there in the cc or above the cc?

1           A.     Yes.

2           Q.     Okay.  And did you --

3           A.     This is my -- this is manager.

4           Q.     Okay.  Thank you.  That's Harish's?

5           A.     Yes.

6           Q.     The second one.  Yours is VJB; right?

7           A.     Yes.

8           Q.     And did you initial this before the

9     letter went out?

10          A.     Pardon?

11          Q.     Do you initial it before the letter

12     is sent?

13          A.     No.  It's on the final letter.  I put

14     my initial.

15          Q.     So it's your way of approving the

16     letter before it goes out?

17          A.     It's not approval.  It's initials of

18     my manager.

19          Q.     All right.  But why do you put your

20     initials -- why are your initials on this

21     document?

22          A.     It's requirement --

23          Q.     But --

24          A.     -- initial final document.



1 Q. So did you put your initials on there  
2 before this letter went out? It's dated August  
3 29, 2000.

4 A. Yes.

5 Q. All right. And the reason you put  
6 your initials on there was to indicate that you  
7 had read the letter?

8 A. Yes.

9 Q. And you didn't have any issues with  
10 it?

11 A. Yes.

12 Q. Okay. And in August -- on August 29,  
13 2000, this letter states that the NACME facility  
14 may be considered a Title V source. That's a  
15 major source; right?

16 A. Yes.

17 Q. Because it's a -- in close proximity  
18 to Acme Steel; is that right?

19 A. Yes.

20 Q. And may qualify as a support facility  
21 under the regulations; correct?

22 A. Yes.

23 Q. And if that were true and as this  
24 letter asserts, NACME may have needed to get a

1 major source permit; correct?

2 A. Yes.

3 Q. Instead of a state operating permit  
4 which it was waiting to get which was pending;  
5 right?

6 A. Yes. Correct.

7 Q. And that letter refers to the  
8 operating permit application, the same number  
9 we've been talking about all along, 96020074?

10 A. Yes.

11 Q. And do you know why this letter was  
12 sent out?

13 A. Yes.

14 Q. Why was that?

15 A. Because without obtaining this  
16 information, we couldn't make permit decision,  
17 what kind of permit they're eligible for.

18 Q. Do you know why the IEPA sent out a  
19 letter that says it's EPA's intent to consider  
20 all information available to the Illinois EPA in  
21 its review of the application? Had something  
22 happened? Do you know?

23 A. Okay. We, permit writers, are  
24 supposed to make our permit decision based only

1 on the information available from the  
2 application. This information wasn't included  
3 in the application, but we had reasonable  
4 suspicion -- reason -- could expect that these  
5 two facilities were tightly connected and it was  
6 support facility.

7 Q. So in that letter -- well, I think we  
8 already covered that.

9 It doesn't say anything in this  
10 letter about NACME being a major source of a  
11 hazardous air pollutant in and of itself, does  
12 it?

13 A. No.

14 Q. Doesn't say anything about NACME's  
15 potential to emit?

16 A. Not yet.

17 (Exhibit No. 16 was  
18 marked for identification.)

19 Q. (By Mr. Walsh) Let me show you  
20 what's been marked Exhibit 16. Do you see  
21 that -- this is an e-mail chain; right?

22 A. Uh-huh.

23 Q. And your name appears in the chain;  
24 right?

1 A. Yes.

2 Q. And do you have any doubt that you  
3 received this e-mail?

4 A. No.

5 Q. Okay. And who is Bob Hutton?

6 A. At that time he worked for source  
7 monitoring unit for --

8 COURT REPORTER: I'm sorry?

9 Q. (By Mr. Walsh) Source monitoring  
10 unit?

11 A. And usually he or his subordinates --  
12 usually he, himself, or his subordinates  
13 performed review of stack tests.

14 Q. All right. And do you know why  
15 you're on this chain here? You and -- well, you.

16 A. Because I was permit analyst for this  
17 facility, and it's standard procedure that we  
18 receive information about all events happening  
19 with facility which is under review if I have  
20 this file.

21 Q. And this e-mail relates back to this  
22 notion that NACME might be a support facility to  
23 Acme and therefore may require a major source  
24 permit; is that right?

1 A. No. I do not see. Let me read this.

2 Q. If you read the part under Julie  
3 Armitage.

4 A. Yes. This portion -- lower portion  
5 pertains to this subject of previous request  
6 letter.

7 Q. The support facility concept --

8 A. Yes.

9 Q. -- right? So at this time, based on  
10 the last two exhibits we looked at it, it's fair  
11 to say that the IEPA was looking closely at  
12 NACME's facility to see if it needed a major  
13 source air permit; right?

14 A. Yes.

15 Q. All right. Now, down below you see  
16 where -- I guess it's Julie Armitage says,  
17 "Please ask Hank for the concentration level that  
18 NACME is committed to." Does that mean under the  
19 pending state operating permit or under its  
20 existing state operating permit?

21 A. I think that question was pertaining  
22 to the newly promulgated at that time regulation  
23 for pickling operations.

24 Q. Is that the 18 parts per million

1 level? Not to exceed 18 PPM?

2 A. Maybe, yes.

3 Q. Okay. You're not sure?

4 A. Yes.

5 Q. Okay. You are sure?

6 A. No.

7 Q. Okay.

8 A. It's maybe because concentration --

9 Q. All right. So it says -- it says,  
10 "Ask Hank for the concentration level that NACME  
11 is committed to and the level it must not exceed  
12 as we should craft an alternative citation for  
13 this if our major source theory flops on us."  
14 You see that?

15 A. Yes.

16 Q. Did the major source theory flop on  
17 IEPA?

18 A. Not in the regard to single source  
19 with Acme Steel.

20 Q. It did or it did not? It flopped?

21 A. It flopped but not because of being  
22 single source with Acme Steel.

23 Q. Okay. I'm not sure what that means.  
24 The support facility concept did not play out.

1 It was dropped by IEPA; right?

2 A. Yes. My recollection is because Acme  
3 Steel closed their operations at this time.

4 Q. That's your recollection?

5 A. Yes. Or NACME closed their operation  
6 but --

7 Q. Well, do you recall -- let's just --  
8 I'm going to show you the documents in a minute.  
9 Do you recall that the way it played out was that  
10 the IEPA issued a revised operating permit but  
11 put in a condition that NACME apply for a major  
12 source permit because it was a support facility?  
13 Do you recall issuing that permit?

14 A. No.

15 Q. No?

16 A. No.

17 Q. All right. I'll show it to you here  
18 in a moment.

19 (Exhibit No. 17 was  
20 marked for identification.)

21 Q. (By Mr. Walsh) Let me show you  
22 what's been marked Exhibit 17, and I'll state for  
23 the record there's a bunch of handwriting on this  
24 thing. I don't know where it comes from, but

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
103

1 this was the only copy that I could readily  
2 locate.

3 A. Uh-huh.

4 Q. Have you seen this violation notice  
5 before?

6 A. Do not recall.

7 Q. If you look --

8 A. But --

9 Q. Go ahead.

10 A. In general, I should see it because  
11 usually the violation notice are sent to us.

12 Q. Right. And, as a matter of fact, if  
13 you look at the cc, it says "BOA Permit Section."  
14 Is that you?

15 A. Yes. More than likely, yeah.

16 Q. All right. So if this -- if you were  
17 assigned to this facility, which you were --

18 A. Yeah.

19 Q. -- in the normal course, this  
20 document would have come to you?

21 A. Yeah.

22 Q. And if you flip to Attachment A, NMLP  
23 0698 --

24 A. Uh-huh.



1 Q. -- do you see number 5?

2 A. Yes.

3 Q. And that's -- is it your  
4 understanding that that assertion is made in  
5 connection with the support facility theory?

6 A. I'm not sure. It's maybe just typo.

7 Q. Well, let me ask you a question.  
8 During year 2000 -- this letter is dated  
9 September 18, 2000. Do you recall anyone ever  
10 asserting that NACME needed a major source permit  
11 because it was a major source in and of itself?

12 A. In 2000, not. I do not recall it.

13 Q. You only recall the assertion being  
14 made that it was -- it needed a major source  
15 permit because it was a, quote, support facility?

16 A. Yes.

17 Q. Thank you.

18 (Exhibit No. 18 was  
19 marked for identification.)

20 Q. (By Mr. Walsh) Let me show you  
21 Exhibit 18.

22 Nancy, if you could just lean in with  
23 him on that one. It's one of his traveler -- oh,  
24 wait. Let me see. There you go. Thanks.

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
105

1 Do you recognize this document --

2 A. Yes.

3 Q. -- Mr. Brodsky?

4 A. Yeah.

5 Q. And this is a -- it's a calculation  
6 sheet. I misspoke. I said it was a traveler  
7 sheet. Right?

8 A. Yeah.

9 Q. And the date says 2-5, and then it  
10 says -- it's kind of messed up. Is it 2000 or  
11 2001?

12 A. Yes. Extra zero. 2001. Or might --

13 Q. Well, let me just --

14 A. Yes.

15 Q. If you look at date received, it says  
16 11-13-2000, and then there's a date --

17 A. February.

18 Q. I'm sorry?

19 A. Yes. It's February. So it's 2001.

20 Q. So that's 2001.

21 A. It cannot precede --

22 Q. All right. So you received an  
23 application for an operating permit revision in  
24 November, right, of 2000?

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
106

1 A. Yes.

2 Q. And then in February of 2001, you're  
3 making some comments in this calculation sheet?

4 A. Yes.

5 Q. And who does this go to, or is this  
6 just for your file?

7 A. Only -- no. It's in the permit file.  
8 Stays in permit file.

9 Q. Right. But do you send it to someone  
10 as well?

11 A. No.

12 Q. Do you send it to Harish?

13 A. Oh, yes. I submit it to him with  
14 permit draft.

15 Q. All right. With what?

16 A. Permit draft.

17 Q. Permit draft. Okay. Now, it says,  
18 "The traveler sheet has no marks." What does  
19 that mean?

20 A. Traveler sheet -- if company is in  
21 violation if on the investigation, different  
22 special marks.

23 Q. So having no marks is a good thing?

24 A. Yes.

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
107

1 Q. From the source's perspective?

2 A. Yeah. I don't need to contact  
3 anybody to --

4 COURT REPORTER: You don't need to  
5 contact --

6 A. Anybody at the agency to clarify if  
7 there is something wrong with the facility.

8 Q. (By Mr. Walsh) All right. And did  
9 you write this calculation sheet?

10 A. Yes.

11 Q. So what's written here is yours?

12 A. Yes.

13 Q. Now, do you see the last sentence in  
14 paragraph 3?

15 A. Yes.

16 Q. It says, "Since DLC" -- what's "DLC"?

17 A. Division of legal counsel.

18 Q. It says, "Since DLC is not ready to  
19 substantiate this determination" -- and that's  
20 the determination that NACME is a support  
21 facility; right?

22 A. Yes.

23 Q. Okay. -- "Bonnie Sawyer" -- who is  
24 Bonnie Sawyer?

1 A. One of lawyers.

2 Q. One of those lawyers?

3 A. Yes.

4 Q. All right.

5 A. Working for DLC.

6 Q. -- "recommended deleting the, quote,  
7 'please note,' end quote, without admitting their  
8 non-major status (permit is reissued with  
9 expiration date)."

10 Let's just break that down. When it  
11 says "please" -- "deleting the 'please note,'"  
12 the "please note" refers to please note you may  
13 require a -- NACME may require a major source  
14 permit because it's a -- potentially a support  
15 facility. That's what it means there; right?

16 A. Yes.

17 Q. Okay. And then when it says "without  
18 admitting their non-major source," you mean  
19 without conceding that it is not a support  
20 facility?

21 A. Yes.

22 Q. Because --

23 A. Not so --

24 Q. I'm sorry.

1           A.       Well, let me explain.  If we agree  
2 completely that they are not major source, at  
3 that time we would issue lifetime permit, but we  
4 issued just operating permit with expiration  
5 date.

6           Q.       All right.  And is the reason that  
7 you issued that instead of a lifetime operating  
8 permit is because you were uncertain about  
9 whether they were or were not a support facility?

10          A.       I cannot exactly recall this timing  
11 of different events --

12                   COURT REPORTER:  I'm sorry.

13          A.       I cannot exactly recall the timing of  
14 several events around issuance of this permit.

15          Q.       (By Mr. Walsh)  All right.  And then  
16 when it says the permit is reissued with  
17 expiration date, what does that mean?

18          A.       That it's not lifetime operating  
19 permit.

20          Q.       And when the expiration date comes  
21 up, what happens?

22          A.       They need to reapply for -- they need  
23 to apply for permit renewal.

24          Q.       And then you recommended that the

1 operating permit be revised to delete the "please  
2 note" on being subject to Title V and NESHAP;  
3 right?

4 A. Yes.

5 Q. And that subsequently happened -- a  
6 permit was issued and that was deleted; right?

7 A. Yes.

8 (Exhibit No. 19 was  
9 marked for identification.)

10 Q. (By Mr. Walsh) Let me know if  
11 anybody needs to take a break.

12 Let me show you what's been marked  
13 Exhibit 19. Have you seen this document? Do you  
14 recognize that document?

15 A. Yes.

16 Q. And that is an operating permit  
17 issued by EPA on October 25, 2000; right?

18 A. Yes.

19 Q. And then just to shortcut it, there  
20 was a disagreement between NACME and the IEPA on  
21 whether it was or was not a support facility;  
22 right? Because this one contains -- if you flip  
23 to the page NMLP 0674, that contains that "please  
24 note" language, doesn't it?

1 A. Yes.

2 Q. And we just talked about how that was  
3 later deleted; right?

4 A. Uh-huh.

5 Q. And those are -- I'm sorry?

6 A. Yes.

7 Q. Okay. And your initials appear  
8 below -- above the cc designation; right?

9 A. Yes.

10 Q. And I think, as you've already  
11 testified, when you initial these things, you  
12 initial them before the letter is issued; right?

13 A. Yes.

14 Q. All right. Now, this letter only  
15 says that NACME is a potential major source  
16 because it's a -- may be a support facility to  
17 Acme Steel. It doesn't say it may be a major  
18 source for any other reason, does it?

19 A. Yes.

20 Q. Yes, you agree that it does not say  
21 for any other reason?

22 A. Yes, I agree.

23 Q. Yes, you what?

24 A. I agree that --



1 Q. Okay.

2 A. -- that was the only reason for --

3 Q. All right. Thank you.

4 A. -- potentially being major source.

5 Q. Thanks. While we're on that exhibit,  
6 do you recognize the initials and the writing on  
7 the lower left-hand corner?

8 A. No.

9 Q. Do you know who BC is?

10 A. No.

11 Q. How about Gary --

12 A. Beckstead.

13 Q. Do you recognize that name?

14 A. Yes.

15 Q. Who is that?

16 A. He worked for air quality control  
17 section. AQPS, air quality planning section.

18 Q. Air quality planning section?

19 A. Yes. And he was engineer.

20 COURT REPORTER: And what was the  
21 last name?

22 A. Beckstead.

23 Q. (By Mr. Walsh) It's hard to read,  
24 but it looks like it says B-e-c-k-s-t-e-a-d.

1 Do agree with that, Mr. Brodsky?

2 A. Yeah.

3 Q. Thank you.

4 (Exhibit No. 20 was  
5 marked for identification.)

6 Q. (By Mr. Walsh) Let me show you  
7 what's been marked Exhibit 20. And this is  
8 another traveler sheet; right?

9 A. Uh-huh. Yes.

10 Q. So that -- in general, as I  
11 understand it, when something's received, a  
12 traveler sheet is filled out or started, and then  
13 it travels along the process with the something;  
14 right?

15 A. Yes. That's correct.

16 Q. And we've been talking today about  
17 operating permit applications, and would you  
18 agree that this is traveling with an operating  
19 permit --

20 A. Yes.

21 Q. -- application? Thank you.

22 In the top box -- was that filled out  
23 by records like the earlier ones?

24 A. Yes.

1 Q. And that "R" there -- that's not your  
2 writing?

3 A. No.

4 Q. Okay. Did you -- but your initials  
5 are down below in the Review Action --

6 A. Yes.

7 Q. -- portion where you are indicating  
8 grant; right?

9 A. Yes.

10 Q. Meaning grant the operating permit?

11 A. Yes.

12 Q. Okay. And in the Project Emissions  
13 Data section, again, those check boxes -- yes,  
14 no -- those are all unchecked by you; right?

15 A. Yes.

16 MR. WALSH: What time do you have, by  
17 the way?

18 COURT REPORTER: I have 4:18.

19 MR. WALSH: 4:18?

20 COURT REPORTER: Yes.

21 MR. WALSH: Okay.

22 (Exhibit No. 21 was  
23 marked for identification.)

