

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WILL COUNTY, )  
)  
Petitioner, )  
)  
vs ) PCB 16-54  
)  
VILLAGE OF ROCKDALE, BOARD OF )  
TRUSTEES OF VILLAGE OF ROCKDALE )  
and ENVIRONMENTAL RECYCLING AND )  
DISPOSAL SERVICES, INC., )  
)  
Respondents. )

-----)  
WASTE MANAGEMENT OF ILLINOIS, INC., )  
)  
Petitioner, )  
)  
vs ) PCB 16-56  
)  
VILLAGE OF ROCKDALE, BOARD OF )  
TRUSTEES OF VILLAGE OF ROCKDALE )  
and ENVIRONMENTAL RECYCLING AND )  
DISPOSAL SERVICES, INC., )  
)  
Respondents. )

TRANSCRIPT FROM THE PROCEEDINGS

taken before the HEARING OFFICER BRADLEY P. HALLORAN  
by LORI ANN ASAUSKAS, CSR, RPR, a notary public  
within and for the County of Cook and State of  
Illinois, at Rockdale Village Hall, Board Room,  
79 Moen Avenue, Rockdale, Illinois, on the 12th  
day of January 2016, at 9:00 o'clock a.m.

January 12, 2016

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

2 ILLINOIS POLLUTION CONTROL BOARD,  
3 100 West Randolph Street  
4 Suite 11-500  
5 Chicago, Illinois 60601  
6 (312) 814-3461  
7 BY: MR. BRADLEY P. HALLORAN, HEARING OFFICER,

8 HINSHAW & CULBERTSON,  
9 100 Park Avenue  
10 P.O. Box 1389  
11 Rockford, Illinois 61105-1389  
12 (815) 490-4900  
13 chelsten@hinshawlaw.com  
14 BY: MR. CHARLES F. HELSTEN,

15 -and-

16 OFFICE OF JAMES W. GLASGOW,  
17 WILL COUNTY STATE'S ATTORNEY,  
18 57 North Ottawa Street  
19 6th Floor  
20 Joliet, Illinois 60432  
21 (815) 727-8751  
22 mguzman@willcountyillinois.com  
23 BY: MATTHEW L. GUZMAN,

24 Appeared on behalf of the Petitioner,  
Will County;

PEDERSEN & HOUPPT,  
161 North Clark Street  
Suite 3100  
Chicago, Illinois 60601-3224  
(217) 782-5544  
dmoran@pedersenhouppt.com  
BY: MR. DONALD J. MORAN,

Appeared on behalf of the Petitioner,  
Waste Management of Illinois, Inc.;

1 A P P E A R A N C E S: (Continued)

2

3 KLEIN, THORPE & JENKINS, LTD.,  
4 20 North Wacker Drive  
5 Suite 1660  
6 Chicago, Illinois 60606  
7 (312) 984-6400  
8 dgwalsh@ktjlaw.com  
9 BY: MR. DENNIS G. WALSH,

6

-and-

7

8 SPESIA & AYERS,  
9 1415 Black Road  
10 Joliet, Illinois 60435  
11 (815) 726-4311  
12 mstiff@spesia-ayers.com  
13 BY: MR. MICHAEL STIFF,

10

11 Appeared on behalf of the Respondents,  
12 Village of Rockdale and Board of  
13 Trustees of Village of Rockdale;

13

14 MUELLER ANDERSON, P.C.,  
15 609 Etna Road  
16 Ottawa, Illinois 61350  
17 (815) 431-1500  
18 george@muelleranderson.com  
19 BY: MR. GEORGE MUELLER,

16

17 Appeared on behalf of the Respondent,  
18 Environmental Recycling and Disposal  
19 Services, Inc.;

19

20 ALSO PRESENT:

20

21 Mr. Tim Anderson, Will County  
22 Mr. Henry Barry  
23 Mr. John Hock, CEC  
24 Mr. Donald Ipema, ERDS  
Mr. Jay Ipema, ERDS  
Mr. Robert "Mick" Joutras, Village of Rockdale,  
Mr. Samuel Wyke, Village of Rockdale, Mayor

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E X H I B I T S

PRESENTED

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1 HEARING OFFICER HALLORAN: Good  
2 morning, everybody. I'm Brad Halloran. I'm  
3 a hearing officer with the Illinois Pollution  
4 Control Board. I'm also assigned to this  
5 consolidated case and that case is entitled Will  
6 County, Petitioner, versus Village of Rockdale,  
7 Board of Trustees of Village of Rockdale and  
8 Environmental Recycling and Disposal Services,  
9 Inc., PCB 16-54, Waste Management of Illinois,  
10 Inc., Petitioner, versus Village of Rockdale,  
11 Board of Trustees of Village of Rockdale and  
12 Environmental Recycling and Disposal Services,  
13 Inc., Respondents. That docket is PCB 16-56.

14 In this case, I am reading from  
15 the October 15th Board order in PCB 16-54, Will  
16 County appeals on the ground that the jurisdiction  
17 requirements of Section 39.2(b) of the Act were  
18 not met and conditional approval of the application  
19 is contrary to Section 39.2 of the Act.

20 And then in PCB 16.56, again  
21 in the October 15th Board order, Waste Management  
22 appeals on the grounds that jurisdictional  
23 requirements of Section 39.2(b) of the Act were  
24 not met and the applicant failed to establish

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1 that certain criteria were met. Those are the two  
2 cases.

3 We have a number of people in  
4 the room today, but they are all part of the  
5 interested parties and our court reporter has all  
6 of their names and will transcribe that into the  
7 transcript.

8 Today is January 12, 2016.  
9 It's approximately 9:10 a.m. This here has been  
10 scheduled and noticed according to the Illinois  
11 Pollution Control Board and the Environmental  
12 Protection Act. It will be conducted according  
13 to procedural rules found in Sections 107 and 101  
14 of the Board's procedural rules.