24 Q. (By Mr. Walsh) I'm showing you

1 Exhibit 21. Do you recognize -- take a minute  
2 and tell me if you recognize that. Have you seen  
3 that letter before?

4 A. I believe, yes. At least I was  
5 informed about.

6 Q. And you were informed that the  
7 facility was closing for a time?

8 A. Yes.

9 Q. And a stack test had been scheduled  
10 to be performed prior to this date; right?

11 A. Yes.

12 Q. And then it was called off because  
13 the facility was closing?

14 A. Yes.

15 Q. And then at some later time the  
16 facility restarted?

17 A. Yes.

18 Q. Do you recall that?

19 A. Yeah.

20 Q. Okay.

21 (Exhibit No. 22 was  
22 marked for identification.)

23 Q. (By Mr. Walsh) I'm showing you  
24 what's been marked Exhibit 22. Is that something

1 that you drafted?

2 A. Yes.

3 Q. Do you see -- and that was about --  
4 on or about 6-26-2001?

5 A. Pardon?

6 Q. That was about June 26, 2001, based  
7 on the date of this document? Do you see the  
8 date 6-26-2001?

9 A. No. It's April.

10 Q. Am I looking at the wrong document?

11 MS. TIKALSKY: I have your document.

12 Q. (By Mr. Walsh) All right. I gave  
13 you a different one. Hold on a minute here.

14 Let's go with that one then. Here,  
15 take this. You can hold that one because  
16 hopefully we're going to get to it. Now I have  
17 to find a copy of it. I may need that back. You  
18 may need to look over his shoulder. Yeah, let me  
19 use that.

20 MR. GRANT: You want to call it 22?

21 MR. WALSH: Pardon?

22 MR. GRANT: You want to call it 22?

23 MR. WALSH: Yeah, that's fine. Could  
24 I have that back? Thank you.

1 Q. (By Mr. Walsh) All right. This is  
2 IEPA FOIA 0122, and it's marked Exhibit 22. Is  
3 this something that you filled out? Is it? I'm  
4 sorry?

5 A. No.

6 Q. You did not fill out?

7 A. Oh, no, I did.

8 Q. You filled it out?

9 A. Yeah, I already --

10 Q. Okay. I'm sorry. I didn't hear you.  
11 And was about April 12, 2002; is that  
12 right?

13 A. Yes.

14 Q. And it relates to a construction  
15 permit revision?

16 A. Yes.

17 Q. The permit number -- is that the  
18 construction -- a separate construction permit  
19 number there? Because the permit number we've  
20 been looking at all day has been a 96 number.

21 A. Yes, this is construction.

22 Q. So that's a separate number for the  
23 construction --

24 A. Yeah.

1 Q. -- permit. All right.

2 Number 2, "The traveler sheet has  
3 toxic unit flag." What does that mean?

4 A. Approximately that time we started  
5 paying more attention to hazardous air  
6 pollutants, and we had special application peer  
7 review before signing. They related on possible  
8 toxic emissions, hazardous air pollutants  
9 emissions, and they marked traveler sheet red  
10 flag.

11 Q. All right. So in this case it's  
12 referring to NESHAP, which is the National  
13 Emission Standard for Hazard Air Pollutants;  
14 right?

15 A. Yes.

16 Q. And it says part CCC; right?

17 A. Yes.

18 Q. Subpart CCC?

19 A. Yes.

20 Q. And is that -- that's a Code of  
21 Federal Regulation citation; is that right?

22 A. Yes.

23 Q. And how long had that CFR been in  
24 effect, if you know?

1           A.     Approximately at that time -- at the  
2     end of '90s it was promulgated, and I don't  
3     remember exactly when it was -- effective date of  
4     this regulation but approximately around this  
5     time.

6           Q.     Around the late '90s?

7           A.     Yes, late '90s, beginning of 2000.

8           Q.     All right. And your -- this is dated  
9     April 12, 2002. So it's a number of years after  
10    the reg went into effect; right?

11          A.     Yes.

12          Q.     And you stated a minute ago that you  
13    started paying more attention to hazardous air --  
14    hazardous air pollutants. What do you mean by  
15    that, "started paying more attention"? Were you  
16    paying less attention prior to that?

17          A.     Before we didn't have so many  
18    NESHAPs. At that time USEPA started promulgating  
19    many new NESHAPs covering much more industries  
20    which we work with, including this.

21          Q.     All right. But as you just  
22    testified, the NESHAP for triple C -- subpart  
23    triple C is the NESHAP for HCL process facilities  
24    and hydrochloric acid regeneration plants; right?



1 A. Yes.

2 Q. Okay. And you said that already had  
3 been in effect since the late '90s; right?

4 A. Yes. Approximately.

5 Q. And in all the documents that we've  
6 reviewed today, you had never made a notation  
7 that this facility was possibly subject to NESHAP  
8 part triple C, did you?

9 A. Yes.

10 Q. You did not?

11 A. I didn't mention before.

12 Q. So is it -- is it fair to say that  
13 the USEPA was pushing IEPA to make sure they were  
14 doing NESHAP reviews of facilities as these new  
15 NESHAP regs came online?

16 A. No, I wouldn't say they were pushing  
17 us. They just promulgated new and new NESHAPs,  
18 but this particular NESHAP is applicable only to  
19 major sources.

20 Q. And -- okay.

21 A. And not enough major source base  
22 on being --

23 COURT REPORTER: I'm sorry?

24 A. Being major source. This NESHAP

1 regulation is applicable to major sources which  
2 actually meet more than ten tons of hazardous air  
3 pollutant per year. NACME emission was below ten  
4 tons.

5 Q. (By Mr. Walsh) It was below ten?

6 A. Yes. So we didn't treat them as a  
7 subject.

8 Q. Okay. How do you know they were  
9 below ten?

10 A. Based on previous stack test.

11 Q. Which ones?

12 A. There were several stack tests, and I  
13 remember in 2002 there was stack test. I don't  
14 remember for what reason. Then we requested this  
15 stack test in this construction permit, and all  
16 stack test shows that they are not major source.

17 Q. And one of those stack tests was the  
18 1997 stack test?

19 A. Yes, starting from '97. Then they  
20 repeated. I don't remember in 2002 when they  
21 resumed their operations. There were several  
22 stack tests which all indicated that they are not  
23 actually major source.

24 (Exhibit No. 23 was

1 marked for identification.)

2 Q. (By Mr. Walsh) All right. Let me  
3 show you Exhibit 23.

4 Nancy, you'll have to lean in on this  
5 one.

6 Do you recognize that exhibit?

7 A. Yes.

8 Q. And that's another traveler sheet;  
9 right?

10 A. Yes.

11 Q. May I see the exhibit for a moment?  
12 Exhibit 23. So is it -- just consistent with our  
13 earlier discussion, the first box at the top is  
14 filled out by the record section?

15 A. Yes.

16 Q. Okay. Do you know what the notations  
17 under the application number mean?

18 A. They refer to this record, yes.

19 Q. PMT and various --

20 A. PMT. I'm not sure what is it.

21 Sounds permit. Naour was manager of our toxic  
22 unit, and this is his -- maybe this is the flag  
23 which I referred in this calculation sheet.

24 Q. All right. Do you know what EXP.

1 12-31-05 means?

2 A. Expire.

3 Q. Okay. Do you know what he's  
4 referring to? Is Naour -- is that a man or a  
5 woman?

6 A. Pardon?

7 Q. Who is Naour?

8 A. Naour. As I said, it's manager of  
9 toxic unit.

10 Q. Okay. What's his or her full name?

11 A. Hank Naour.

12 Q. That's a man?

13 A. Yes.

14 Q. Okay. And do you know what expired  
15 12-31-05 refers to?

16 A. It's date when this flag will expire  
17 automatically if nothing happens.

18 Q. "Flag" meaning someone should pay  
19 attention to this --

20 A. Yes.

21 Q. -- and follow up; otherwise, it's  
22 going to disappear?

23 A. Yes. Otherwise, it would go from  
24 application to application. It's flag on this

1 facility.

2 Q. I see. So someone's supposed to be  
3 resolving the flag issue --

4 A. Yes.

5 Q. -- before the permit process -- or  
6 during the permit process --

7 A. Yeah.

8 Q. -- so it doesn't hang on there; is  
9 that right?

10 A. Yeah. I cannot issue permit without  
11 talking to Hank Naour to resolve this issue.

12 Q. Okay. And your initials are in the  
13 Review Action section again; right?

14 A. Yes.

15 Q. Along with -- is that still Harish?

16 A. Yes, still Harish.

17 Q. On 5-20-02; right?

18 A. It's my date -- yes, his date.

19 Q. All right. And in this instance  
20 you're -- well, let's back up.

21 In the Project Emissions Data  
22 section, again, none of the check boxes -- yes or  
23 no -- are checked; right?

24 A. Usually we mark on the construction

1 permit changes in the emissions.

2 Q. Okay. But it's true that on this  
3 form they're -- none of them are checked  
4 either --

5 A. No.

6 Q. -- right? All right.

7 And in this instance, you have  
8 checked the box deny as to --

9 A. Yes.

10 Q. -- as to the operating permit  
11 application. Do you remember why?

12 A. I may have several reasons.

13 Q. Well, let me ask you this: Was it  
14 denied because it was not a FESOP permit?

15 A. Possible. It's possible.

16 Q. You don't know?

17 A. No. Or maybe because stack test  
18 wasn't performed which was requested by previous  
19 construction permit.

20 Q. Okay. Was it denied because you or  
21 someone else at IEPA had determined that NACME  
22 needed a major source permit?

23 A. Again, I do not remember this  
24 particular case, but it's possible.

1 Q. It's possible?

2 A. Yes.

3 Q. But you don't remember?

4 A. No.

5 (Exhibit No. 24 was  
6 marked for identification.)

7 Q. (By Mr. Walsh) Let me show you  
8 what's been marked Exhibit 24, which is IEPA FOIA  
9 0123, hopefully.

10 A. Yeah.

11 Q. And this is a permit denial letter;  
12 right?

13 A. Yeah.

14 Q. And you initialed it before it went  
15 out?

16 A. Yes.

17 Q. And it went out on or about May 2,  
18 2002?

19 A. Yes.

20 Q. And it says the reason it's being  
21 denied is because there was a condition that an  
22 emission test be performed by an approved testing  
23 service?

24 A. Yes.

1 Q. And does this refresh your  
2 recollection about why you had checked off deny  
3 on your traveler sheet, Exhibit 23?

4 A. Because I issued denial per denial  
5 letter.

6 Q. Right. But you couldn't remember why  
7 you had done it. I had asked you a number of  
8 possibilities, and you said it's possible. Now  
9 that you look at Exhibit --

10 A. Yes.

11 Q. -- 24, do you remember why you denied  
12 it?

13 A. Yes.

14 Q. And what was the reason you denied  
15 it? Just so the record is clear.

16 A. Because in the previous construction  
17 permit we requested the company to perform stack  
18 test, and stack test wasn't performed. So we  
19 couldn't allow them to operate on the requested  
20 conditions.

21 Q. Okay. And is that the only reason?

22 A. Yes.

23 (Exhibit No. 25 was  
24 marked for identification.)



1 Q. (By Mr. Walsh) Let me show you  
2 what's been marked Exhibit 25. Do you recognize  
3 that?

4 A. Yes.

5 Q. I'm sorry. And what do recognize it  
6 to be?

7 A. This is stack test review done by  
8 specialist.

9 Q. Done by specialist. You testified  
10 earlier that you sometimes -- or you don't  
11 yourself review stack tests but you delegate  
12 that --

13 A. Yes.

14 Q. -- to someone who is a specialist in  
15 that area; is that right?

16 A. Yes.

17 Q. And was the person that it was  
18 delegated to Ken --

19 A. Erewele.

20 Q. -- Erewele? That's his name?

21 A. Uh-huh.

22 Q. And did you, yourself, delegate it to  
23 him?

24 A. It's pretty much automatic procedure

1 because stack test report even doesn't go to  
2 permit section. It goes to compliance unit which  
3 perform these stack test reviews.

4 Q. All right. So is it your  
5 recollection that you knew this was happening?  
6 It didn't come to you, and then you delegated it  
7 out, or that it -- how did it go? How did it  
8 work procedurally?

9 A. Stack test report arrives to  
10 compliance unit, and it's assigned on one of the  
11 reviewer. He performs this review, and then we  
12 receive copy of the result.

13 Q. You receive a copy --

14 A. Yes.

15 Q. -- of the results. Okay.

16 And you see the bottom paragraph  
17 which reads, "The methodologies and general  
18 procedures described in the protocol comply with  
19 the testing requirements"?

20 A. Yeah.

21 Q. What testing requirements is it  
22 talking about there?

23 A. Testing requirements. It's use of  
24 correct test methods, timing, calibration of

1 equipment, a lot of technicalities which --

2 Q. And the right data is included in the  
3 report?

4 A. Yes.

5 Q. All right. And that's necessary for  
6 the state to further process the state operating  
7 permit that was pending at the time?

8 A. Yes.

9 Q. And it goes on to say, "The  
10 compliance section recommends that the BOA accept  
11 this test as valid." "BOA" is the bureau of air?

12 A. Exactly.

13 Q. Okay.

14 (Exhibit No. 26 was  
15 marked for identification.)

16 Q. (By Mr. Walsh) Let me show you  
17 Exhibit 26, and just let me -- we may be able to  
18 shortcut this. This is the emissions test that's  
19 referred to in the exhibit that we just looked  
20 at, Exhibit 25. Is that your understanding?

21 A. Yes.

22 Q. But if I understand your testimony,  
23 you probably wouldn't have looked at this in any  
24 great detail because you send it to the -- Ken

1 Erewele --

2 A. Yes.

3 Q. -- for review?

4 A. I didn't send it. I said he  
5 received. If I need additional information, I go  
6 to compliance section and pick up this report to  
7 look for some additional data.

8 Q. All right. So would this report not  
9 even come to your permit file in the normal  
10 course?

11 A. We have special file for the facility  
12 which stores all tests.

13 Q. Okay. So -- but would this, in the  
14 normal course -- let me just ask you: Did this  
15 test get sent to you? Do you remember?

16 A. No, I do not remember.

17 Q. And in the normal course, would it be  
18 sent to you --

19 A. No.

20 Q. -- unless you -- only if you asked  
21 for it?

22 A. Yes.

23 Q. Thank you.

24 (Exhibit No. 27 was

1 marked for identification.)

2 Q. (By Mr. Walsh) All right. Let me  
3 show you what's been marked --

4 Did I just hand you a copy, Nancy, or  
5 no? No. Damn it.

6 Let me show you what's been marked  
7 Exhibit 27, and this is a traveler sheet; right?

8 A. Yes.

9 Q. Similar to the others that we've  
10 looked at today; right?

11 A. Yes.

12 Q. And the top portion is filled out by  
13 the record section?

14 A. Yes.

15 Q. And your initials appear in the  
16 Review Action portion?

17 A. Yes.

18 Q. And, again, in the Project Emissions  
19 Data, I know that you said that it's normally  
20 only with respect to construction permits, but  
21 there's no check boxes checked there; right?

22 A. Yes.

23 Q. Now, this one is saying reject, and  
24 your initials are there, 4-13-05, and that's

1 rejecting an operating permit application; right?

2 A. Yes.

3 Q. And then at the bottom, is that your  
4 handwriting?

5 A. No.

6 Q. Okay. But that seems to indicate a  
7 copy of a notice of incompleteness -- is that  
8 what it's called?

9 A. Yes.

10 Q. -- has been e-mailed; right?

11 A. Yes.

12 Q. Whose initials, if you know, are  
13 there? There's a bunch of them.

14 A. It's the new unit manager, Robert  
15 Bernoteit.

16 Q. That's Bob Bernoteit now? That's the  
17 RMB?

18 A. Yes.

19 Q. Okay.

20 A. RWB, I believe.

21 Q. Oh, RWB. And are those initials --  
22 that DES or something there? What's that?

23 A. No. It says compliance enforcement  
24 section where it's mailed.

1 Q. Okay.

2 COURT REPORTER: What was the last  
3 part? Compliance enforcement section.

4 A. Yeah. It's address where it was  
5 mailed.

6 Q. (By Mr. Walsh) And do you recall the  
7 reason that you had checked off reject?

8 A. No.

9 (Exhibit No. 28 was  
10 marked for identification.)

11 Q. (By Mr. Walsh) Let me show you  
12 what's been marked Exhibit 28. Do you recognize  
13 that exhibit?

14 A. Yeah.

15 Q. And you prepared it; right?

16 A. Yes.

17 Q. On or about April 12, 2005?

18 A. Yes.

19 Q. And there's some -- well, I won't  
20 characterize it. Paragraph 3 has a summary of  
21 what the company does; right?

22 A. Yes.

23 Q. And it talks about a stack test that  
24 was performed in April of 2002, which I think is

1 the one we looked at just a little bit earlier,  
2 Exhibit 26; right?

3 A. Yes.

4 Q. All right. And then you note some  
5 calculations and some statistics; right?

6 A. Yes.

7 Q. And then at the very end of the  
8 number 3, you say, "It results in HCL PTE  
9 exceeding ten tons per year, dash, major source,  
10 subject to CAAPP, slash, FESOP"; right?

11 A. Yes.

12 Q. Is that the first time you had stated  
13 this in writing during this process that started  
14 in 2000?

15 A. It appears, yes.

16 Q. Okay. And it also makes a reference  
17 to the 1997 stack test, doesn't it?

18 A. Yeah, just to compare calculated --

19 Q. Well, could you just answer my  
20 question?

21 A. Yes.

22 Q. And it says, "This number is  
23 consistent with actual measured uncontrolled  
24 emission in the previous stack test performed on



1 5-7-97"; right?

2 A. Yes.

3 Q. So isn't it correct that -- and it  
4 says, "and submitted with the 2-2000  
5 application"; right?

6 A. Yes.

7 Q. So, sir, isn't it correct that in  
8 2000, February of 2000, you knew what the  
9 uncontrolled -- measured uncontrolled emissions  
10 at this facility were, didn't you?

11 A. Yes.

12 Q. And from that you could have readily  
13 calculated what the potential to emit of the  
14 facility was, couldn't you?

15 A. Yes.

16 Q. You didn't do that, did you?

17 A. No.

18 Q. Why?

19 A. Okay. When USEPA started cleaner air  
20 permit program in 1995, they pretty soon realize  
21 there is huge number of applications. So they  
22 issued so-called transition policy in 1996, which  
23 allowed us to issue state operating permits for  
24 emission sources with actual emissions less than

1 50 percent of major source threshold regardless  
2 on their potential to emit.

3 Q. I'm sorry. Less than 50 percent of  
4 what?

5 A. Major source threshold for any --

6 Q. Okay. So less than five tons in this  
7 case?

8 A. Five tons of single HAP.

9 Q. Okay.

10 COURT REPORTER: Single what?

11 A. HAP. Abbreviation for hazardous air  
12 pollutant.

13 Then USEPA initially issued it for  
14 two years, and then there were two extensions,  
15 and I believe in 1999 they issued letter of  
16 non-extension of their transition policy.

17 But because of vague language in this  
18 memo --

19 COURT REPORTER: Because of what?

20 A. Vague, non-clear language in this  
21 application, we continued to issue such permit  
22 for maybe one, two years even after USEPA issued  
23 this policy -- not issued policy -- didn't  
24 continue this policy.

1                   And then USEPA corrected us that it  
2 was wrong understanding of their recent -- the  
3 most recent memo, and we started requiring FESOP  
4 application for sources for which just year ago  
5 we issued state permits.

6           Q.       (By Mr. Walsh) All right. So let's  
7 back up for a moment. In February of 2000, did  
8 you know that the NACME facility was a major  
9 source for hazardous air pollutants?

10          A.       Potentially, yes.

11          Q.       But you did not require them at that  
12 time to get a Clean Air Act Permit Program permit  
13 or a FESOP; right?

14          A.       Yes.

15          Q.       And up until April of 2005, in fact,  
16 you never even mentioned that they may need such  
17 a permit; is that correct?

18          A.       Yes. But we didn't have any  
19 correspondence with the company after 2002.

20          Q.       Well, be that as it may --

21          A.       Yes.

22          Q.       -- between 2000 and 2002, you didn't  
23 mention it, did you?

24          A.       No. At that time we were wrongly

1 continuing transition policy.

2 Q. Wrongly continuing the transition  
3 policy?

4 A. Yes.

5 Q. The transition policy, where -- is  
6 that stated in writing somewhere? Is there a  
7 memorandum of understanding between USEPA and  
8 IEPA on that?

9 A. Yes.

10 Q. There is?

11 A. Yes. On USEPA website, there is  
12 transition policy and two extension of the  
13 transition policy.

14 Q. Based on the 1997 stack test that we  
15 looked at today, did NACME's facility have less  
16 than 50 percent of the major source threshold?

17 A. Actual, yes.

18 Q. Of actual emissions?

19 A. Yeah.

20 Q. The letter of non-extension -- that  
21 was in 1999, you say?

22 A. Approximately, yes.

23 Q. But it was misinterpreted by whom?  
24 You or the agency in general?

1 A. I can say by permit section.

2 Q. By the permit section?

3 A. Yes.

4 Q. So who is the permit section? That  
5 would include you, obviously?

6 A. Yes.

7 Q. Other permit writers?

8 A. Permit writers, our immediate  
9 managers.

10 Q. So that would include Harish?

11 A. Yes.

12 Q. Would it -- did it include Bob  
13 Bernoteit?

14 A. He wasn't manager at that time.

15 Q. What was he?

16 A. He was permit engineer.

17 Q. So would he have been observing this  
18 misinterpretation of the transition policy as  
19 well?

20 A. I think no because he worked for  
21 CAAPP unit, unit which deals with actual Title V  
22 permits. So transition policy was only for us,  
23 for FESOP unit.

24 Q. All right. So you said that "we,"

1 quote, unquote, continued issuing these  
2 transition policy permits -- can we call them  
3 that?

4 A. Yes.

5 Q. All right. -- for a couple of years.  
6 When did you stop issuing them?

7 A. I can recall 2002. Maybe -- yeah.  
8 My best recollection 2002 because in 2003 we had  
9 significant increasing FESOP sources for this  
10 reason.

11 Q. Okay. Did you ever tell NACME that  
12 you were reviewing its permit applications under  
13 the USEPA's transition policy?

14 A. No.

15 Q. You never said it verbally?

16 A. No.

17 Q. You never said it in writing?

18 A. No.

19 Q. Is there any document in your file  
20 that reflects that you were observing the  
21 transition policy with respect to NACME's  
22 facility?

23 A. I'm afraid no.

24 Q. But you were?

1 A. Yes, we were following this policy  
2 but --

3 Q. You were wrong in following that  
4 policy is what you're saying today?

5 A. For couple of years, yes.

6 Q. And so couple of years. You mean by  
7 the end of what? 2002 --

8 A. Yes.

9 Q. -- you got it right?

10 A. Yes. Approximately 2002.

11 Q. All right. At the end of 2002 did  
12 you send any communication to NACME, saying, "Oh,  
13 by the way, we misinterpreted the regulations,  
14 and you" -- "we've given you the wrong kind of  
15 permit"?

16 A. No. Until this application, I  
17 believe.

18 Q. Until what?

19 A. Until receiving this application we  
20 never raise this question.

21 Q. Okay. And why not?

22 A. File was closed.

23 Q. The file was closed?

24 A. Yes.

1 Q. How was it closed?

2 A. It wasn't active.

3 Q. Well, what does it take for a file to  
4 be active?

5 A. Application. If company submits  
6 application, permits is extracted from the filing  
7 room and directed to us.

8 Q. Okay. Do you recall ever sending a  
9 letter to any other company, saying, "We  
10 misapplied the transition policy with respect to  
11 your facility"?

12 Could you read that question back,  
13 please.

14 (The requested portion was read  
15 back by the court reporter.)

16 A. No.

17 Q. (By Mr. Walsh) So is it correct to  
18 say the regulated community in Illinois was  
19 pretty much in the dark about EPA's -- or IEPA's  
20 mistake on the transition policy?

21 A. Unless they checked it on themselves,  
22 yes,

23 Q. Or unless they suddenly received a  
24 notice of violation saying they had the wrong



1 kind of permit, should have had a Clean Air Act  
2 Permit Program permit all along?

3 A. I am not aware about such notice of  
4 violation, but when they applied for permit  
5 renewal revision in similar situations, they  
6 receive notice of incompleteness with explanation  
7 why they should apply for FESOP.

8 Q. Are there memos or some other form of  
9 communication that went out about the transition  
10 policy and correcting its misapplication internal  
11 to IEPA?

12 A. No.

13 Q. Okay. So did senior management at  
14 IEPA know that the permit section was misapplying  
15 the transition policy?

16 A. I'm not sure about senior management,  
17 but on the level of our FESOP unit, we were told  
18 stop applying transition policy.

19 Q. All right. So within your unit the  
20 unit managers knew that the transition policy was  
21 being misapplied?

22 A. Yes.

23 Q. And do you know? Did Julie Armitage  
24 know that the policy was being misapplied?

1 A. No, I don't know.

2 Q. Did Bob Bernoteit know?

3 A. Now maybe he knows, but at that  
4 time --

5 Q. Well, no. I meant at that time did  
6 he know?

7 A. Oh, at that time I doubt because he  
8 didn't deal with FESOPs.

9 Q. What about Mr. Bloomberg?

10 A. It was pure permit issue; so --

11 COURT REPORTER: When we get to a  
12 good spot, could I have a little break?

13 MR. WALSH: Yeah, this is fine.

14 (Discussion off the record.)

15 MR. WALSH: On the record. On the  
16 record.

17 Counsel, I have about 15 minutes  
18 left. I know we've both been a long way. We've  
19 taken short breaks. I'm going to finish up as  
20 quickly as possible. This is obviously an  
21 important witness for us, and I'll give you the  
22 same leeway with our witnesses if and when the  
23 time comes. I think it's unreasonable for you to  
24 say we're leaving if -- you know, because I've

1 asked for another 15 minutes.

2 MR. GRANT: I haven't said that.

3 What I've said is I pointed out that you've used  
4 your three hours, and you spent quite a bit of  
5 time on matters that were really collateral. So,  
6 yeah, we'll allow you some more leeway; but, you  
7 know, frankly this is something you should have  
8 planned better.

9 MS. TIKALSKY: Let's keep it to 15  
10 minutes.

11 MR. WALSH: Okay. Thank you. I  
12 appreciate it.

13 (Short recess.)

14 (Exhibit No. 29 was  
15 marked for identification.)

16 Q. (By Mr. Walsh) Okay. Showing you  
17 Exhibit 29. Do you recognize that exhibit?

18 A. Yes.

19 Q. Your initials are on the second page  
20 right?

21 A. Yes.

22 Q. So that means that you reviewed it  
23 before the letter went out; right?

24 A. Yes.

1 Q. And, again, this is talking -- or  
2 requesting plant-wide emissions tests be done,  
3 right, to determine PTE?

4 A. No. We do not request stack test.  
5 We ask them to substantiate their proposed  
6 production and emission limitation in the  
7 application with stack test results.

8 Q. All right. Well, so it says if -- in  
9 the number 2, the second paragraph, "If emission  
10 calculations demonstrate that actual  
11 potential" --

12 A. Oh.

13 Q. You see that?

14 A. Yeah.

15 Q. All right. So -- but, again, you had  
16 the 1997 stack test results at the time this  
17 letter was sent out; right?

18 A. Yes.

19 Q. And you had known since 1997, based  
20 on the data in the '97 -- or since 2000, based on  
21 the '97 report, that the facility had a PTE  
22 greater than ten tons, right, or greater -- yeah,  
23 greater than the major source threshold; right?

24 A. Yes. But there were a lot of changes

1 at the facility since that time. So we had to  
2 rely on the most recent stack test.

3 (Exhibit No. 30 was  
4 marked for identification.)

5 Q. (By Mr. Walsh) Let me show you  
6 Exhibit 30. Do you recognize that exhibit?

7 A. Yes.

8 Q. Let me direct your attention to FOIA  
9 No. 134, 135, 136. Do you recall that there was  
10 a problem with delivery of IEPA's correspondence  
11 to NACME?

12 A. No.

13 Q. You don't?

14 A. No.

15 Q. So you were unaware that there was  
16 a -- have you seen those pages attached to this  
17 exhibit?

18 A. I do not recall.

19 Q. You don't recall?

20 A. No.

21 Q. All right. Let me direct your  
22 attention to paragraph 3 on the first page. It's  
23 again talking about PTE; right?

24 A. Yes.

1 Q. And "shall be calculated based on the  
2 maximum rate of production capacity and year  
3 round operations"; right?

4 A. Yes.

5 Q. And, again, at the time this letter  
6 went out, you already had the data from 1997,  
7 right, that we've already talked about?

8 A. Yes.

9 Q. Now, a suggestion was made by EPA in  
10 this various correspondence that, in order to  
11 avoid having to go through the Clean Air Act  
12 Permit Program process, that the facility might  
13 want to consider getting a federally enforceable  
14 state operating permit; right?

15 A. Yes.

16 Q. And they, in fact, applied for such a  
17 permit; right?

18 A. Yes.

19 Q. And, as matter of fact, one is  
20 pending as we sit here; right?

21 A. Yes.

22 Q. And what is the status of that  
23 permit? It's been noticed for public review.  
24 What's happening with it now?

1 MR. GRANT: Can I interrupt for a  
2 second? We've got a pending permit appeal, and  
3 I'm just wondering if --

4 MR. WALSH: There is no pending  
5 permit appeal.

6 MS. TIKALSKY: There's not one, no.  
7 Not anymore.

8 A. No.

9 MS. TIKALSKY: No

10 MR. GRANT: That case is over with?

11 MS. TIKALSKY: Yeah, it was thrown  
12 out. I had it dismissed, yes.

13 MR. GRANT: Okay. I guess I should  
14 pay attention.

15 A. So permit is pending for resolving  
16 technical disagreement between Illinois EPA and  
17 the company on rules applicability.

18 Q. (By Mr. Walsh) What are those  
19 disagreements?

20 A. Illinois EPA considers their  
21 operation subject to particular new source  
22 emission standard and company objects to this  
23 applicability.

24 Q. But hasn't the permit already been

1 issued for public notice?

2 A. Yes, it was.

3 Q. And did you receive any public  
4 comments on it other than from NACME?

5 A. No.

6 Q. Okay. So NACME's are the only  
7 comments, and those are still being considered.

8 A. Yes.

9 Q. Is that your testimony? Thank you.  
10 Do you have any -- are you  
11 responsible for compliance issues -- facility  
12 level compliance issues or is your focus -- no.  
13 I'm sorry. Go ahead. Answer that question.

14 A. No. As permit engineer I'm not  
15 responsible for compliance -- ongoing compliance.

16 Q. All right. So you would not have  
17 personal knowledge about whether or not NACME had  
18 complied with the terms and conditions of its  
19 state operating permit?

20 A. It's correct. I don't know.

21 Q. You wouldn't know if it used the  
22 correct HCL concentration percentage in its  
23 baths; right?

24 A. Yes. That's correct. We do not



1 receive this data.

2 Q. All right. But I'm saying you  
3 wouldn't know if it had put in more steel than it  
4 was allowed to or not; correct?

5 A. Yes. Correct.

6 Q. I think that's all I have. If I  
7 could just have a few minutes, there was a  
8 document that I had missed that I wanted to try  
9 and find.

10 Well, while I'm looking for that  
11 document, when a source like NACME applies for a  
12 permit and they ask for assistance in getting  
13 through the process, do you consider it part of  
14 your job to offer a regulated entity assistance  
15 in getting through the regulations and what they  
16 have to do?

17 A. Yes. It's standard practice.

18 Q. And you try and do a good job and  
19 tell them this is what you need and here's what  
20 you need to do?

21 A. I cannot judge my job but --

22 COURT REPORTER: You cannot what?

23 A. Judge.

24 Q. (By Mr. Walsh) You try?

1 A. Yeah. I'm trying to help company.

2 Q. And did you try and help NACME in  
3 this case or in this instance?

4 A. I didn't find any problem with NACME.

5 Q. Okay. I have nothing further.

6 MR. GRANT: Can you give us one  
7 second?

8 MR. WALSH: Sure.

9 MR. GRANT: Let's go outside.

10 (Short recess.)

11 MR. GRANT: We don't have any  
12 follow-up. We're good.

13 COURT REPORTER: Okay. Transcript  
14 orders?

15 MR. WALSH: Yeah, I'm going to order  
16 one. I'd like a mini and a disc, please.

17 MR. GRANT: Can we let you know?

18 COURT REPORTER: Yes.

19 MR. GRANT: Yeah, we want to reserve  
20 signature now. Are you down here?

21 COURT REPORTER: Yes.

22 MR. GRANT: So even if we don't  
23 order, he can go to your place and take a look  
24 through it?

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
154

1 COURT REPORTER: Yes.  
2 MR. GRANT: Yeah. Okay.  
3 (Deposition concluded at 5:14 P.M.)  
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DEPOSITION ERRATA SHEET

Our Assignment No. 471488

Case Caption: PEOPLE OF THE STATE OF ILLINOIS  
vs. NACME STEEL PROCESSING, LLC

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript of  
my Deposition taken in the captioned matter  
or the same has been read to me, and  
the same is true and accurate, save and  
except for changes and/or corrections, if  
any, as indicated by me on the DEPOSITION  
ERRATA SHEET hereof, with the understanding  
that I offer these changes as if still under  
oath.