15 I will not make the ultimate  
16 decision. Those are the five members of the  
17 Board that will do that. After this hearing  
18 has concluded, I will set post-hearing briefing  
19 schedules. The members will take a look at the  
20 record both below and here, the post-hearing  
21 briefs and any public comment, and then render  
22 their decision.

23 With that said, I would like  
24 the parties from my right to left to introduce

1 themselves. Mr. Helsten?

2 MR. HELSTEN: Yes, thank you,  
3 Mr. Halloran. Chuck Helsten, special assistant,  
4 attorney -- special assistant state's attorney  
5 for Will County along with Mr. Matt Guzman,  
6 assistant state's attorney representing Will  
7 County.

8 HEARING OFFICER HALLORAN: Thank  
9 you.

10 MR. MORAN: Donald Moran, representing  
11 Waste Management of Illinois, Inc.

12 MR. MUELLER: George Mueller for  
13 Environmental Recycling & Disposal Services and  
14 with me today are Jay Ipema and Don Ipema, the  
15 owners of the company both of whom have also  
16 been asked to be here pursuant to Supreme Court  
17 Rule 237.

18 MR. STIFF: Mike Stiff, village  
19 attorney for Rockdale.

20 MR. WALSH: Dennis Walsh, village  
21 attorney or Rockdale.

22 HEARING OFFICER HALLORAN: Thank  
23 you.

24 And prior to the hearing, I

1 have asked the county to explain or talk a little  
2 bit about their petition for review that was filed  
3 in the Board -- with the Board on -- was it October  
4 6, 2015, regarding the criteria.

5 Mr. Helsten or Mr. Guzman?

6 MR. HELSTEN: Sure. Thank you,  
7 Mr. Halloran.

8 As you had noted in your brief  
9 introduction, Mr. Halloran, the county's petition  
10 essentially sets forth -- the grounds that are  
11 set forth are, number one, the pre-filing notice  
12 was deficient. So it deprived the village board  
13 of jurisdiction to hear this matter.

14 Number two, a conditional  
15 approval is not -- which was effectuated by the  
16 village board in this case was not authorized by  
17 Section 39.2 of the Act.

18 The third grounds that the  
19 county alleged is that there was a second  
20 amendment to the application, which again is  
21 prohibited specifically by Section 39.2(d). I  
22 believe the last paragraph was Section 39.2(d)  
23 of the Act.

24 And there was also a challenge



1 to whether certain criterion were met. The  
2 criterion which the county set forth in the  
3 petition for review are, number one, the facility  
4 is necessary to accommodate the needs of the  
5 area it was intended to serve; ii, the facility  
6 is so designed, located and proposed to be operated  
7 that the public health, safety and welfare be  
8 protected.

9 And then number five, although  
10 I believe just -- there was a typo -- I believe  
11 we have the verbiage of criterion five, which is  
12 the plan of operations for the facilities designed  
13 to minimize the danger to the surrounding area from  
14 fires, spills or other operational accidents, but  
15 I believe there's a typographical error. Instead  
16 of iv, in the petition, a iii appears. That again  
17 was simply mere inadvertence and I apologize and  
18 by way of clarification, that should be criterion  
19 iv as the text notes.

20 HEARING OFFICER HALLORAN: Thank  
21 you, Mr. Helsten.

22 Any response from the respondents?

23 MR. MUELLER: We were aware that they  
24 were challenging criteria in five. So...

1 HEARING OFFICER HALLORAN: Okay.

2 MR. MULLER: So Mr. Helsten's  
3 explanation is not a surprise, but I appreciate  
4 it.

5 HEARING OFFICER HALLORAN: Thank  
6 you, Mr. Mueller.

7 We want to get on to opening  
8 statements and if so, who is first? Mr. Moran,  
9 would you like to give an opening or reserve  
10 that?

11 MR. MORAN: I'll make some opening  
12 remarks.

13 O P E N I N G S T A T E M E N T S

14 by Mr. Moran

15 Waste Management of Illinois,  
16 Inc. has filed a petition to review the decision  
17 of village of Rockdale. It's petition alleges  
18 three essential components.

19 The first is that the Village  
20 of Rockdale lacked jurisdiction to consider that  
21 application because of a defect in the pre-filing  
22 notice.

23 The petition also challenges  
24 the village's finding that criterion one was

1 established, that indeed the Rockdale hearing  
2 officer who presented his own written report  
3 and recommendations to Rockdale made the  
4 determination that the applicant had not  
5 established and had not proven that criterion  
6 one had been dissatisfied.

7 In addition, criterion two,  
8 we are also contending is not established by  
9 the applicant.

10 We are also contending that  
11 criterion eight, for consistency with the Will  
12 County Solid Waste Management Plan, was not  
13 established.

14 We will obviously present  
15 information that supports each of these  
16 contentions in our post-hearing briefs before  
17 the Board. Thank you.

18 HEARING OFFICER HALLORAN: Thank  
19 you, Mr. Moran.

20 Any other openings, Mr. Helsten  
21 or Mr. Mueller?

22 O P E N I N G S T A T E M E N T S

23 by Mr. Helsten

24 Will County's concern centers

1 around health, safety and welfare. That is our  
2 main concern. That is the gravamen and the  
3 touchstone and the foundation of essentially all  
4 of the grounds for our appeal, that the volume --  
5 intended volume that this facility intends to  
6 receive has been a moving target and basically --  
7 essentially, a rolling disclosure and there is --  
8 while the county feels that at some lower level,  
9 the facility most likely meets the criteria, not  
10 at the level which was indicated by the applicant  
11 on the last day of its -- last day of the hearing,  
12 which was either 800 tons per day or worse yet,  
13 an unlimited no limitation on daily input or  
14 through-put.

15 HEARING OFFICER HALLORAN: Thank  
16 you. Mr. Mueller?

17 MR. MUELLER: ERDS is going to reserve  
18 opening arguments.

19 HEARING OFFICER HALLORAN: Okay.  
20 Thank you.

21 Mr. Walsh or Mr. Stiff, any  
22 opening?

23 MR. WALSH: No, no opening.

24 HEARING OFFICER HALLORAN: Okay.

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1 Thank you.