Signed on the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_.

\_\_\_\_\_

VALERIY BRODSKY

DEPOSITION ERRATA SHEET

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

VALERIY BRODSKY

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
158

DEPOSITION ERRATA SHEET

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

VALERIY BRODSKY







VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: 0.02..315

	<b>127th</b>	147:16,19	12	<b>22.91</b>
<b>0</b>	10:14	149:6	105:10,24	86:15
	50:21	<b>1998</b> 13:1	110:17	89:17
<b>0.02</b>	<b>13</b> 17:21,	<b>1999</b>	119:7	<b>23</b> 121:24
58:19,20	22,23	137:15	135:14	122:3,12
<b>0.09</b> 76:13	88:3,6	139:21	136:8	127:3
78:1,11	<b>134</b> 148:9	<b>1:51</b> 6:11	138:7,22	<b>24</b> 126:5,8
<b>0030</b> 67:16	<b>135</b> 148:9		147:20	127:11
<b>0033</b> 85:10	<b>136</b> 148:9	<b>2001</b> 17:24		<b>25</b> 79:8,9
<b>0036</b> 86:17	<b>14</b> 90:1,4	23:1	105:11,	110:17
<b>0037</b> 86:2	<b>15</b> 13:1	12,19,20	12,19,20	127:23
<b>0122</b> 117:2	94:16,19	<b>2</b> 35:24	106:2	128:2
<b>0123</b> 126:9	145:17	118:2	116:6	130:20
<b>0674</b>	<b>16</b> 98:17,	126:17	<b>2002</b>	<b>26</b> 62:15,
110:23	20	147:9	117:11	17,18,19
<b>0698</b>	<b>17</b> 102:19,	<b>2,000</b>	119:9	116:6
103:23	22	28:10	121:13,20	130:14,17
<b>0825</b> 66:1	<b>18</b> 88:16	<b>2-20-96</b>	126:18	135:2
<b>0829</b> 54:13	100:24	44:21	134:24	<b>26A</b> 85:14
<b>0837</b> 54:21	101:1	<b>2-2000</b>	138:19,22	<b>27</b> 131:24
86:5	104:9,18,	136:4	141:7,8	132:7
	21	<b>2-5</b> 105:9	142:7,10,	<b>28</b> 134:9,
	<b>19</b> 110:8,	<b>20</b> 113:4,7	11	12
<b>1</b>	13	<b>200</b> 52:2	<b>2003</b> 141:8	<b>29</b> 36:22
	<b>19.12</b>	53:9,15	134:17	96:3,12
<b>1</b> 64:24	86:15	<b>2000</b>	138:15	146:14,17
<b>10</b> 67:11,	89:17	17:21,22,	<b>2006</b> 35:11	<b>3</b>
14,24	<b>1992</b> 14:2	24 18:4,	<b>2010</b> 36:22	<b>3</b> 28:23
73:20	<b>1994</b> 13:4	21 23:1,	<b>21</b> 114:22	30:8
<b>11</b> 80:15	<b>1995</b> 21:3,	23 26:13	115:1	107:14
<b>11-13-2000</b>	12 136:20	39:15	<b>21.41</b>	134:20
105:16	<b>1996</b> 47:21	42:19	86:15	135:8
<b>12</b> 82:6,9,	74:11	44:6,8,20	89:17	148:22
11,18	136:22	50:13,18	<b>22</b> 50:18	<b>3.15</b> 28:12
117:11	<b>1997</b> 66:15	54:2 60:9	115:21,24	49:2,16
119:9	93:14	62:11	116:20,22	<b>30</b> 148:3,6
134:17	121:18	75:18	117:2	<b>315</b> 49:12,
<b>12-31-05</b>	135:17	79:4,15	<b>22.21</b>	16
123:1,15	139:14	88:16	86:15	
		90:22	89:17	
		96:3,13		
		104:8,9,		

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: 4..air

	21 70:1	15 22:2	<b>Act</b> 20:20	29:14
<b>4</b>	<b>6-26-2001</b>	117:20	46:8	<b>adverse</b>
	116:4,8	<b>96020074</b>	138:12	9:8
<b>4</b> 26:3,4,		38:12	144:1	<b>affected</b>
27:7	<b>7</b>	97:9	149:11	62:22
49:12,15,		<b>97</b> 22:2	<b>acting</b>	<b>afraid</b>
20 72:24		62:11	17:8,16,	15:8
73:16	<b>7</b> 45:23	121:19	17	141:23
74:10,11	46:2	147:20,21	<b>action</b>	<b>afternoon</b>
<b>4-13-05</b>	69:18,19,	<b>99</b> 89:9	41:19	6:24 85:1
132:24	20,21	<b>99.92</b>	45:13	<b>age</b> 6:13
<b>429</b> 10:14	70:3	89:11	68:4 93:1	<b>agency</b>
50:21	<b>72</b> 28:9		114:5	23:8
<b>4:18</b>		<b>A</b>	124:13	107:6
114:18,19	<b>8</b>		132:16	139:24
	<b>8</b> 50:5,8	<b>abbreviatio</b>	<b>active</b>	<b>agree</b>
<b>5</b>	52:17,18,	<b>n</b> 58:6	143:2,4	25:10,24
	21,24	137:11	<b>actual</b>	30:17
<b>5</b> 40:20,23	61:9	<b>absent</b>	49:6 59:1	37:16,17
43:1	65:15	64:12	67:6	62:20
85:14	67:5	<b>Absolutely</b>	135:23	67:4
104:1	73:14	8:7	136:24	76:16
<b>5-15-00</b>	74:13,14,	<b>accent</b> 8:2	139:17,18	109:1
78:12,20	15,17	<b>accept</b>	140:21	111:20,
	86:5	67:2,5	147:10	22,24
<b>5-20-02</b>	<b>8,760</b>	130:10	<b>additional</b>	113:1,18
124:17	28:9,15	<b>acid</b> 47:1,	131:5,7	<b>AGREED</b> 6:1
<b>5-7-97</b>	<b>8760</b>	15 48:1,	<b>address</b>	<b>agreement</b>
61:10	58:14,17,	20 54:14,	10:17	6:20
136:1	23	18 55:2	61:1	<b>ahead</b>
<b>5-97</b> 85:2		57:23	134:4	37:13
<b>50</b> 137:1,3	<b>9</b>	65:11	<b>addressed</b>	48:8 76:7
139:16		93:21	63:7 66:8	103:9
<b>5:14</b> 154:3	<b>9</b> 63:2,5,6	94:11	75:19	151:13
	<b>90s</b> 119:2,	119:24	80:22	<b>air</b> 16:17
<b>6</b>	6,7 120:3	<b>Acme</b> 96:18	83:19	20:20
	<b>92</b> 14:3	99:23	<b>administrat</b>	53:12
<b>6</b> 42:13,	<b>95</b> 21:15,	101:19,22	<b>ive</b> 61:2	54:10
44:16	16 22:2	102:2	<b>admitting</b>	57:19
49:1	<b>96</b> 21:13,	111:17	108:7,18	62:7
69:17,20,			<b>advance</b>	70:21
			11:22	75:19

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: allegations..automatically

98:11	<b>appeal</b>	92:2,20	126:22	<b>assistance</b>
100:13	150:2,5	93:2,4,9,		152:12,14
112:16,	<b>appears</b>	15 97:8,	<b>approving</b>	
17,18	98:23	21 98:2,3	95:15	<b>assume</b>
118:5,8,	135:15	105:23	<b>approximate</b>	9:11
119:13,14		113:21	<b>ly</b> 17:20	72:23
121:2	<b>applicabili</b>	118:6	118:4	77:21,22
130:11	<b>ty</b> 20:17	122:17	119:1,	<b>assumes</b>
136:19	69:4,5,14	123:24	120:4	28:19
137:11	150:17,23	125:11	139:22	<b>assumption</b>
138:9,12	<b>applicable</b>	133:1	142:10	74:8
144:1	6:20	136:5	<b>April</b>	<b>atmosphere</b>
149:11	22:14	137:21	116:9	87:17
<b>allegations</b>	85:21	138:4	117:11	<b>attached</b>
11:2	120:18	142:16,19	119:9	148:16
<b>allowable</b>	121:1	143:5,6	134:17,24	<b>attachment</b>
47:10	<b>applicant</b>	147:7	138:15	29:16
<b>allowed</b>	46:23	<b>application</b>	<b>AQPS</b>	39:2
136:23	<b>application</b>	s 19:3	112:17	103:22
152:4	18:7,24	21:14	<b>area</b>	<b>attention</b>
<b>alternative</b>	22:14	23:11	128:15	27:14,20
101:12	24:4,8	24:3	<b>Armitage</b>	36:18
<b>American</b>	35:11	26:24	100:3,16	51:24
14:11	39:4,6,8	113:17	144:23	66:11
<b>amount</b>	43:7,12,	136:21	<b>arrives</b>	85:10
78:21	19,22	141:12	129:9	86:1
<b>analysis</b>	50:11	<b>applied</b>	<b>asserting</b>	88:17
18:23	51:5 54:4	144:4	104:10	94:20
44:14	56:8	149:16	<b>assertion</b>	118:5
70:13	58:11	<b>applies</b>	104:4,13	119:13,
80:1	60:24	152:11	<b>asserts</b>	15,16
<b>analyst</b>	61:1,4,6	<b>apply</b> 20:9	96:24	123:19
99:16	64:19	102:11	<b>assigned</b>	148:8,22
<b>analyzing</b>	65:5 66:7	109:23	51:18	150:14
62:8	72:17,20	144:7	64:14	<b>August</b>
<b>annual</b>	73:6,7,11	<b>applying</b>	79:23	96:2,12
25:22	74:9	144:18	80:2	<b>author</b>
<b>anymore</b>	75:13,18	<b>approach</b>	90:14,16	37:18
150:7	76:22	57:11	103:17	<b>automatic</b>
<b>APC</b> 52:2	77:24	<b>approval</b>	129:10	128:24
53:9	78:17	95:17	<b>assignments</b>	<b>automatical</b>
	84:6,18,	<b>approved</b>	17:8 77:7	<b>ly</b> 123:17
	22 86:23	76:15		
	90:13,21			
	91:7,23			

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: avoid..called

<b>avoid</b>	116:6	146:4	<b>break</b>	17:4	
149:11	121:10		52:14		<b>C</b>
	139:14	<b>Blazes</b>	108:10		
<b>aware</b>	147:19,20	64:3,13	110:11		<b>C-r-o-p-a</b>
18:3,5,10	149:1	66:2	145:12		71:10
144:3		<b>Bloomberg</b>		<b>breaks</b>	<b>CAAPP</b>
	<b>basically</b>	33:4	145:19		23:19,20,
<b>B</b>	31:5 80:2	34:2,6		<b>briefly</b>	21 24:15
	<b>baths</b>	145:9	9:18		73:8
<b>B-e-c-k-s-</b>	93:21	<b>Blythe</b>	82:22		80:11
<b>t-e-a-d</b>	94:11	63:9		<b>brings</b>	135:10
112:24	151:23	<b>BOA</b>	103:13	31:21	140:21
<b>back</b>	<b>BC</b>	130:10,11		<b>Britt</b>	<b>calculated</b>
18:20	112:9		34:14		135:18
22:8 33:6	<b>Beach</b>	<b>Board</b>	6:22	<b>Brodsky</b>	136:13
48:13,17	34:22	<b>Bob</b>	22:23,	6:12,19,	149:1
52:13	<b>Beckstead</b>	24 34:20	35:2 99:5	24 37:19	<b>calculation</b>
53:4 56:9	112:12,22		133:16	63:6	46:6
57:18	<b>began</b>	6:11	140:12	82:19	47:10
61:9	<b>beginning</b>	11:17	145:2	88:18	57:3,5
62:11	53:23	<b>Bonnie</b>		90:9	76:16
63:19	119:7	107:23,24		105:3	105:5
73:15	<b>behalf</b>	<b>bottom</b>		113:1	106:3
74:16	35:9	41:22	<b>build</b>		107:9
86:17	<b>bell</b>	129:16	47:23		122:23
99:21	34:18	133:3	54:5	<b>building</b>	<b>calculation</b>
116:17,24	35:3 68:9	<b>box</b>	44:24	43:16	s 47:3,6
124:20	<b>Bernoteit</b>	45:5,13			56:16,20
138:7	16:24	68:4		<b>built</b>	135:5
143:12,15	17:2,19	70:10,17,		92:22	147:10
<b>background</b>	22:23,24	24 71:4,		<b>bunch</b>	<b>calibration</b>
31:8	32:21	21 72:2		68:22	129:24
<b>backlog</b>	33:24	76:1,3		102:23	<b>call</b>
79:1	34:1	78:8		133:13	19:16
<b>base</b>	133:15,16	113:22			59:5,6
120:21	140:13	122:13		<b>bureau</b>	116:20,22
<b>based</b>	145:2	125:8		72:3,5	141:2
57:11	<b>Bernoteit's</b>	<b>boxes</b>		75:19,23	<b>called</b>
63:15	17:6	68:22,		130:11	21:7
66:14,20	<b>big</b>	69:23		<b>bureaus</b>	55:13
67:4	85:7	114:13		71:20	59:12,15
86:24	<b>bit</b>	124:22			81:20
91:4	10:5	132:21			115:12
97:24	78:22,23				133:8
100:9	135:1				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: capability..confirmed

<b>capability</b> 25:4	<b>changed</b> 34:9	118:21	<b>committed</b> 100:18	<b>compliance</b> 19:6
	40:14	<b>Civil</b> 6:22	101:11	36:13
<b>capacity</b> 25:11,19	73:3	<b>clarify</b> 107:6	<b>communicati</b> <b>on</b> 142:12	129:2,
149:2	<b>characteriz</b> <b>e</b> 134:20	<b>Clean</b> 20:20	144:9	130:10
<b>capture</b> 81:12,20	<b>check</b> 36:13	138:12	<b>communicati</b> <b>ons</b> 29:6,9	131:6
87:10	61:7	144:1	143:18	133:23
93:19,20,	68:22	149:11	<b>community</b> 143:18	134:3
24	69:23	<b>cleaner</b> 136:19	<b>company</b> 13:20	151:11,
<b>captured</b> 81:20	70:10,17,	<b>clear</b> 127:15	24:5 32:8	12,15
87:2	24 71:3	<b>clerk</b> 42:1	63:24	<b>complied</b> 151:18
<b>case</b> 9:5,	114:13	<b>close</b> 96:17	73:10	<b>comply</b> 129:18
24:7	124:22	<b>closed</b> 102:3,5	75:14	<b>computer</b> 10:1 60:8
30:13	132:21	142:22,23	87:15	<b>conceding</b> 108:19
31:9,10	<b>checked</b> 69:10,	143:1	106:20	<b>concentrati</b> <b>on</b> 65:11
44:6,8	72:13	<b>closely</b> 100:11	127:17	100:17
57:2,10,	124:23	<b>closing</b> 115:7,13	134:21	101:8,10
17 58:10,	125:3,8	<b>Code</b> 6:22	138:19	151:22
12 67:3	127:2	118:20	143:5,9	<b>concept</b> 100:7
76:1	132:21	<b>collateral</b> 146:5	150:17,22	101:24
81:22	134:7	<b>college</b> 14:9,10	153:1	<b>concluded</b> 154:3
84:1	143:21	<b>column</b> 28:3	<b>comparable</b> 14:11	<b>conclusion</b> 49:11
118:11	<b>checklist</b> 60:18,22	86:18	<b>compare</b> 22:13	84:21
125:24	<b>checkmarked</b> 70:4	89:12	56:14	<b>conclusions</b> 22:19
137:7	<b>checkoffs</b> 61:3	<b>combustion</b> 15:20	92:2	<b>condition</b> 102:11
150:10	<b>chemistry</b> 16:18	<b>comments</b> 106:3	135:18	126:21
153:3	<b>Chicago</b> 10:15,19	151:4,7	<b>Complainant</b> 6:2	<b>conditions</b> 127:20
<b>cases</b> 67:1	36:6		<b>complaint</b> 31:22	151:18
<b>CCC</b> 118:16,18	<b>Chicago's</b> 36:8 84:3		<b>complete</b> 71:7	<b>confirmed</b> 37:18
<b>CFR</b> 118:23	<b>chloride</b> 58:6 65:9		72:15	
<b>chain</b> 98:21,23	<b>citation</b> 101:12		85:4,6	
99:15				
<b>chance</b> 82:18				
<b>change</b> 24:6 34:7				
62:14				
73:11				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: conjunction..cut