2 All right. It looks like,  
3 Mr. Moran, you've noticed up the two witnesses.  
4 Would you like to begin with them now?

5 MR. MORAN: Yes, I would,  
6 Mr. Halloran.

7 HEARING OFFICER HALLORAN: Okay.

8 MR. MORAN: I would ask that  
9 Mr. Don Ipema take the stand.

10 HEARING OFFICER HALLORAN: Okay.  
11 Would the witness stand up and Lori will swear  
12 you in. I think we're going to have you sit  
13 here, Mr. Ipema.

14 MR. DONALD IPEMA: Okay.

15 HEARING OFFICER HALLORAN: You can  
16 turn it around so you don't have to look at  
17 Mr. Helsten and Mr. Guzman.

18 THE COURT REPORTER: Raise your right  
19 hand. Do you swear the testimony you're about to  
20 give will be the truth, the whole truth and nothing  
21 but the truth, so help you God?

22 MR. DONALD IPEMA: I do.

23 THE COURT REPORTER: Thank you. Please  
24 keep your voice up.

1 (Witness sworn.)

2 WHEREUPON:

3 DONALD R. IPEMA  
4 called as a witness herein, having been first duly  
5 sworn, deposeth and saith as follows:

6 DIRECT EXAMINATION  
7 by Mr. Moran

8 Q. Good morning, Mr. Ipema. Would you  
9 state your full name, please, and spell your last  
10 name for the court reporter?

11 A. Donald Richard Ipema, last name is  
12 I-P-E-M-A.

13 Q. And, Mr. Ipema, what is your  
14 occupation?

15 A. Private scavenger, president of  
16 Environmental Recycling & Disposal.

17 Q. What is the nature of the business  
18 of Environmental Recycling & Disposal Services,  
19 Inc.?

20 A. We are a waste hauler handling  
21 commercial, light industrial and residential  
22 waste.

23 Q. Where is it located?

24 A. In Rockdale at 2277 Moen.

1           **Q.       Is that on the same property that**  
2 **the proposed solid waste transfers station is**  
3 **located?**

4           A.       It will be located, yes, or is  
5 intended to be.

6                               (Whereupon, Mr. Hock  
7                               entered the proceedings.)

8 BY MR. MORAN:

9           **Q.       And currently, ERDS operates a waste**  
10 **hauling operation from that location?**

11          A.       Yes, it does.

12          **Q.       What are your responsibilities as**  
13 **president of Environmental Recycling & Disposal**  
14 **Services?**

15          A.       Basically, I retain the ownership of  
16 the company and just oversight.

17          **Q.       Now, ERDS has proposed to develop**  
18 **a solid waste transfer station at that property**  
19 **on Moen Avenue; is that correct?**

20          A.       Yes, it is.

21          **Q.       And ERDS hired Civil & Environmental**  
22 **Consultants to prepare the site location**  
23 **application for the proposed transfer station,**  
24 **correct?**

1 A. Yes.

2 Q. And that property is a 2.16-acre  
3 site?

4 A. Approximately, yes.

5 Q. Was John Hock the engineer at CEC  
6 who was hired by ERDS to design the solid waste  
7 transfer transportation?

8 A. Yes, he was.

9 Q. And Mr. Hock, indeed, designed this  
10 proposed solid waste transfer station?

11 A. Yes, he did.

12 Q. Was Mr. Hock authorized to testify  
13 on behalf of ERDS with respect to that design at  
14 the citing hearing before the village of Rockdale?

15 A. Yes, he was.

16 Q. When did Mr. Hock submit his design  
17 of the transfer station to you or to anyone at  
18 ERDS?

19 A. That, I don't recall exactly. That  
20 project was handled by Jay Ipema and he would know  
21 better.

22 Q. Did he have any discussions with  
23 Mr. Hock with respect to the design of the  
24 proposed transfer station prior to December of



1       **2014?**

2               A.       Mr. Hock reviewed it, yes.

3               **Q.       And did you have any discussions**  
4 **with Mr. Hock about that design before December**  
5 **of 2014?**

6               A.       I don't -- I don't recall because  
7 again Jay handled the project.

8               **Q.       And the reason I say December of**  
9 **2014 is that the application was filed with the**  
10 **village of Rockdale in December of 2014; is that**  
11 **your understanding?**

12              A.       Yes, yes.

13              **Q.       Now, did you participate in any**  
14 **discussions with Will County regarding the proposed**  
15 **solid waste transfer station?**

16              A.       Say that again.

17              **Q.       Did you participate in any**  
18 **conversations with the county of Will regarding**  
19 **the proposed transfer station on Moen Avenue?**

20              A.       Jay led up that project. I attended  
21 meetings with him primarily as the owner of  
22 Environmental Recycling.

23              **Q.       Do you recall having participated**  
24 **in some meetings with Will County regarding the**

1 **proposed transfer station, but you don't recall**  
2 **any specific conversations?**

3 A. Right.

4 **Q. Now, Mr. Hock's design of this**  
5 **proposed solid waste transfer station included**  
6 **a through-put capacity; is that your understanding?**

7 A. Based upon -- based upon the  
8 information given to him of the -- of what we  
9 handle, those were the parameters that he would  
10 have designed.

11 **Q. And he did design a through-put**  
12 **capacity for the proposed transfer station,**  
13 **correct?**

14 A. He designed an operated capacity  
15 that we would, as we operated it at a -- of 125  
16 tons per day and I believe he had done his  
17 calculations based upon 200 tons per day.

18 **Q. Well, and he also based his**  
19 **through-put evaluation on a 600-ton per day**  
20 **evaluation; isn't that right?**

21 MR. MUELLER: I'm going to  
22 object. I think that question is misleading  
23 and unclear.

24 HEARING OFFICER HALLORAN: Could

1           you rephrase, Mr. Moran?