<b>conjunction</b> 10:13	<b>content</b> 57:11	16,17	151:20, 22,24	143:15 145:11
<b>connected</b> 98:5	<b>continue</b> 137:24	84:12	152:4,5	152:22 153:13,
<b>connection</b> 63:21 64:19 93:8 104:5	<b>continued</b> 137:21 141:1	67:19 82:3 84:7	<b>corrected</b> 138:1	18,21 154:1
<b>considered</b> 96:14 151:7	<b>continues</b> 66:19	<b>copy</b> 52:12 53:3 67:16 82:12,15 83:4,8,20 85:4,6 90:5 103:1 116:17 129:12,13 132:4 133:7	<b>correcting</b> 144:10	<b>cover</b> 66:7 94:8
<b>considers</b> 150:20	<b>continuing</b> 139:1,2		<b>correctly</b> 20:6	<b>covered</b> 98:8
<b>consistent</b> 60:24 122:12 135:23	<b>continuous</b> 21:12,17, 22		<b>corresponde nce</b> 138:19 149:10	<b>covering</b> 119:19
<b>consisting</b> 46:24	<b>continuousl y</b> 28:20		<b>counsel</b> 6:2,3 67:21 145:17	<b>covers</b> 93:23 <b>Cozza</b> 63:9
<b>constructio n</b> 27:3,16 37:21 43:7,8, 13,14,24 46:13,19, 20,23 51:8,15, 17 53:19 63:21 73:17 74:6 117:14, 18,21,23 121:15 124:24 125:19 127:16 132:20	<b>control</b> 6:21 53:12 54:5,10 55:18, 81:20,23 87:2 89:4, 94:12 112:16	<b>corner</b> 42:4 46:10 52:1,20 53:9 112:7	<b>couple</b> 13:5 17:11 59:14 142:5,6	<b>craft</b> 101:12
	<b>controlled</b> 54:18	<b>Corporate</b> 63:11	<b>courses</b> 15:3,5, 10,16 16:3,6,9, 19 19:13 20:6 22:3,4	<b>created</b> 93:8 <b>creates</b> 94:5
<b>contact</b> 107:2,5	<b>convenient</b> 60:8	<b>correct</b> 22:12 26:13 28:6,20 35:6 48:1,21 54:19 55:11 62:21 68:4 74:17 85:2,17 96:21 97:1,6 113:15 129:24 136:3,7 143:17	<b>court</b> 7:7 8:5 11:9 17:1 56:17 58:1 71:12,17 87:12 99:8 107:4 109:12 112:20 114:18,20 120:23 134:2 137:10,19	<b>CROPA</b> 71:10 72:3 <b>CROPA/FESOP</b> 71:22 <b>crossed</b> 83:4 <b>CSR</b> 6:5 <b>current</b> 12:18 18:19 56:14 65:22 <b>customers</b> 67:1 <b>cut</b> 52:4, 5,7,19
<b>contained</b> 49:17	<b>cookbook</b> 59:10			
	<b>coordinated</b> 71:11,14,			

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: D-e-s-a-i..disc

	123:16	14:12,20	11:11,18,	87:1,20
<b>D</b>	124:18	<b>delegate</b>	19,22,23	92:13
	<b>dated</b>	79:21	12:7 29:6	147:3
<b>D-e-s-a-i</b>	44:20	128:11,22	154:3	<b>determined</b>
23:6	96:2	<b>delegated</b>	<b>Des</b> 84:1	125:21
<b>Damn</b> 132:5	119:8	128:18	133:22	<b>device</b>
<b>dark</b>	<b>David</b> 33:3	129:6	<b>Desai</b>	54:6,10
143:19	<b>day</b> 37:9,	<b>delete</b>	23:3,4	55:18,
<b>dash</b> 135:9	18 48:13	110:1	41:15	81:20
<b>data</b> 42:10	78:11,12	<b>deleted</b>	73:23	87:3
49:17	117:20	110:6	77:17	93:19,20,
64:1	<b>days</b> 16:5,	111:3	<b>describe</b>	22 94:12
65:21	12 20:14	<b>deleting</b>	56:2,4,7	<b>devices</b>
67:1,2	<b>deal</b> 24:10	108:6,11	57:13	13:20
74:18	60:3	<b>delivered</b>	<b>describes</b>	<b>difference</b>
85:8	145:8	83:22	49:6	55:16
86:2,10,	<b>dealing</b>	<b>delivery</b>	<b>design</b>	<b>differently</b>
11,18	27:9 31:6	148:10	25:13	48:10
87:19	35:8	<b>demanding</b>	<b>designation</b>	<b>difficult</b>
88:21,22	50:10	9:9	52:2	8:4
114:13	57:18,20	<b>demonstrate</b>	111:8	<b>direct</b>
124:21	58:5	147:10	<b>designed</b>	27:13,20
130:2	79:13	<b>denial</b>	69:1	36:18
131:7	<b>deals</b>	126:11	<b>desk</b> 77:4	51:24
132:19	140:21	127:4	<b>detail</b>	66:10
147:20	<b>decide</b>	<b>denied</b>	20:16	85:9 86:1
149:6	57:16	125:14,20	130:24	94:19
152:1	<b>decided</b>	126:21	<b>details</b>	148:8,21
<b>database</b>	70:9	127:11,14	19:21	<b>directed</b>
9:23 10:1	<b>decides</b>	<b>deny</b> 72:20	<b>detecting</b>	83:9
<b>date</b> 23:24	24:6	125:8	62:9	143:7
40:15	<b>decision</b>	127:2	<b>determinati</b>	<b>directs</b>
42:7	97:16,24	<b>depends</b>	<b>on</b> 107:19,	93:24
50:17	<b>decrease</b>	40:13	20	<b>disagreemen</b>
61:10,11,	55:21	65:10	<b>determine</b>	<b>t</b> 110:20
14 63:23	<b>Deere</b>	79:1	22:10	150:16
75:5,13	13:21,22	<b>deposition</b>	25:17,19	<b>disagreemen</b>
78:14,16	<b>deficiency</b>	6:3,11,19	28:7	<b>ts</b> 150:19
105:9,15,	87:10	7:3,18	58:24	<b>disappear</b>
16 108:9	<b>degree</b>	9:17	70:14,20	123:22
109:5,17,			72:10	<b>disc</b>
20 115:10				
116:7,8				
119:3				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: disclosure..end

153:16	44:17	<b>drafting</b>	<b>effective</b>	49:2,7,
<b>disclosure</b>	50:8,9	22:18	119:3	21,24
28:24	80:19	<b>drawn</b>	<b>efficiency</b>	54:18
30:4	88:8	94:12	81:12,21,	55:22,23
<b>discount</b>	89:16	<b>dropped</b>	23 89:2,	65:15
50:17	90:8,11,	102:1	4,9,10,	72:24
<b>discovery</b>	12 95:21,	<b>Dubroch</b>	12,13	81:18
6:19	24 103:20	34:18	<b>electrical</b>	86:11
<b>discuss</b>	105:1	<b>duplicated</b>	14:16,17,	87:19,20
32:3,5	110:13,14	83:7	20	88:22
33:1 34:4	116:7,10,	<hr/>	<b>electronic</b>	89:17
<b>discussed</b>	11 141:19	<b>E</b>	13:19	92:13
31:8	152:8,11	<hr/>	14:15	114:12
32:1,21	<b>documentati</b>	<b>e-mail</b>	<b>eligible</b>	118:8,9
<b>discussing</b>	<b>on</b> 83:6	98:21	72:21	124:21
63:22	84:8	99:3,21	97:17	125:1
<b>discussion</b>	<b>documents</b>	<b>e-mailed</b>	<b>emission</b>	132:18
20:4	29:18,20,	133:10	47:11,12	136:9,24
32:15	22 30:2	<b>earlier</b>	55:5,8,	139:18
122:13	47:22	18:14	19,21	147:2
145:14	102:8	26:19	56:16,19	<b>emit</b> 24:24
<b>discussions</b>	120:5	68:2 86:3	57:10,12	25:4,5,
32:10	<b>doles</b> 77:6	89:4	58:6,8,13	10,12,17,
33:7	<b>door</b> 77:12	113:23	59:1	20 28:7
34:12	78:17	122:13	61:8,23	98:15
<b>dismissed</b>	<b>doubt</b> 37:8	128:10	62:9 64:1	136:13
150:12	63:14	135:1	65:9	137:2
<b>distributes</b>	80:23	<b>easy</b> 7:6	66:13	<b>emitted</b>
77:8	88:10	58:12	68:17,19	87:6,8,
<b>dividing</b>	99:2	<b>educated</b>	70:21	14,16,17
28:9	145:7	14:7	81:19	<b>employed</b>
<b>Division</b>	<b>doubts</b>	<b>education</b>	87:2,	12:15
107:17	63:17	14:9,12	89:16	13:7
<b>DLC</b>	<b>dozen</b>	15:4	93:23,24	85:13
107:16,18	79:17	<b>effect</b>	118:13	<b>employment</b>
108:5	<b>dozens</b>	20:24	121:3	13:8
<b>document</b>	79:16	21:2 38:1	126:22	<b>enclosed</b>
29:3,15	<b>draft</b>	118:24	136:24	94:7
36:1,16	106:14,	119:10	147:6,9	<b>enclosing</b>
39:9	16,17	120:3	150:22	85:2
	<b>drafted</b>		<b>emissions</b>	<b>enclosure</b>
	116:1		28:4,8	94:9
			42:10	<b>end</b> 108:7
			48:1	



VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: enforceable..facility

119:2	85:14	101:1,11	110:8,13	<b>explained</b>
142:7,11	97:20	<b>exceeding</b>	112:5	12:4
<b>enforceable</b>	110:17	135:9	113:4,7	<b>explanation</b>
11:5	149:9	<b>exceeds</b>	114:22	11:24
23:16	150:16,20	92:5	115:1,21,	12:1
149:13	<b>EPA'S</b>	<b>excuse</b>	24 117:2	19:22
<b>enforcement</b>	143:19	31:16	121:24	20:16
9:5	<b>equally</b>	32:20	122:3,6,	144:6
133:23	85:21	<b>exhibit</b>	11,12	<b>explanation</b>
134:3	<b>equipment</b>	26:4,7,9	126:5,8	<b>s</b> 19:21
<b>engineer</b>	14:18	27:7	127:3,9,	<b>exponential</b>
12:19,22	27:21	28:23	23 128:2	<b>ly</b> 65:10
13:4,5	56:11	35:24	130:14,	<b>express</b>
17:16	66:23,24	40:20,23	17,19,20	8:15
41:8	130:1	42:13,16	131:24	<b>expressly</b>
64:4,5	<b>equivalent</b>	43:1	132:7	6:7
66:8	14:19	45:23	134:9,12,	<b>extension</b>
112:19	<b>era</b> 62:11	46:2	13 135:2	139:12
140:16	<b>Erewele</b>	49:1,12,	146:14,17	<b>extensions</b>
151:14	128:19,20	15,18	17	137:14
<b>engineering</b>	131:1	50:5,8	<b>exhibits</b>	<b>extensive</b>
14:13,14,	<b>essentially</b>	52:10,17,	100:10	20:14
20 63:12	20:7 54:9	18,21,24	<b>existing</b>	<b>external</b>
<b>engineers</b>	<b>established</b>	61:9	100:20	80:3
77:9	66:13	63:2,5,6,	<b>EXP</b> 122:24	<b>Extra</b>
<b>English</b>	<b>events</b>	65:15	<b>expect</b>	105:12
8:9	99:18	67:5,11,	98:4	<b>extracted</b>
<b>Enstrom</b>	109:11,14	14,23	<b>expected</b>	143:6
6:4	<b>Everybody's</b>	68:9	30:12	
<b>enter</b>	34:9	69:17	31:1	
76:16	<b>exact</b>	72:24	57:12	
<b>entity</b>	15:8,17,	73:14,16,	<b>expiration</b>	<b>F</b>
152:14	19 61:4	20 74:10,	108:9	<b>facil</b> 35:8
<b>environment</b>	93:1	11,12,13,	109:4,17,	<b>facilities</b>
<b>al</b> 12:19,	<b>EXAMINATION</b>	14,15,17	20	19:23
22 15:5	6:16	80:15	<b>expire</b>	24:20
16:15,16	<b>examined</b>	82:6,9,	123:2,16	79:13
19:6,15	6:14	10,11,18	<b>expired</b>	98:5
<b>EPA</b> 13:9	<b>exceed</b>	86:5	11:4	119:23
15:11,13	58:8	88:3,6	123:14	120:14
62:2,4,		90:1,4	<b>explain</b>	<b>facility</b>
10,12		94:16,19	7:5 109:1	
		98:17,20		
		102:19,22		
		104:18,21		

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: facility's..form

10:14,19	138:15	125:14	<b>filed</b>	122:22
18:3,11,	149:16,19	135:10	31:22	123:16,
17 24:11	<b>factors</b>	138:3,13	<b>files</b>	18,24
26:12	57:10	140:23	51:14	124:3
28:8 33:9	<b>fair</b> 8:16	141:9	79:4	<b>flip</b> 29:2
37:20	72:9	144:7,17	<b>filing</b>	86:9
47:22,23	79:11	<b>FESOPS</b>	143:6	88:17,20
50:21	100:10	24:14	<b>fill</b> 39:24	110:22
51:1,18	120:12	53:20,22	40:11	<b>floor</b>
54:7,15	<b>familiar</b>	145:8	72:3	89:23
55:24	27:15	<b>few-day</b>	117:6	<b>flop</b>
72:4,	<b>familiarity</b>	16:6	<b>filled</b>	101:16
77:11,14	41:9	<b>field</b>	64:11	<b>flopped</b>
80:11	<b>Fan</b> 94:4	14:13,15,	69:7	101:20,21
87:7,9,15	<b>fans</b> 94:2	17 36:6,	70:9,12	<b>flops</b>
92:5	<b>Fargo</b>	8,9,10	75:8,10,	101:13
96:13,20	13:21	<b>figure</b>	12 76:1	<b>focus</b>
98:6	<b>fax</b> 64:17	48:15	113:12,22	151:12
99:17,19,	83:19,20	86:22	117:3,8	<b>FOIA</b> 85:10
22 100:7,	<b>faxes</b> 87:1	<b>figures</b>	122:14	117:2
12 101:24	<b>February</b>	54:22	132:12	148:8
102:12	50:18	66:13	<b>fills</b>	<b>folder</b>
103:17	54:1	<b>file</b> 26:18	76:19	60:14,15
104:5,15	105:17,19	27:4,10,	<b>final</b>	85:7
107:7,21	106:2	12 35:22	95:13,24	<b>follow</b>
108:15,20	136:8	39:2	<b>find</b> 57:8	123:21
109:9	138:7	40:10	90:5	<b>follow-up</b>
110:21	<b>federal</b>	42:18	116:17	153:12
111:16	11:5	43:2,4,6,	152:9	<b>forgot</b>
115:7,13,	118:21	8,15,24	153:4	76:8
16 120:7	<b>federally</b>	44:6	<b>fine</b> 8:16	<b>form</b> 41:19
124:1	23:16	46:13,17,	21:9	44:20
131:11	149:13	21 50:14	56:23	47:18
136:10,14	<b>FESOP</b>	51:11,13,	76:10	49:24
138:8	17:15,17	17 64:8	116:23	52:1,19
139:15	24:6,16,	84:5,6,13	145:13	53:13,16
141:22	20,21	93:11,14	<b>finish</b>	69:7
143:11	35:11	99:20	7:10	75:3,9
147:21	72:2,7	106:6,7,8	14:12	76:20
148:1	73:8	131:9,11	145:19	125:3
149:12	80:12	141:19	<b>flag</b>	144:8
151:11	<b>facility's</b>	142:22,23	118:3,10	
	35:8	143:3		
<b>fact</b>				
103:12				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: format..hydrogen