2           BY MR. MORAN:

3                   **Q.       Mr. Ipema, was it your understanding**  
4           **that Mr. Hock also conducted an evaluation of this**  
5           **proposed transfer station at a 600-ton per day**  
6           **scenario?**

7                   MR. MORAN: Object. That scenario  
8           is vague.

9                   HEARING OFFICER HALLORAN: Try one  
10          more time, Mr. Moran.

11          BY MR. MORAN:

12                   **Q.       Mr. Ipema, did Mr. Hock conduct a**  
13           **through-put evaluation of the proposed transfer**  
14           **station at a 600-ton per day through-put?**

15                   A.       I believe his calculations of 600  
16          tons per day were based upon a host agreement  
17          with the county that had -- that included a  
18          600-ton per day threshold for host fees as well  
19          in doing that, I think it would be wise of him  
20          to calculate and submitting the calculation at  
21          that to accommodate a 200-ton per day amount  
22          that he would handle.

23                   **Q.       So is the answer to my question**  
24           **yes?**

1           A.           The answer to the question is he  
2 submitted calculations based upon 600 tons per  
3 day and 200 tons per day.

4           **Q.           Now, you mentioned a host agreement**  
5 **with Will County. Is that a host agreement for**  
6 **this proposed transfer station?**

7           A.           Yes, it is.

8           **Q.           Did you participate in any**  
9 **conversations regarding the negotiation of that**  
10 **host agreement with Will County?**

11          A.           I did not, but Jay headed up the  
12 project.

13          **Q.           Are you aware of whether a host**  
14 **agreement was entered into with Will County?**

15          A.           Yes, I am. It was.

16          **Q.           And was that a written agreement?**

17          A.           Yes.

18          **Q.           And that written agreement was**  
19 **signed by both ERDS and Will County in October**  
20 **of 2014?**

21          A.           Yes.

22          **Q.           And that host agreement provided**  
23 **for the payment of a host fee to Will County for**  
24 **waste that would be accepted at the proposed**

1 **transfer station?**

2 A. There was a threshold amount that --  
3 I believe it was 600 tons per day.

4 **Q. So when the solid waste transfer**  
5 **station received 600 tons per day at that threshold,**  
6 **ERDS would then be obligated to pay Will County**  
7 **host fees based on that waste in excess of 600**  
8 **tons per day?**

9 A. I'd have to review the host agreement  
10 right now. I don't recall if it was 600 tons per  
11 day or an average of.

12 **Q. Well, would it be fair to say that**  
13 **the host agreement provided that a host fee would**  
14 **be due the county if the through-put at the**  
15 **transfer station exceeded 600 tons per day?**

16 A. Yes.

17 **Q. Would it be fair to say that**  
18 **Mr. Hock completed his design of the proposed**  
19 **transfer station by October of 2014 or by the**  
20 **date the host community agreement with the county**  
21 **was entered into?**

22 A. I'd have to look back at the schedule  
23 and the timing.

24 **Q. Do you know when Mr. Hock completed**

1 **his design of the proposed transfer station?**

2 A. Jay would have interacted with him  
3 on that.

4 Q. Mr. Ipema, did you attend the  
5 citing hearings before the village of Rockdale,  
6 which took place on March 21st and 22nd and May  
7 20th and 21st of 2014?

8 A. I attended the hearings, yes.

9 Q. And Mr. Hock testified on behalf of  
10 ERDS at those citing hearings?

11 A. Yes, he did.

12 Q. And Mr. Hock described the through-put  
13 evaluation that he performed?

14 A. I believe he did.

15 Q. He also testified with respect to  
16 the through-put capacity of the proposed transfer  
17 station during those hearings?

18 A. I believe he did.

19 Q. And he also testified regarding  
20 the request of ERDS for Rockdale to approve a  
21 through-put for the proposed transfer station?

22 A. Repeat that.

23 Q. Mr. Hock also testified with respect  
24 to the request that Rockdale approve certain

1 **through-put for the proposed transfer station?**

2 A. I'd have to look at the testimony.

3 **Q. But with respect to Mr. Hock's**  
4 **testimony, what he indicated and stated during**  
5 **that testimony was true and accurate?**

6 A. The volumes that he presented on  
7 the -- for operating a through-put, yes.

8 **Q. And Mr. Hock indicated that ERDS**  
9 **was seeking approval from Rockdale and the transfer**  
10 **station to accept a minimum of 600 tons per day**  
11 **with no limit or no cap on that volume?**

12 MR. MUELLER: Object, misstates  
13 the evidence in the record.

14 HEARING OFFICER HALLORAN: Mr. Moran?

15 MR. MORAN: Well, I think it does  
16 correctly state the evidence and I'm asking  
17 him if, based on his attendance at those  
18 hearings, if Mr. Hock's statement to that  
19 effect was correct.

20 HEARING OFFICER HALLORAN: Overruled.  
21 He may answer if he is able.

22 BY THE WITNESS:

23 A. I know that there were requests asked  
24 of Mr. Hock at the time his calculations were based

1 on 200 tons per day and 600 tons per day and  
2 I don't believe that -- that he said it would be  
3 a minimum 600 tons per day. I'd have to look at  
4 the testimony to confirm that.

5 BY MR. MORAN:

6 **Q. But what Mr. Hock indicated during**  
7 **the course of the hearings was correct?**

8 A. He did calculations based upon 200  
9 tons per day and 600 tons per day.

10 **Q. Did you hear anything that Mr. Hock**  
11 **testified to during the hearing that you determined**  
12 **was incorrect or in any way incomplete?**

13 A. As I recall on the hearing, he was  
14 asked questions about higher volumes, but that was  
15 all -- as I recall, those were questions that were  
16 led to him. As I recall, they were in reference  
17 of is this the safe and operational capabilities  
18 of the facility.

19 **Q. Did he make any statements during**  
20 **the course of the hearing that you disagreed with?**

21 A. In looking at -- the statements  
22 that I recall were accurate in context of what he  
23 developed.

24 **Q. And the village of Rockdale approved**



1 **the request of ERDS to accept 600 tons per day**  
2 **of solid waste in the proposed transfer station?**

3 A. I don't believe that's correct.  
4 I believe they had a limitation of 300 tons per  
5 day.

6 Q. Isn't it also true that the village,  
7 in its decision, indicated that the through-put  
8 could be increased to 600 tons per day by ERDS's  
9 request?

10 A. I believe that it was that they would  
11 review it.

12 MR. MORAN: Thank you, Mr. Ipema.  
13 I have no further questions.

14 HEARING OFFICER HALLORAN: Remain  
15 seated. Mr. Mueller?

16 MR. MUELLER: I think Mr. Helsten  
17 would be next.

18 HEARING OFFICER HALLORAN: Okay.  
19 I didn't if you wanted to hurry up and  
20 follow-up.

21 Mr. Helsten?

22 MR. HELSTEN: No questions.

23 HEARING OFFICER HALLORAN: Okay.

24 Thank you.

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1 Village, any questions?

2 MR. WALSH: No question.

3 HEARING OFFICER HALLORAN: Okay.

4 Mr. Muller?

5 C R O S S - E X A M I N A T I O N

6 by Mr. Mueller

7 Q. Don, you indicated at the time that  
8 the project started, your company controlled about  
9 125 tons per day of waste?

10 A. That's correct.

11 Q. What was your volume intent for the  
12 proposed facility; meaning, how much did you intend  
13 to take by way of waste?

14 MR. HELSTEN: Object to -- not  
15 an objection to Mr. Mueller's question,  
16 but a request for clarification.

17 Does Mr. Mueller mean what  
18 was -- was there an intended cap or ceiling  
19 on through-put each day or --

20 MR. MUELLER: That -- that's a  
21 fair objection, Mr. Halloran. I will  
22 rephrase.

23 HEARING OFFICER HALLORAN: Thank  
24 you, gentlemen.

1 BY MR. MUELLER:

2 Q. Okay. Don, what's your understanding  
3 of through-put capacity?

4 A. What would be handled at the facility  
5 on an average day's operation.

6 Q. Was that capacity or is that volume?

7 A. That's volume.

8 Q. All right. So your understanding  
9 of volume is what the facility actually takes on  
10 a daily basis?

11 A. That's correct.

12 Q. And what's your understanding of  
13 capacity?

14 A. What the site would be capable of  
15 handling of -- what it would take to reach that  
16 125 or 200-ton per day that it was based upon.

17 Q. So in terms of volume, which is  
18 what the facility is actually taking, what was  
19 your intended volume for the facility?

20 A. The intended volume was 200 tons  
21 per day.

22 Q. Has that number ever changed?

23 A. No.

24 Q. Is ERDS content with limiting the

1 **volume to 300 tons per day?**

2 A. Yes, we are.

3 **Q. When Mr. Hock talked about 600**  
4 **tons per day, was it your understanding that**  
5 **he was talking about volume or safe capacity?**

6 A. It would be safe capacity.

7 **Q. And meaning that if it had to, the**  
8 **facility could take more than 200 safely?**

9 A. That's correct, yes.

10 **Q. Did you ever understand Mr. Hock**  
11 **to be asking or suggesting that the facility**  
12 **would be taking 600 tons per day?**

13 A. Say that again, please.

14 **Q. Did you ever understand Mr. Hock**  
15 **to be asking -- strike that. That is a bad**  
16 **question. Let me move on.**

17 **Mr. Hock did ask or I should say**  
18 **did Mr. Hock, as you understand it, ask that this**  
19 **village not limit volume?**

20 A. I believe there was discussion that  
21 I heard about not asking volume because on transfer  
22 stations in the state of Illinois are limited by  
23 volume by permit and that was my understanding.

24 **Q. Did, in your opinion, the absence of**

1 **a volume limit, in Mr. Hock's request, change**  
2 **your intent to only take 200 tons per day?**

3 A. No.

4 MR. MUELLER: That's all I have.

5 HEARING OFFICER HALLORAN: Thank  
6 you, Mr. Mueller.

7 Mr. Moran, any redirect?

8 R E D I R E C T E X A M I N A T I O N

9 by Mr. Moran

10 **Q. Mr. Ipema, you just indicated your**  
11 **intent was to only request approval for 200 tons**  
12 **per day; is that correct?**

13 MR. MUELLER: I'm going to  
14 object, he didn't testify to that.

15 HEARING OFFICER HALLORAN: Oh,  
16 sustained. Mr. Moran, rephrase.

17 BY MR. MORAN:

18 **Q. Mr. Ipema, was it your intent that**  
19 **the request from ERDS to Rockdale was for approval**  
20 **of a facility that would accept an average of 200**  
21 **tons per day of solid waste?**

22 A. Say that again.

23 **Q. Was it your intent that ERDS would**  
24 **request the village of Rockdale to approve a solid**

1 **waste transfer station that would accept an average**  
2 **of 200 tons per day of solid waste?**

3 A. When I say it's my intent, I'm saying  
4 that as a company and Jay had those discussions and  
5 reviewed them.

6 **Q. And was that your understanding of**  
7 **the intent of ERDS in requesting approval from the**  
8 **village of Rockdale?**

9 A. For the capacity -- for the volume  
10 that would handle our operation.

11 **Q. Do you have any information or**  
12 **evidence that would indicate why the village of**  
13 **Rockdale would then grant citing approval**  
14 **initially for a 300-ton per day of through-put?**

15 A. I believe anything that any of  
16 the -- anything that came forward indicated the  
17 volume that we handle.

18 **Q. Did you at any point, after Mr. Hock**  
19 **testified, point out to Mr. Hock that any part of**  
20 **the testimony he gave regarding the through-put was**  
21 **inaccurate?**

22 A. In the context of the questions that  
23 were asked and later on looking at testimony, I  
24 didn't find any difference because transfer stations

1 are not given that limit through permitting that  
2 I'm aware of. So it would be no different.