<b>format</b>	36:3		124:15,16	34:20
27:15		<b>H</b>	140:10	<b>high</b> 55:19
<b>forms</b> 61:4	<b>give</b> 17:3		<b>Harish's</b>	<b>higher</b>
	67:15	<b>hand</b> 40:23	73:24	92:4,14
<b>frame</b>	145:21	67:15	95:4	<b>highest</b>
11:21	153:6	76:20	<b>Hazard</b>	12:21
<b>frankly</b>	<b>good</b> 6:24	132:4	118:13	<b>highlightin</b>
146:7	7:1	<b>handled</b>	<b>hazardous</b>	<b>g</b> 38:8
<b>Freedom</b>	106:23	91:24	57:19	<b>hold</b>
46:8	145:12	<b>handling</b>	58:7	116:13,15
<b>fricking</b>	152:18	79:4	70:21	<b>hour</b> 55:6
82:3	153:12	<b>handwriting</b>	98:11	86:14
<b>front</b> 27:6	<b>grade</b>	75:1,4	118:5,8	88:23
29:23	12:21	102:23	119:13,14	89:19
38:6	<b>grant</b>	133:4	121:2	<b>hourly</b>
69:18	48:2,5	<b>handy</b> 38:8	137:11	58:13
<b>full</b>	74:3,5	<b>hang</b> 124:8	138:9	<b>hours</b>
123:10	78:7	<b>Hank</b>	<b>HCL</b> 48:20	25:22
	114:8,10	100:17	49:9,24	28:15,16
	116:20,22	101:10	55:2	58:14
	146:2	124:11	57:19,21,	146:4
<b>G</b>	150:1,10,	<b>HAP</b> 137:8,	22,24	<b>huge</b>
	13 153:6,	11	58:4,6	136:21
<b>Gail</b> 35:16	9,11,17,	<b>happened</b>	65:1	<b>Hutton</b>
<b>Gary</b>	19,22	97:22	68:13	99:5
112:11	154:2	110:5	76:4,13	<b>hydraulic</b>
<b>gas</b> 57:23	<b>granting</b>	<b>happening</b>	78:1,11	47:15
	46:19	99:18	86:14	48:1,5
<b>gave</b>	<b>great</b>	149:24	119:23	54:13
116:12	130:24	<b>hard</b> 32:3	135:8	<b>hydrochlori</b>
<b>general</b>	<b>greater</b>	57:13	151:22	<b>c</b> 47:1
9:12	147:22,23	65:22	<b>head</b> 34:5	48:2,3,20
11:1,3	<b>ground</b> 7:6	112:23	<b>headway</b>	54:14,17
16:18	72:21	<b>Harish</b>	89:22	55:2
19:11	<b>guess</b>	23:3,4	<b>hear</b>	119:24
27:15	33:17	41:15	117:10	<b>hydrogen</b>
31:10	79:12	45:8	<b>hearing</b>	58:5 65:9
79:1	100:16	73:23	7:19 8:23	
113:10	150:13	77:16,17	<b>hearings</b>	
129:17	<b>guideline</b>	106:12	7:21	
139:24	61:5		8:17,19	
<b>generally</b>	<b>guy</b> 35:20		<b>Hendrickson</b>	
77:10				
<b>George</b>				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: I-I-I-a-n-a..involvement

	100:11	<b>including</b>	111:11,12	125:7
<b>I</b>	101:17	119:20	<b>initialed</b>	153:3
	102:1,10	<b>incompleten</b>	78:12	<b>instructed</b>
<b>I-l-l-i-a-</b>	110:20	<b>ess</b> 133:7	126:14	69:15
<b>n-a</b> 13:15	117:2	144:6	<b>initially</b>	<b>instruction</b>
<b>idea</b> 11:1,	120:13	<b>increase</b>	137:13	<b>s</b> 60:3
3 45:18	125:21	92:24	<b>initials</b>	<b>instrumenta</b>
61:5	139:8	<b>increasing</b>	41:7,13,	<b>l</b> 61:22
<b>identificat</b>	144:11,14	141:9	14,21	<b>intent</b>
<b>ion</b> 26:5	<b>IEPA'S</b>	<b>Indiana</b>	42:5,11	97:19
40:21	47:22	15:16	45:4,7	<b>interest</b>
42:14	143:19	<b>indicating</b>	68:3,6,11	8:23
45:24	148:10	74:3	73:21	<b>interested</b>
50:6	<b>II</b> 13:5	114:7	75:5	43:23
52:22	<b>III</b> 12:20	<b>industries</b>	83:10,11,	<b>internal</b>
63:3	13:6	119:19	18 94:24	15:20
67:12	<b>Illiana</b>	<b>inform</b>	95:17,20	39:9,21,
80:16	13:11,13	44:1	96:1,6	22 144:10
82:7 88:4	<b>Illini</b>	<b>information</b>	111:7	<b>Internation</b>
90:2	13:12	46:8	112:6	<b>al</b> 13:21
94:17	<b>Illinois</b>	57:3,6,8,	114:4	<b>interpret</b>
98:18	6:21,22	15 64:18	124:12	20:8 49:4
102:20	10:11,15,	65:3,8,14	132:15,24	<b>interpretat</b>
104:19	20 15:11,	81:6	133:12,21	<b>ion</b> 8:6
110:9	13 19:14	97:16,20	146:19	20:17
113:5	97:20	98:1,2	<b>inlet</b>	50:1
114:23	143:18	99:18	55:14,18,	<b>interrupt</b>
115:22	150:16,20	131:5	22 86:10,	150:1
122:1	<b>important</b>	<b>information</b>	12 88:22	<b>introductio</b>
126:6	69:5 87:4	<b>al</b> 29:21	89:16	<b>n</b> 20:15
127:24	145:21	<b>informed</b>	<b>inorganic</b>	<b>investigati</b>
130:15	<b>include</b>	22:7	47:19	<b>on</b> 106:21
132:1	47:14	115:5,6	<b>inspection</b>	<b>involved</b>
134:10	49:9	140:5,10,	37:10,18	9:14
146:15	140:5,10,	12	<b>inspector</b>	26:12,15,
148:4	12	<b>informing</b>	36:6,8,11	16,18
<b>IEPA</b> 12:16	<b>included</b>	29:16	<b>installatio</b>	31:24
13:7	26:21	<b>inherited</b>	<b>n</b> 93:17	34:11
16:22	130:2	42:18	<b>instance</b>	<b>involvement</b>
27:18	<b>includes</b>	43:2 44:6	68:3	31:5
32:13	60:23	<b>initial</b>	69:6,9	
46:12	74:18	95:8,11,	70:3 74:2	
59:4		14,24	124:19	
75:19				
97:18				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: isokinetic..litigation

44:20		29:15, 21	31:17, 21	97:7, 11,
<b>isokinetic</b>	<b>J</b>	44:18	32:2, 21	19 98:7,
85:15		57:9	33:2	10 100:6
<b>issuance</b>	<b>Jamie</b>	59:16	<b>lawsuits</b>	104:8
109:14	35:18, 20	65:3	9:12	111:12, 14
<b>issue</b>	<b>job</b>	76:12		115:3
22:11	9:12	87:20	<b>lawyer</b>	126:11
79:24	18:21	97:17	12:1	127:5
124:3, 10,	22:9	105:10	<b>lawyers</b>	137:15
11 136:23	39:12	142:14	108:1, 2	139:20
137:21	82:2	144:1	<b>lay</b>	143:9
145:10	152:14,	<b>knew</b>	28:24	146:23
	18, 21	129:5	30:4	147:17
<b>issued</b>	<b>John</b>	136:8	<b>lean</b>	149:5
9:20 18:8	13:21, 22	144:20	53:1	
24:17	34:17	<b>knowledge</b>	67:20	<b>level</b>
26:22	64:2, 13	27:14	90:6	14:9
27:18	<b>joint</b>	85:19	104:22	22:5
40:16	51:4, 7	92:16	122:4	55:19
66:9	63:21	151:17	<b>leaving</b>	90:21
76:15	74:5, 7, 9		145:24	91:2
78:3, 7	<b>judge</b>	<b>L</b>	<b>lectures</b>	92:4, 5
80:8	152:21, 23		15:24	100:17
102:10	<b>Judging</b>	<b>lack</b>	16:1	101:1, 10,
109:4, 7	63:23	65:21	<b>leeway</b>	11 144:17
110:6, 17	<b>Julie</b>	<b>lady</b>	145:22	151:12
111:12	100:2, 16	35:12	146:6	<b>lid</b>
127:4	144:23	<b>lady's</b>	<b>left</b>	93:21
136:22	<b>July</b>	35:14	145:18	<b>lieu</b>
137:13,	14:2	<b>land</b>	<b>left-hand</b>	24:14
15, 22, 23	<b>June</b>	72:5	52:1, 20	<b>lifetime</b>
138:5	116:6	<b>language</b>	53:9	109:3, 7,
151:1		110:24	112:7	18
<b>issues</b>	<b>K</b>	137:17, 20	<b>legal</b>	<b>limitation</b>
33:2,		<b>lasted</b>	19:8, 14,	25:21
96:9	<b>Ken</b>	16:4	16, 22	147:6
151:11, 12	128:18	<b>late</b>	21:5, 7	<b>limits</b>
<b>issuing</b>	130:24	119:6, 7	107:17	87:21
7:24	<b>Keppner</b>	120:3	<b>laughing</b>	<b>lines</b>
102:13	31:23	<b>lawful</b>	71:15, 16	69:14
141:1, 6	<b>Keppner-</b>	6:13	<b>lawsuit</b>	<b>list</b>
<b>Item</b>	<b>bauman</b>	<b>lawsuit</b>	9:14 11:2	31:4
27:21	31:9 33:8	9:14 11:2	66:8 72:3	56:10
	<b>kind</b>		95:9, 11,	<b>listening</b>
	14:14		13, 16	15:24
			96:2, 7,	<b>litigation</b>
			13, 24	10:23

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: local..maximum

31:11,13, 16	112:7	112:4	144:20	117:2
<b>local</b> 8:22 22:5	<b>M</b>	120:19, 21,24	<b>manger</b> 23:1	118:9
<b>locate</b> 103:2	<b>made</b> 42:1 67:18	121:1,16, 23 125:22	<b>manual</b> 59:3,8,15	122:1
<b>located</b> 43:6 84:2	76:13	135:9	60:2,6, 11,17	126:6,8
<b>long</b> 12:15,24	77:24	137:1,5	<b>manufacture</b> r 66:21, 22,23	127:24
17:10,12, 18,20	78:3	138:8	67:2	128:2
59:18,21	83:20	139:16	<b>mark</b> 26:2	130:15
78:22,23	104:4,14	147:23	40:3,14	132:1,3,6
80:20	120:6	<b>make</b> 7:6 11:16	50:3	134:10,12
118:23	149:9	14:24	62:24	146:15
145:18	<b>mail</b> 75:17,18	22:10,16	72:2	148:4
<b>looked</b> 43:1	<b>mailed</b> 42:2	40:3	80:14	<b>marks</b> 40:3 69:16
59:13,17	133:24	48:19	124:24	106:18, 22,23
65:15	134:5	69:15	<b>marked</b> 26:5,7	<b>master</b> 14:11
67:4 74:9	<b>mailing</b> 75:22	97:16,24	28:23	<b>material</b> 28:2
77:15	<b>maintain</b> 39:23	120:13	35:24	54:14
86:3	<b>major</b> 24:11,17,	<b>makes</b> 135:16	40:21	92:11
100:10	19 58:9	<b>making</b> 89:22	42:14,16	<b>materials</b> 57:12
130:19,23	59:1	106:3	45:24	<b>math</b> 25:23
132:10	69:3,4,5	<b>man</b> 123:4, 12	46:2	<b>matter</b> 10:23
135:1	71:4,5,7	<b>management</b> 144:13,16	50:6,8	11:13
139:15	72:11,14,	<b>manager</b> 16:23	52:22	25:23
<b>lost</b> 58:2	15,20	17:8,15, 17 18:1	54:12	28:3,8
<b>lot</b> 19:21	73:1,8	22:22	63:3,5	33:1
44:14	96:15	41:17	67:12,14	47:11,
130:1	97:1	64:11,12	74:7	49:20,23
147:24	98:10	76:15	80:16	66:3
<b>lots</b> 89:23	99:23	77:5,6, 15,16	82:7,9	103:12
<b>low</b> 55:5,8	100:12	95:3,18	88:4,6	149:19
<b>lower</b>	101:13,16	122:21	90:2,4	<b>matters</b> 15:6
46:10	102:11	123:8	94:17,19	146:5
52:1,19	104:10,	140:14	98:18,	<b>Maureen</b> 12:2 31:3
55:20	11,14	<b>managers</b> 140:9	102:20,22	<b>maximum</b> 25:6,11, 21 149:2
58:15	108:13		104:19	
100:4	109:2		110:9,12	
	111:15,17		113:5,7	



VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: Naour..Originally

52:8,12	<b>non-clear</b>	<b>number</b>	<b>offer</b>	105:23
53:1	137:20	28:16	152:14	109:4,7,
67:16	<b>non-</b>	30:8	<b>office</b>	18 110:1,
104:22	<b>extension</b>	38:10,11	36:9	16
132:4	137:16	43:6,7,10	83:7,8,9,	113:17,18
<b>Naour</b>	139:20	49:1	21,23	125:10
122:21	<b>non-major</b>	52:19	84:3	130:6
123:4,7,	72:18,21	53:13	<b>official</b>	133:1
8, 124:11	108:8,18	55:5	52:9	136:23
<b>National</b>	<b>normal</b>	58:21	<b>ongoing</b>	149:14
15:17	91:19,20	62:13,15	151:15	151:19
70:21	103:19	76:17	<b>operation</b>	11:4
118:12	131:9,14,	89:10	<b>online</b>	25:6,7
<b>needed</b>	17	91:15	120:15	57:9
70:10	<b>Notary</b> 6:5	97:8	<b>operate</b>	58:14
80:11	<b>notation</b>	104:1	43:17	102:5
96:24	76:13	117:17,	127:19	150:21
100:12	78:1,2	19,20,22	<b>operates</b>	<b>operational</b>
104:10,14	120:6	118:2	24:5	25:13,20
125:22	<b>notations</b>	119:9	28:20	<b>operations</b>
<b>NESHAP</b>	122:16	122:17	<b>operating</b>	25:21,
110:2	<b>note</b>	127:7	11:6 18:7	65:22
118:12	108:12	135:8,22	23:14,16	100:23
119:22,23	110:2,24	136:21	27:9,10,	102:3
120:7,14,	135:4	147:9	11 37:20,	121:21
15,18,24	<b>note, '</b>	<b>numbers</b>	23,24	149:3
<b>NESHAPS</b>	108:7,11	89:3	38:3,14,	<b>opposed</b>
119:18,19	<b>notice</b>	<b>objects</b>	18 43:3,	43:13
120:17	8:21	150:22	5,9,12,	46:16
<b>newly</b>	78:14	<b>observing</b>	19,22	<b>order</b>
100:22	103:4,11	140:17	44:12	149:10
<b>newspaper</b>	133:7	141:20	46:16	153:15,23
8:22	143:24	<b>obtaining</b>	51:8,11,	<b>orders</b>
<b>Nineteen-</b>	144:3,6	97:15	12,15	153:14
<b>and-a-half</b>	151:1	<b>occur</b> 12:6	53:17,19	<b>Ordija</b>
12:17	<b>noticed</b>	37:5	56:14	36:3,22
<b>NMLP</b>	149:23	<b>occurs</b>	63:22	<b>original</b>
54:13,21	<b>notion</b>	47:18	73:5 74:6	83:9,21
65:24	99:22	<b>October</b>	80:7	<b>Originally</b>
86:5	<b>November</b>	110:17	84:18,22	66:19
103:22	105:24	<b>offer</b>	87:23	
110:23		<b>offer</b>	93:4	
		<b>offer</b>	97:3,8	
		<b>offer</b>	100:19,20	
		<b>offer</b>	102:10	



VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: out-the-stack..permits

<b>out-the-stack</b>	8:18	<b>perform</b>	8,9,12,	109:3,4,
87:19	<b>particles</b>	57:2	13,15,19,	8,14,16,
<b>outlet</b>	49:7	92:18	23,24	19,23
55:10,19	<b>particulate</b>	127:17	46:13,16,	110:1,6,
58:21	28:3,7	129:3	20,21,24	16
74:18	47:11,18,	<b>performance</b>	49:1	113:17,19
81:17	49:20,23	70:15	51:8,11,	114:10
86:2	<b>particulate</b>	<b>performed</b>	13,15,17	117:15,
88:22	<b>s</b> 47:13,14	57:6	56:3,8,	17,18,19
<b>owns</b> 10:14	<b>parties</b>	61:15	11,15	118:1
	9:8	66:14	59:4,5,	121:15
<b>p</b>	<b>parts</b>	81:16	10,15	122:21
	100:24	99:13	60:19	124:5,6,
<b>P.M.</b> 6:11	<b>party</b> 9:8	115:10	61:2	10 125:1,
154:3	<b>pass</b> 40:11	125:18	63:22	10,14,19,
<b>pages</b>	<b>pay</b> 123:18	126:22	64:4,5,	22 126:11
148:16	150:14	127:18	14,19	127:17
<b>paper</b>	<b>paying</b>	135:24	65:4 66:9	129:2
89:23	118:5	<b>performs</b>	72:22	130:7
<b>paragraph</b>	119:13,	129:11	73:6,7,8,	131:9
37:14	15,16	<b>period</b>	18 74:6	133:1
85:11	<b>PE</b> 41:22	85:18	75:18	136:20
107:14	<b>peer</b> 118:6	90:20	76:14,15,	137:21
129:16	<b>pending</b>	<b>periodicall</b>	22 77:4	138:12,17
134:20	93:5 97:4	<b>y</b> 20:15	78:3	140:1,2,
147:9	100:19	<b>permit</b>	79:14,15	4,7,8,16
148:22	130:7	11:5 17:9	80:7,11	141:12
<b>Pardon</b>	149:20	18:7,8,24	84:18,22	142:15
95:10	150:2,4,	19:3	86:23	144:1,2,
116:5,21	15	20:21,24	87:21,23	4,14
123:6	<b>people</b>	22:11,19	90:20,21	145:10
<b>part</b> 6:14	40:3	23:11	91:1,10	149:12,
42:2	<b>percent</b>	24:2,15	93:4	14,17,23
75:10	137:1,3	26:18	97:1,3,8,	150:2,5,
100:2	139:16	27:3,4,	16,17,23,	15,24
118:16	<b>percentage</b>	10,11,18	24 99:16,	151:14,19
120:8	81:19	36:14	24	152:12
134:3	151:22	37:19,20,	100:13,	<b>permit's</b>
152:13	<b>percentages</b>	21,24	19,20	78:6
<b>participate</b>	65:1	38:4,11,	102:10,	<b>permits</b>
<b>d</b> 7:21		15,17,18	12,	7:22,24
		39:2,4,5,	103:13	8:21 9:20
		7 40:9,15	104:10,15	11:6
		43:2,3,5,	105:23	23:10,14,
			106:7,8,	17,19,20,
			14,16,17	21 26:22
			108:8,14	

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEELSeptember 26, 2013  
Index: permitted..prior

53:17,19	46:24	<b>point</b>	<b>position</b>	<b>Present</b>
92:3	<b>pickle</b>	92:17	34:7,9	22:22
132:20	27:22	<b>pointed</b>	64:11	<b>presented</b>
136:23	47:24	146:3	<b>possibiliti</b>	64:22
138:5	51:22	<b>pointing</b>	<b>es</b> 127:8	87:15
140:22	64:24	75:11	<b>possibly</b>	<b>presents</b>
141:2	92:12	<b>policy</b>	120:7	86:10
143:6	<b>pickling</b>	136:22	<b>potential</b>	<b>presume</b>
<b>permitted</b>	54:5	137:16,	24:24	25:21
18:10	65:12	23,24	25:4,10,	<b>presuming</b>
<b>permitting</b>	81:18	139:1,3,	17 28:7,	25:6
18:14	100:23	5,12,13	18 49:6	<b>pretty</b>
24:11,19	<b>picks</b>	140:18,22	58:13	11:3
<b>person</b>	75:20	141:2,13,	68:17,19	18:23
70:8 80:1	<b>place</b>	21 142:1,	111:15	19:1
128:17	153:23	4 143:10,	136:13	44:7,8
<b>personal</b>	<b>places</b>	20	137:2	64:21
151:17	16:13	144:10,	147:11	80:18
<b>personnel</b>	<b>plain</b>	15,18,20,	<b>potentially</b>	83:1
32:13	92:23	24	108:14	88:12
<b>perspective</b>	<b>Plaines</b>	<b>pollutant</b>	112:4	91:7
107:1	84:2	25:5,12	138:10	128:24
<b>pertain</b>	<b>planned</b>	55:21	<b>pounds</b>	136:20
33:10	66:24	57:11,19	55:6	143:19
49:5	146:8	58:7	86:14	<b>previous</b>
50:21	<b>planning</b>	98:11	88:23	17:24
<b>pertaining</b>	112:17,18	121:3	89:19	61:2 91:7
40:2	<b>plant-wide</b>	137:12	<b>PPM</b> 101:1	92:2,3
100:21	147:2	<b>pollutants</b>	<b>practice</b>	100:5
<b>pertains</b>	<b>plants</b>	70:22	152:17	121:10
9:11	119:24	118:6,8,	<b>precede</b>	125:18
100:5	<b>Platt</b>	13 119:14	105:21	127:16
<b>physical</b>	34:15	138:9	<b>predates</b>	135:24
25:12,19,	35:13	<b>pollution</b>	41:9	<b>previously</b>
20 94:9	<b>play</b>	6:21	<b>preparation</b>	28:22
<b>pick</b> 93:22	101:24	53:12	18:24	34:10
131:6	<b>played</b>	54:10	32:9 41:6	35:23
<b>picked</b>	102:9	<b>portion</b>	<b>prepared</b>	66:8
50:14	<b>PMT</b>	40:2	134:15	<b>print</b> 52:3
81:18	122:19,20	75:12	<b>preparing</b>	<b>prior</b> 13:7
<b>picking</b>		100:4	9:17	26:12
		114:7		115:10
		132:12,16		119:16
		143:14		

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: Pro-eco..reason

<b>Pro-eco</b>	147:6	19:14	93:21	<b>rate</b> 47:12
54:6	149:2	66:24	95:13,19	55:5,9
<b>problem</b>	<b>professiona</b>	<b>provided</b>	96:1,5	57:12
52:11	<b>lly</b> 80:5	29:23	102:11	58:13
148:10	<b>program</b>	30:11	152:3	92:14
153:4	20:21,24	57:4,7		149:2
<b>procedural</b>	22:3	<b>provisions</b>	<b>Q</b>	<b>rates</b> 61:8
12:1 21:8	53:24	6:21		66:20,21
<b>procedural</b>	71:11,13,	<b>proximity</b>	<b>qualify</b>	<b>raw</b> 54:14
<b>y</b> 129:8	16,17	96:17	96:20	57:11
<b>procedure</b>	136:20	<b>PTE</b> 68:19	<b>quality</b>	<b>read</b> 25:9
6:23 8:20	138:12	135:8	112:16,	30:13,16
39:22	144:2	147:3,21	17,18	37:11
99:17	149:12	148:23	<b>question</b>	84:15
128:24	<b>project</b>	<b>public</b> 6:5	7:10	96:7
<b>procedures</b>	42:10	7:21	33:23	100:1,2
12:4	71:4	8:18,19,	40:5	112:23
39:21	114:12	21,22,	43:21	143:12,14
85:8	124:21	149:23	48:14	<b>readily</b>
129:18	132:18	151:1,3	50:13	103:1
<b>process</b>	<b>promulgated</b>	<b>published</b>	79:12	136:12
40:8	100:22	8:21	100:21	<b>reads</b>
47:11	119:2	66:20,21	104:7	129:17
65:19	120:17	<b>purchased</b>	142:20	<b>ready</b>
113:13	<b>promulgatin</b>	13:20	143:12	40:16
119:23	<b>g</b> 119:18	<b>pure</b>	151:13	76:14
124:5,	<b>proper</b>	145:10	<b>questions</b>	78:3,6
130:6	11:4	<b>purpose</b>	6:17 31:8	107:18
135:13	<b>proposed</b>	39:17,19	68:12	<b>realize</b>
149:12	51:22	55:20	91:22	136:20
152:13	54:17	<b>pursuant</b>	92:1	<b>reapply</b>
<b>processing</b>	147:5	6:20	<b>quickly</b>	109:22
39:3,7	<b>proposes</b>	<b>pushing</b>	80:19	<b>reason</b>
86:22	54:4	120:13,16	145:20	31:18
<b>produce</b>	<b>proposing</b>	<b>put</b> 38:8	<b>quote</b> 16:9	37:8
13:19	47:23	40:15	104:15	43:18
<b>produced</b>	<b>protection</b>	60:6	108:6,7	70:8
6:13 46:8	12:19,22	78:11	141:1	80:24
<b>production</b>	<b>protocol</b>	83:5,17		92:22
66:24	129:18	87:21	<b>R</b>	96:5 98:4
85:8	<b>provide</b>	92:11	<b>raise</b>	109:6
92:24			142:20	111:18,21
				112:2

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: reasonable..reissued

121:14	<b>receive</b>	153:10	23,24	<b>refresher</b>
126:20	51:14	<b>recognize</b>	76:19	22:3
127:14,21	58:15	41:1,3,13	83:16	<b>reg</b> 119:10
134:7	60:2	42:5,10	102:23	<b>regard</b>
141:10	79:24	44:17,23	122:14,18	19:14
<b>reasonable</b>	80:3 81:1	45:4,7	127:15	21:5 33:8
98:3	83:20	50:9 52:6	132:13	101:18
<b>reasons</b>	88:11	68:8	145:14,	<b>regeneratio</b>
125:12	99:18	80:19,21	15,16	<b>n</b> 119:24
<b>recall</b>	129:12,13	90:11,12	<b>records</b>	<b>Region</b>
20:12	144:6	105:1	75:21	83:4
22:4	151:3	110:14	113:23	<b>regional</b>
26:10	152:1	112:6,13	<b>red</b> 118:9	83:7,9,
27:3 29:5	<b>received</b>	115:1,2	<b>refer</b>	21,23
30:1	63:15	122:6	122:18	<b>regs</b>
32:7,15	74:11	128:2,5	<b>reference</b>	120:15
33:12,14,	75:14	134:12	135:16	<b>regulated</b>
20,21	80:24	146:17	<b>referred</b>	143:18
34:11	83:2,6	148:6	8:17 31:4	152:14
35:14,22	88:13	<b>recollectio</b>	73:15	<b>regulation</b>
36:21	99:3	<b>n</b> 30:3	122:23	19:20
37:1,2	105:15,22	63:19	130:19	20:1,17
56:4	113:11	64:16,17	<b>referring</b>	25:18
61:11,13	131:5	66:2 91:3	50:24	69:4 72:5
62:10	143:23	102:2,4	73:13	100:22
68:14	<b>receives</b>	127:2	89:7	118:21
69:12,14	75:13	129:5	118:12	119:4
77:18	<b>receiving</b>	141:8	123:4	121:1
79:3	82:23	<b>recommenda</b>	<b>refers</b>	<b>regulations</b>
82:23	83:16	<b>tion</b> 22:11,	97:7	6:22
83:1 88:7	88:8	16,18	108:12	19:7,11,
91:22	142:19	<b>recommended</b>	123:15	15 20:8,
102:7,9,	<b>recent</b>	108:6	<b>Refine</b>	15 22:6,
13 103:6	29:6,8	109:24	56:21	36:14
104:9,12,	62:15	<b>recommends</b>	<b>reflect</b>	61:7 69:5
13	138:2,3	130:10	6:18	96:21
109:10,13	148:2	<b>record</b>	47:22	142:13
115:18	<b>recently</b>	6:18 8:1	<b>reflects</b>	152:15
134:6	32:7	20:2,4	141:20	<b>Reichel</b>
141:7	<b>recess</b>	40:3	<b>refresh</b>	34:24
143:8	52:15	47:22	127:1	<b>reissued</b>
148:9,18,	67:10	48:6	<b>refresher</b>	108:8
19	82:5,16	74:17		
<b>receipt</b>	146:13	75:12,14,		
78:15				

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: reject..reviewing

109:16	121:13,	143:15	21, 23	67:6 84:7
<b>reject</b>	14, 20	145:11	<b>requiring</b>	85:8
132:23	125:11, 23	152:22	138:3	86:13, 18
134:7	126:3	153:13,	<b>reserve</b>	129:15
<b>rejecting</b>	127:6, 11	18, 21	153:19	135:8
133:1	131:15, 16	154:1	<b>reserved</b>	147:7, 16
<b>relate</b>	<b>reminder</b>	<b>reporting</b>	6:7	<b>resumed</b>
49:12, 16	61:6	17:12, 14,	<b>resolve</b>	121:21
<b>related</b>	<b>renewal</b>	18	124:11	<b>retest</b>
11:13	18:8	<b>representat</b>	<b>resolving</b>	92:6, 21
16:17	44:13	<b>ives</b> 16:19	124:3	<b>retired</b>
29:12	109:23	<b>request</b>	150:15	18:1 23:9
43:20	144:5	8:23 46:9	<b>respect</b>	<b>review</b>
57:8	<b>repeat</b>	64:18	132:20	9:16, 19
92:19	8:15	93:3	141:21	19:3, 18,
118:7	<b>repeated</b>	100:5	143:10	19, 20
<b>relates</b>	121:20	147:4	<b>respond</b>	22:10, 22
84:22	<b>replace</b>	<b>requested</b>	7:10, 12	23:11
99:21	52:17	63:24	<b>Respondent</b>	40:10
117:14	85:24	64:22	6:3, 14	41:19
<b>relied</b>	<b>replacement</b>	65:23	<b>response</b>	45:13, 19
74:19	52:24	81:5	81:10, 11	68:4
<b>rely</b> 148:2	<b>report</b>	91:11	<b>responsibil</b>	76:12
<b>remember</b>	86:21	92:3, 18,	<b>ities</b>	77:24
10:16	129:1, 9	21, 23	18:22	80:4, 8
15:8	130:3	121:14	22:9	91:5
20:13, 23	131:6, 8	125:18	<b>responsibil</b>	97:21
31:3	147:21	127:17, 19	36:12	99:13, 19
34:21	<b>reporter</b>	143:14	79:24	114:5
35:10	7:7 8:5	<b>requesting</b>	<b>responsible</b>	118:7
48:24	11:9 17:1	46:23	151:11, 15	124:13
59:13	56:17	147:2	<b>rest</b> 75:8	128:7,
61:4	58:1	<b>require</b>	<b>restarted</b>	129:11
62:15	71:12, 17	44:14	115:16	131:3
63:9, 11	87:12	92:12	<b>result</b>	132:16
64:10, 20	99:8	99:23	58:15	149:23
65:16	107:4	108:13	129:12	<b>reviewed</b>
66:5	109:12	138:11	<b>results</b>	120:6
81:22, 24	112:20	<b>requirement</b>	54:22, 23	146:22
84:2	114:18, 20	95:22	62:22	<b>reviewer</b>
92:17, 19,	120:23	<b>requirement</b>	<b>reviewing</b>	129:11
22 93:1	134:2	<b>s</b> 21:5, 8	19:11	
119:3	137:10, 19	129:19,	40:9	

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: reviews..simple

56:3,10	<b>round</b>	131:6	71:8	94:18
65:4	149:3	132:13	72:16	98:19
79:14	<b>RPR</b> 6:5	133:24	78:15	102:8,17,
84:9		134:3	105:6,7	21 104:20
90:20	<b>rules</b> 7:6	140:1,2,4	106:3,18,	110:12
91:1	150:17	144:14	20 107:9	113:6
141:12	<b>RWB</b>	<b>seek</b> 43:17	113:8,12	122:3
<b>reviews</b>	133:20,21	<b>Seminar</b>	118:2,9	126:7
80:2		15:22	122:8,23	128:1
120:14	<b>S</b>	<b>seminars</b>	127:3	130:16
129:3		15:22	132:7	132:3,6
<b>revise</b>	<b>Sawyer</b>	<b>send</b> 8:20	<b>sheets</b>	134:11
91:9	107:23,24	106:9,12	40:1,6	148:5
<b>revised</b>	<b>scheduled</b>	130:24	42:17	<b>showing</b>
59:24	115:9	131:4	43:10	50:8
66:13	<b>schemes</b>	142:12	48:17	52:24
74:22	85:15	<b>sending</b>	93:7	63:4 88:6
102:10	<b>scribble</b>	143:8	<b>shift</b> 17:7	90:3
110:1	42:4	<b>senior</b>	<b>shook</b> 34:5	114:24
<b>revision</b>	<b>scrubber</b>	144:13,16	<b>short</b>	115:23
43:20	54:7,9,19	<b>sentence</b>	52:14,15	146:16
74:22	55:10,14,	107:13	67:10	<b>shows</b>
91:23	23 58:20	<b>separate</b>	82:5,16	121:16
93:3,15	74:18	51:15	145:19	<b>shrug</b> 7:14
105:23	81:17,19	117:18,22	146:13	<b>side</b> 34:5
117:15	86:2,10	<b>September</b>	153:10	<b>sign</b> 78:20
144:5	89:5,13	36:22	<b>shortcut</b>	<b>signature</b>
<b>right-hand</b>	94:1,4	104:9	44:18	6:6 44:24
42:4	<b>section</b>	<b>service</b>	110:19	45:1
44:24	17:9,16	126:23	130:18	60:23
46:10	27:21	<b>set</b> 62:6	<b>shorthand</b>	153:20
<b>ring</b> 34:18	41:19	<b>sets</b> 22:6	6:4 91:9	<b>significant</b>
35:3 68:9	42:9,10	<b>sheet</b>	<b>shoulder</b>	22:6
<b>RMB</b> 133:17	49:2	39:1,19,	116:18	32:15
<b>Robert</b>	64:23	23 40:4,	<b>show</b> 26:6	43:10
16:23	68:21	11,13,15,	28:22	141:9
17:1,2	103:13	18 41:4,	35:23	<b>signing</b>
133:14	112:17,18	6,13 46:6	40:6	118:7
<b>Robin</b> 6:4	114:13	67:24	42:15	<b>similar</b>
7:6 11:8	122:14	68:10	46:1	132:9
<b>room</b> 75:22	124:13,22	70:9,13	67:14	144:5
143:7	129:2		69:17	<b>simple</b>
	130:10		82:8	