3 **Q. And your understanding is that**  
4 **when the Illinois Environmental Protection**  
5 **Agency issues a permit for a transfer station,**  
6 **it has not customarily ever imposed a limit on**  
7 **the through-put for that transfer station; is**  
8 **that correct?**

9 A. Not that I have seen.

10 MR. MORAN: Nothing further.

11 HEARING OFFICER HALLORAN: Thank  
12 you.

13 County?

14 MR. HELSTEN: Nothing.

15 HEARING OFFICER HALLORAN: Village?

16 MR. WALSH: Nothing.

17 HEARING OFFICER HALLORAN: And  
18 Mr. Mueller?

19 MR. MUELLER: No, thank you.

20 HEARING OFFICER HALLORAN: Okay.

21 Mr. Ipema, you may step down, please. Thank  
22 you.

23 THE WITNESS: Okay.

24 (Witness excused.)

1 HEARING OFFICER HALLORAN: Okay.

2 Mr. Moran, you can call your next witness,  
3 if you'd like.

4 MR. MORAN: Mr. Jay Ipema, we  
5 will call.

6 HEARING OFFICER HALLORAN: Thank  
7 you.

8 Mr. Ipema, raise your right  
9 hand and Lori will swear you in, please.

10 THE COURT REPORTER: Raise your  
11 right hand. Do you swear the testimony  
12 you're about to give will be the truth,  
13 the whole truth and nothing but the truth,  
14 so help you God?

15 MR. JAY IPEMA: Yes, I do.

16 THE COURT REPORTER: Thank you.  
17 please keep your voice up.

18 MR. JAY IPEMA: Of course.

19 (Witness sworn.)

20 HEARING OFFICER HALLORAN: All  
21 right. You may proceed.

22 MR. MORAN: Thank you.

23

24



1 WHEREUPON:

2 J A Y A. I P E M A

3 called as a witness herein, having been first duly  
4 sworn, deposeseth and saith as follows:

5 D I R E C T E X A M I N A T I O N

6 by Mr. Moran

7 Q. Good morning, Jay. Could you state  
8 your full name, please, and spell your last name for  
9 the court reporter?

10 A. My full name is Jay Allen Ipema. My  
11 last name is I-P-E-M-A.

12 Q. Mr. Ipema, what is your business or  
13 occupation?

14 A. I'm a garbage man essentially.

15 Q. Are you employed?

16 A. I am.

17 Q. By whom?

18 A. Environmental Recycling & Disposal.

19 Q. How long have you been so employed?

20 A. Since, I believe, 1998.

21 Q. What is your title or position with  
22 Environmental Recycling & Disposal?

23 A. Currently, I'm the vice-president of  
24 Environmental Recycling & Disposal.

1           **Q.           What are your duties and**  
2 **responsibilities at vice-president?**

3           A.           I oversee the operations and I  
4 oversee pretty much the way the company is  
5 operated and the direction that we're moving  
6 forward.

7           **Q.           And the nature of the business**  
8 **of Environmental Recycling & Disposal is**  
9 **currently waste hauling?**

10          A.           Correct.

11          **Q.           And the location of ERDS is the**  
12 **property on Moen Avenue?**

13          A.           Location of ERDS, yes.

14          **Q.           And that's the same site on which**  
15 **the proposed solid waste transfer station is to**  
16 **be located?**

17          A.           Yes, it is.

18          **Q.           Now, did ERDS hire Civil &**  
19 **Environmental Consultants to design this proposed**  
20 **transfer station?**

21          A.           Yes.

22          **Q.           Was John Hock the individual**  
23 **engineer at CEC who was responsible for the**  
24 **design of this transfer station?**

1 A. Yes.

2 Q. Did Mr. Hock indeed design this  
3 proposed transfer station?

4 A. He had a team that we worked with  
5 to put the entire design together. It wasn't  
6 only him, but there were others involved.

7 Q. Would it be fair to say that he  
8 was the principal designer of the transfer  
9 station?

10 A. Yes.

11 Q. And one of the design elements of  
12 the transfer station was the through-put capacity,  
13 correct?

14 A. Yes.

15 Q. And Mr. Hock indeed designed the  
16 through-put capacity of this transfer station,  
17 correct?

18 A. Yes.

19 Q. And he testified with respect to  
20 that through-put capacity at the citing hearings,  
21 correct?

22 A. Yes.

23 Q. Okay. And you attended those citing  
24 hearings which took place on two days in March

1 of 2015 and two days in May of 2015, correct?

2 A. Yes.

3 Q. When was the design of the solid  
4 waste transfer station completed?

5 A. It was in 2014, towards the fall of  
6 2014. I don't know the exact date. There were  
7 multiple designs and pieces that we were going  
8 through during that time period.

9 Q. Who, in addition to yourself, from  
10 ERDS was involved in these discussions with CEC  
11 to design the transfer station?

12 A. There was nobody else.

13 Q. It was just you?

14 A. It was just myself.

15 Q. Did you participate in any of the  
16 conversations with Will County with respect to  
17 a possible host agreement?

18 A. Yes.

19 Q. Were you the person principally  
20 responsible at ERDS to have those discussions  
21 with Will County?

22 A. Yes.

23 Q. Were you the only person to have  
24 those discussions?

1           A.       I -- yes.  There were others  
2           there.  I mean, not just -- I mean -- but yes,  
3           I was the only one that had those discussions.  
4           That was my role.

5           **Q.       And was a host agreement signed**  
6           **by ERDS with Will County?**

7           A.       Yes.

8           **Q.       And that was a written agreement?**

9           A.       Yes.

10          **Q.       And that agreement provided for the**  
11          **payment of a host fee to Will County for the waste**  
12          **that was brought to the Moen Transfer Station?**

13          A.       That, and among other things that  
14          were in there, yes.

15          **Q.       And at what volume or at what level**  
16          **were host fee payments going to be due to Will**  
17          **County?**

18          A.       Well, there were two -- there's two  
19          different scenarios into which that took place,  
20          one of which was as long as we continue with the  
21          host agreement for -- with Rockdale as a no change  
22          for the garbage and pursuant of their host  
23          agreement, there would -- there would -- it would  
24          start at a certain -- at a zero tonnage and that

1 would go up from there if we -- well, hold on.

2 Let me think that through.

3                   If we didn't have the host  
4 agreement, if we weren't hauling the garbage for  
5 free in Rockdale for their host agreement, it  
6 would start at zero. If we did have the host  
7 agreement and we were hauling the garbage for  
8 free over the next 20 years with Rockdale, then  
9 it would kick in after 600 tons, the host fee would  
10 start after we reached 600 tons, everything above  
11 that would be paid a host fee.

12           **Q.           And what was the amount of the host**  
13 **fee to be paid to Will County?**

14           A.           I believe it's 45 cents.

15           **Q.           In the event there was no host**  
16 **agreement with the village of Rockdale which**  
17 **provided for free disposal, then the obligation**  
18 **to pay the host fee to the county would have**  
19 **kicked in for the first ton of waste coming into**  
20 **the transfer station?**

21           A.           I'd have to look at it to see  
22 exactly, but I believe that's correct. I'd have  
23 to take a look at the actual host agreement, but  
24 I believe that's what we agreed to.

1 Q. Did ERDS enter into a host agreement  
2 with the village of Rockdale?

3 A. Yes.

4 Q. Was that a written agreement?

5 A. Yes.

6 Q. Was it signed by both parties?

7 A. Yes.

8 Q. When was it signed?

9 Was it signed before the host  
10 agreement with Will County was signed?

11 A. Yes.

12 Q. How much before or how long before  
13 approximately?

14 A. About nine months.

15 Q. About nine months, you said?

16 A. Yes.

17 Q. So at the time the host community  
18 agreement was signed with Will County, the  
19 agreement with Rockdale was already in place?

20 A. Yes.

21 Q. So at that time there would not  
22 be any possibility that that first scenario  
23 you identified, that is, the lack of any agreement  
24 with Rockdale, meaning that the county would

1 **begin to collect host fees on the first ton**  
2 **of waste coming into the transfer station,**  
3 **correct?**

4 A. I'm sorry. Say that one more  
5 time.

6 Q. Because you had the agreement  
7 with Rockdale in place at the time the county's  
8 host agreement was signed, there would not be  
9 any situation in which the county could expect  
10 to receive host fees with the first ton of waste  
11 coming into the Moen Transfer Station?

12 A. Yeah. And there -- yes. The  
13 purpose of that was because the cost of the  
14 free garbage service was so great that to add  
15 on an additional greater fee from zero, it  
16 would have -- we would be unsuccessful fulfilling  
17 our agreement with Rockdale.

18 Q. So the only way the county would  
19 ever receive any host fee from the proposed  
20 transfer station would be if the through-put  
21 to that transfer station exceeded 600 tons per  
22 day?

23 A. No.

24 Q. What would be the other scenario



1 **in which the county would receive host fees**  
2 **without that 600-ton per day threshold?**

3 A. They received a \$5,000 annual  
4 payment through ERDS from when it is approved.

5 **Q. And you're characterizing that**  
6 **\$5,000 payment as a host fee to the county?**

7 A. I would con- -- I would consider  
8 it that because it's part of our host agreement  
9 and it's a fee paid through the host agreement.

10 **Q. Other than that \$5,000 annual**  
11 **payment, Will County would not receive any monies**  
12 **from ERDS for this proposed transfer station**  
13 **unless the through-put to the Moen transfer**  
14 **station exceeded 600 tons per day in any given**  
15 **year?**

16 A. No. They will receive host fees  
17 through us transferring waste from Moen Transfer  
18 Station to the Prairie View landfill. They will  
19 receive host fees out of that.

20 **Q. But those host fees are paid by the**  
21 **operator of the Prairie View landfill and not by**  
22 **ERDS, correct?**

23 A. No. Because I pay those host fees  
24 when I pay to dispose of garbage there. They

1 include that into my cost.

2 **Q. But you make that payment to the**  
3 **operator of the Prairie View landfill, not to**  
4 **Will County; is that correct?**

5 A. I make that payment to them, but  
6 that is part of my cost. So my cost to dispose  
7 there is a partial of a host fee.

8 **Q. But the host agreement you have**  
9 **with Will County does not require ERDS to pay**  
10 **a host fee to Will County for waste that ERDS**  
11 **sends to the Prairie View landfill, correct?**

12 A. We show -- in our host agreement  
13 with Will County, we have a preferred disposal  
14 site of the Prairie View landfill, which is owned  
15 by Will County. Through that, us taking what  
16 volume of waste from the Moen Transfer Station  
17 to Prairie View, Will County will receive a host  
18 fee.

19 **Q. And that fee will be paid to Will**  
20 **County by the operator of the Prairie View**  
21 **landfill?**

22 A. Through our payment to the operator,  
23 yes.

24 **Q. Other than the \$5,000 annual**

1 payment --

2 A. Uh-huh.

3 Q. -- and whatever payments the  
4 Prairie View landfill may make to Will County  
5 pursuant to its agreement with Will County, the  
6 only host fee payments that ERDS will make to  
7 Will County are payments based on waste coming  
8 into the transfer station in excess of 600 tons  
9 per day; is that correct?

10 A. Along with the payment of -- unless  
11 we do not haul the village of Rockdale for free  
12 for the 20 years, but when that 20 years comes  
13 up, then we will start running those host fees.  
14 So there is host fees that are to be paid to the  
15 county.

16 Q. Now Mr. Hock designed this transfer  
17 station with a through-put capacity of at least  
18 600 tons per day, correct?

19 A. The capacity of at least 600 tons  
20 per day, correct.

21 Q. And he designed that capacity  
22 without any limit or maximum capacity; is that  
23 right?

24 A. That is correct, yes.

1           **Q.           So that Mr. Hock's design of the**  
2 **waste transfer station is consistent with the**  
3 **threshold 600-ton per day limit set out in the**  
4 **Will County host agreement, correct?**

5           A.           We wanted to see through it that  
6 if we reached 600-ton a day that -- that the  
7 transfer station had the capacity to have 600  
8 tons a day if it needed to be paid to the county.