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: simply..steel

25:23	58:8,9	45:19	129:1,3,9	38:3,14
26:1	59:1	57:3,5	134:23	53:17,18
44:8,10	70:14,15,	60:14,15	135:17,24	73:5 80:7
<b>simply</b>	20 71:5,7	80:1 91:6	139:14	87:23
93:21	72:11,14,	106:22	147:4,7,	93:4 97:3
<b>single</b>	15,18,19,	118:6	16 148:2	100:19,20
101:18,22	20,22	131:11	<b>stamp</b> 46:9	102:22
137:8,10	73:9	<b>specialist</b>	<b>stamped</b>	130:6
<b>sir</b> 16:15	85:14	128:8,9,	88:13	136:23
45:2 68:6	88:23,24	14	<b>standard</b>	138:5
136:7	96:14,15	<b>spelled</b>	8:20 41:4	149:14
<b>sit</b> 149:20	97:1	13:14	68:10	151:19
<b>sits</b> 78:4	98:10	<b>spelling</b>	78:20	<b>stated</b>
<b>situations</b>	99:6,9,23	17:4	99:17	30:18,22
60:4	101:13,	<b>spent</b>	118:13	31:2
144:5	16,18,22	146:4	150:22	72:24
<b>slash</b>	102:12	<b>spoken</b> 8:9	152:17	135:12
135:10	104:10,	33:18	<b>standards</b>	139:6
<b>so-called</b>	11,14	35:7	70:15,21	<b>statement</b>
47:11	108:13,18	<b>spot</b>	<b>start</b>	20:9
136:22	109:2	145:12	56:10,17	25:14
<b>solution</b>	111:15,18	<b>Springfield</b>	58:1	37:16,17
65:12	112:4	32:12	60:22	<b>states</b>
<b>someone's</b>	120:21,24	<b>stack</b>	87:12	13:9
124:2	121:16,23	61:19,20,	<b>started</b>	14:1,22
<b>something's</b>	125:22	22,24	13:4,11	15:4
113:11	135:9	66:14	21:13	16:11
<b>sort</b> 7:20	137:1,5	67:6	113:12	51:21
<b>sought</b>	138:9	80:1,2,4	118:4	84:17
56:12,13	139:16	81:16	119:13,	96:13
<b>Sounds</b>	147:23	84:6	15,18	<b>stationary</b>
122:21	150:21	85:2,5,18	135:13	25:11
<b>source</b>	152:11	87:16	136:19	<b>statistics</b>
19:18,19	<b>source's</b>	92:8,9,18	138:3	135:5
24:8,11,	107:1	93:14	<b>starting</b>	<b>status</b>
17,20	<b>sources</b>	99:13	21:16	108:8
25:5,11,	120:19	115:9	121:19	149:22
28:20	121:1	121:10,	<b>state</b>	<b>statute</b>
55:24	136:24	12,13,15,	10:11	25:9
57:9	138:4	16,17,18,	11:5	<b>stays</b>
	141:9	22	23:14,16	106:8
	<b>span</b> 11:15	127:17,18	30:12	<b>steel</b> 9:20
	<b>special</b>	128:7,11	31:22	10:9,10
	22:4			
	29:20			

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: step..testified

47:24	<b>submit</b>	88:21	149:7	<b>ten</b> 58:15
90:13	106:13	134:20		121:2,3,
92:4,12	<b>submits</b>	<b>support</b>	32:11	5, 135:9
96:18	143:5	96:20	38:18	147:22
101:19,22		98:6	68:19	<b>terms</b>
102:3	<b>submittal</b>	99:22	81:13	19:23
111:17	63:20	100:7	84:23	43:16
152:3	<b>submitted</b>	101:24	87:24	79:13
<b>step</b> 18:20	35:11	102:12	97:9	151:18
22:8	72:18	104:5,15	113:16	<b>test</b>
40:12	136:4	107:20	124:11	61:14,16,
	<b>submitting</b>	108:14,19	129:22	17,19,20,
<b>steps</b>	43:19	109:9	147:1	22 66:14,
39:3,5		110:21	148:23	23 67:6
56:3	<b>subordinate</b>	111:16		80:1,2,4
<b>stick</b>	<b>s</b> 99:11,12		<b>talks</b>	81:16
31:13	<b>subpart</b>	<b>supposed</b>	46:22	84:6
<b>STIPULATED</b>	118:18	62:2 69:3	81:11	85:2,5,
6:1	119:22	97:24	134:23	14,18
		124:2	<b>tank</b> 64:24	92:8,9,
<b>stop</b> 141:6	<b>subsequentl</b>	<b>Supposedly</b>	65:12	13,19
144:18	<b>y</b> 80:7	28:14	81:18	93:14
	110:5		93:23	115:9
<b>store</b>	<b>substantiat</b>	<b>suspect</b>	<b>technical</b>	121:10,
60:14	<b>e</b> 107:19	66:9	19:5,21	13,15,16,
<b>stores</b>	147:5	<b>suspended</b>	33:1	18 125:17
131:12		49:7	150:16	126:22
<b>straightfor</b>	<b>substantiat</b>	<b>suspicion</b>		127:18
<b>ward</b> 44:8,	<b>ion</b> 64:1	98:4	<b>technicalit</b>	128:7
11	<b>suction</b>	<b>switch</b>	<b>ies</b> 130:1	129:1,3,
	94:5	24:6	<b>Technically</b>	9,24
<b>Street</b>	<b>suddenly</b>	<b>sworn</b> 6:13	68:20	130:11,18
10:15	143:23		<b>techniques</b>	131:15
50:21		<b>system</b>	14:18	134:23
<b>stuff</b> 82:3	<b>sued</b>	92:12	<b>Technology</b>	135:17,24
	10:10,13		13:11,13,	139:14
<b>subject</b>	<b>suggest</b>		17	147:4,7,
19:23,24	72:14			16 148:2
37:20	80:10			
70:14,20				
72:4	<b>suggestion</b>	<b>taking</b> 7:7	<b>telephone</b>	<b>tested</b>
100:5	149:9		12:10	92:5,8
110:2		<b>talked</b>	<b>telling</b>	<b>testified</b>
121:7	<b>summary</b>	33:16	77:15	6:14 7:19
135:10	30:11	37:9		9:4,7
150:21	61:18	38:22	<b>temperature</b>	26:11
	85:7	111:2	62:8	89:3
			65:1,11	



VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: testify..traveler

111:11	<b>threshold</b>	99:6	132:10	20:12,14
119:22	58:9 59:2	100:9,22	139:15	21:4,8,
128:9	137:1,5	109:3	142:4	12,22
<b>testify</b>	139:16	114:16	<b>today's</b>	<b>transcribed</b>
30:18,21	147:23	115:7,15	31:20	6:6
31:1	<b>throughput</b>	118:4	<b>told</b> 7:17	<b>Transcript</b>
<b>testimony</b>	28:3 92:4	119:1,5,	30:24	153:13
7:8 30:12	<b>throwing</b>	18 130:7	44:18	<b>transition</b>
130:22	89:23	138:12,24	144:17	66:4
151:9	<b>thrown</b>	140:14	<b>Tom</b> 34:22	136:22
<b>testing</b>	150:11	145:4,5,	<b>tons</b> 28:12	137:16
126:22	<b>tightly</b>	7,23	58:15	139:1,2,
129:19,	98:5	146:5	121:2,4	5,12,13
21,23	<b>Tikalsky</b>	147:16	135:9	140:18,22
<b>tests</b>	12:12	148:1	137:6,8	141:2,13,
15:24	53:3,6	149:5	147:22	21
99:13	67:17	<b>times</b>	<b>top</b> 42:3	143:10,20
121:12,	73:13,17	20:11,19	61:10	144:9,15,
17,22	82:10,12	28:9	75:11,12	18,20
128:11	116:11	58:18	76:1,19	<b>travel</b>
131:12	146:9	64:11	113:22	15:16
147:2	150:6,9,	91:16	122:13	<b>traveler</b>
<b>text</b> 36:19	11	<b>timing</b>	132:12	39:1,19,
<b>themselves</b>	<b>till</b> 14:24	19:22	<b>total</b>	23,24
143:21	<b>time</b> 7:4,9	76:19	28:16	40:4,6,
<b>then-</b>	8:6	109:10,13	49:7	11,13,15,
<b>manager</b>	11:15,21	129:24	79:13	18 41:4,
41:15	15:15	<b>title</b>	<b>toxic</b>	6,13
<b>theory</b>	18:9 21:5	12:18,24	118:3,8	42:17
101:13,16	25:7	13:3	122:21	43:10
104:5	34:14	17:6,10	123:9	48:17
<b>thing</b> 19:2	54:1	20:24	<b>track</b>	67:24
25:9 27:6	59:14,18,	21:6	72:12	68:10
78:4,5	24 60:1,3	24:2,5,7	73:4	70:9,13
86:7	78:21	53:23	<b>tracks</b>	71:8
102:24	80:10,20	96:14	39:3,5,18	72:16
106:23	81:4,6	110:2	73:3	78:15
<b>things</b>	83:24	140:21	<b>train</b> 20:7	93:7
111:11	84:10	<b>today</b> 7:7	<b>training</b>	104:23
<b>thought</b>	85:18	9:17 10:5	15:22,23	105:6
67:18	86:10,24	11:17	19:8,14,	106:18,20
82:2	90:14,20	31:18	16,17	113:8,12
	92:18,21	93:11		118:2,9
	93:14	113:16		122:8
		120:6		

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: traveling..volume

127:3	61:3	87:2	144:17,	64:12
132:7		89:16	19,20	<b>vague</b>
<b>traveling</b>	<b>types</b>	135:23	<b>United</b>	137:17,20
113:18	23:10	136:9	13:9,24	<b>Val</b> 88:18
	61:7	<b>underneath</b>	14:22	<b>Valeriy</b>
<b>travels</b>	<b>typewriting</b>	84:19	15:4	6:12,
77:1	6:6	<b>understand</b>	16:11	37:19
113:13	<b>typical</b>	7:11 8:5	<b>units</b>	<b>valid</b>
<b>traverse</b>	16:8	10:10	61:24	130:11
85:15	61:18	20:6 22:9	<b>universe</b>	<b>validity</b>
<b>treat</b>	<b>typo</b> 104:6	40:7	11:17	19:5
19:23		48:11	<b>unquote</b>	62:21
47:20		51:1	141:1	<b>vapor</b>
48:10	<b>U</b>	56:13	<b>unreasonabl</b>	94:12
121:6		60:9 61:5	<b>e</b> 145:23	<b>VB</b> 83:5,11
<b>treated</b>	<b>Uh-huh</b>	65:19	<b>unusual</b>	<b>velocity</b>
24:17	7:14	113:11	91:18	62:7
	27:23	130:22	<b>updates</b>	<b>verbally</b>
<b>trick</b> 40:5	36:20	<b>understandi</b>	21:18	7:12 35:4
	37:15	<b>ng</b> 8:8	22:5	141:15
<b>triple</b>	45:14	10:22	60:10	<b>verificatio</b>
119:22,23	46:11	24:10	<b>upper</b>	<b>n</b> 65:20
120:8	51:23	54:6 55:3	44:24	<b>verify</b>
<b>trouble</b>	98:22	81:4 89:8	<b>ups</b> 93:22	56:23,24
8:8	103:3,24	104:4	<b>USEPA</b>	58:7
<b>true</b> 96:23	111:4	130:20	119:18	<b>verifying</b>
125:2	113:9	138:2	120:13	56:16,19,
	128:21	139:7	136:19	22 60:23
<b>tunnel</b>	<b>Ukraine</b>	<b>unit</b>	137:13,22	<b>violation</b>
92:22	14:6,7	17:15,	138:1	103:4,11
93:18,19	<b>ultimately</b>	41:17	139:7,11	106:21
94:3	43:17	45:10	<b>USEPA'S</b>	143:24
<b>turbo</b>	<b>unaware</b>	61:8	141:13	144:4
92:22	148:15	75:13,15,	<b>usual</b>	<b>visit</b>
93:18,19	<b>uncaptured</b>	21,23	78:24	36:12
94:3	87:16	76:1,19	<b>utilizing</b>	<b>VJB</b> 95:6
<b>turn</b> 36:15	<b>uncertain</b>	77:5,6,	85:14	<b>volume</b>
54:12	109:8	15, 83:16		62:7
57:18	<b>unchecked</b>	99:7,10	<b>v</b>	
	114:14	118:3		
<b>turnaround</b>	<b>uncontrolle</b>	122:22	<b>vacation</b>	
78:24	<b>d</b> 55:23	123:9		
<b>type</b> 16:9	86:11	129:2,10		
21:13		133:14		
53:14		140:21,23		

VALERIY BRODSKY  
STATE OF ILLINOIS vs. NACME STEEL

September 26, 2013  
Index: wait..yields

	115:23	<b>wondering</b>	135:13	13:1,5
<b>W</b>	116:12,	150:3	139:6	14:12
	21,23	<b>word</b> 8:14	141:17	17:21,22,
<b>wait</b> 7:9	117:1	<b>work</b> 24:19	<b>written</b>	23 21:20,
104:24	121:5	119:20	8:9 83:4	21,23
<b>waiting</b>	122:2	129:8	107:11	22:2
97:4	126:7	<b>worked</b>	<b>wrong</b>	31:19
	128:1	66:3	107:7	33:11
<b>walk</b> 75:16	130:16	77:11	116:10	59:15
	132:2	99:6	138:2	91:16
<b>Walsh</b> 6:17	134:6,11	112:16	142:3,14	119:9
11:7,10	138:6	140:20	143:24	137:14,22
17:3,	143:17	<b>working</b>	<b>wrongly</b>	142:5,6
20:5	145:13,15	21:13	138:24	<b>yellow</b>
26:2,6	146:11,16	35:12	139:2	38:8
40:22	148:5	58:11	<b>wrote</b>	<b>Yes-no</b>
42:15	150:4,18	66:3 78:6	83:13	68:22
46:1	152:24	90:23	<b>y</b>	<b>yesterday</b>
48:3,8	153:8,15	108:5		10:3,4,5
50:3,	<b>wanted</b>	<b>works</b> 40:8		35:21
52:7,16,	87:19	94:15	<b>Yasmine</b>	<b>yields</b>
23 53:5,7	152:8	<b>Wozniak</b>	31:9,23	28:12
56:21	<b>water</b> 72:5	12:2,3	33:8	
58:4	<b>website</b>	29:11,14,	<b>year</b>	
62:24	139:11	19,24	17:21,22	
63:4	<b>weeks</b> 16:4	<b>write</b>	18:4	
67:8,13,	<b>weight</b>	107:9	22:24	
18 71:15,	47:12	<b>writer</b>	28:13,16,	
19 73:15,	<b>Wenzel</b>	59:5,15	17 35:10	
19,21	34:14	90:21	44:8 56:9	
80:14,17	35:7,9	91:2	58:14,15	
82:1,8,	<b>West</b> 10:14	<b>writer's</b>	59:14	
11,14,17	50:21	77:4	73:2	
87:18	<b>William</b>	<b>writers</b>	79:4,10,	
88:5 90:3	34:24	59:10	12,15	
94:18	<b>Wisdom</b>	97:23	90:22	
98:19	35:2	140:7,8	104:8	
99:9	<b>witnesses</b>	<b>writing</b>	121:3	
102:21	145:22	76:4	135:9	
104:20	<b>woman</b> 63:9	79:14	138:4	
107:8	123:5	112:6	149:2	
109:15		114:2	<b>years</b> 9:21	
110:10			12:17	
112:23				
113:6				
114:16,				
19,21,24				