9           **Q.           In fact, he designed a solid waste**  
10 **transfer station whose through-put capacity was**  
11 **700 tons per day, correct?**

12          A.           I thought it was 600 tons per day.

13          **Q.           Well, 600 was the minimum, but he**  
14 **also testified that 700 tons per day was also the**  
15 **through-put capacity for his designed transfer**  
16 **station, didn't he?**

17          A.           I believe so.

18          **Q.           And Mr. Hock also stated that ERDS**  
19 **was requesting approval from the Village of**  
20 **Rockdale to accept a minimum of 600 tons per day**  
21 **with no cap, right?**

22                       MR. MUELLER:   Objection, compound  
23 question and misstates the record.

24                       HEARING OFFICER HALLORAN:   Yes.

1 I'm kind of confused too.

2 Mr. Moran, could you please  
3 rephrase?

4 MR. MORAN: Sure.

5 HEARING OFFICER HALLORAN: Thank  
6 you.

7 BY MR. MORAN:

8 **Q. Mr. Ipema, did Mr. Hock state at**  
9 **the public hearing before Rockdale that ERDS**  
10 **was requesting approval from Rockdale for the**  
11 **transfer station to accept a minimum of 600 tons**  
12 **per day with no cap?**

13 MR. MUELLER: Same objection.

14 HEARING OFFICER HALLORAN: Yes,  
15 sustained.

16 Could you shorten up the  
17 question a little, Mr. Moran?

18 BY MR. MORAN:

19 **Q. Did ERDS request approval from**  
20 **Rockdale to accept the minimum of 600 tons per**  
21 **day with no capacity?**

22 A. We did not ask for a cap, no.

23 **Q. Did you request approval to accept**  
24 **a minimum of 600 tons per day with no cap?**

1 MR. MUELLER: Asked and  
2 answered.

3 HEARING OFFICER HALLORAN: I'll  
4 allow it. Overruled.

5 BY MR. MORAN:

6 Q. You answered the second part of the  
7 question, but you didn't answer the first part of  
8 the question.

9 A. I don't recall about the 600, if  
10 that was a minimum. I do know that we did not  
11 have a capacity limit that we requested in our  
12 application.

13 Q. Did Mr. Hock state anything during  
14 the hearings that was inaccurate?

15 A. I would have to look back to see.  
16 Is there anything in particular that you're  
17 referring to?

18 Q. Well, just the --

19 A. All of it?

20 Q. -- question I just asked came  
21 directly from what Mr. Hock testified about and  
22 what he said at the hearing, which was ERDS was  
23 requesting approval for Rockdale to accept a minimum  
24 of 600 tons per day with no cap?

1 MR. MUELLER: I'm going to  
2 object. That's not what Mr. Hock --

3 BY MR. MORAN:

4 Q. Is that statement wrong?

5 MR. MUELLER: I'm going to object  
6 because that misstates Mr. Hock's testimony.

7 HEARING OFFICER HALLORAN: Okay.  
8 Mr. Moran?

9 MR. MORAN: Well, it doesn't  
10 misstate his testimony, but I don't want  
11 to go through with this witness the  
12 transcript of what Mr. Hock said.

13 Based upon Mr. Ipema's  
14 presence during the course of that hearing,  
15 if there was something that Mr. Hock  
16 incorrectly stated, that's fine, he can  
17 say it.

18 Now, I have another question  
19 for him?

20 HEARING OFFICER HALLORAN: Okay.  
21 Proceed.

22 BY MR. MORAN:

23 Q. Can I have an answer to my last  
24 question?

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1           A.           What was your question? I'm sorry.

2                   HEARING OFFICER HALLORAN: Do you  
3 want me to have the court reporter read it  
4 back?

5                   MR. MORAN: Would you? Yes. Let's  
6 have the court reporter read it back.

7                   HEARING OFFICER HALLORAN: Lori,  
8 would you read it back?

9                               (Whereupon, the requested  
10 portion of the record was  
11 read accordingly.)

12 BY THE WITNESS:

13           A.           ERDS did not ask for a cap in the  
14 application. The minimum amount I'm not -- I  
15 don't think we asked for a minimum amount.

16 BY MR. MORAN:

17           **Q.           So what you're saying is you don't**  
18 **recall that Mr. Hock indicated that the request**  
19 **was for a minimum of 600 tons per day?**

20           A.           I don't recall what the -- do you  
21 mind if I get my water?

22                   HEARING OFFICER HALLORAN: Yes.

23           That's fine.

24                   MR. MUELLER: Let me interpose



1 an objection. Mr. Hock's testimony is  
2 in the record. It will speak for itself.  
3 Asking the witness whether he remembers  
4 the particulars of the testimony is really  
5 irrelevant.

6 HEARING OFFICER HALLORAN: Well,  
7 I will allow Mr. Moran a little leeway, but  
8 your objection is noted on the record.

9 BY MR. MORAN:

10 Q. Mr. Ipema, in fact, what Mr. Hock  
11 also made a point of emphasizing was that ERDS  
12 was requesting the flexibility to accept an amount  
13 of waste that was consistent and allowed by  
14 operational standards and by permit conditions,  
15 isn't that what he said?

16 A. Yes. And what he said, if I may  
17 clarify that, is with our intended volume or the  
18 waste accepted of 200, we would like a flexibility  
19 above that so that it would help us in operating  
20 the needs of the service area.

21 Q. And I believe the discussion included  
22 amounts that were 600 tons per day and at higher  
23 volumes at well up to 2,200 tons per day, correct?

24 A. I know that there were discussions

1 on that of whether it could have a capacity to  
2 handle that, but the anticipated actual volume  
3 or accepted waste was continually said to be  
4 significantly less than those numbers.

5 **Q. Mr. Hock also indicated that ERDS**  
6 **should not be arbitrarily confined with a**  
7 **specific number for the through-put; is that**  
8 **correct?**

9 A. I don't recall.

10 **Q. And Rockdale indeed approved the**  
11 **request for this transfer station to accept 600**  
12 **tons per day?**

13 A. I believe they approved it for 300  
14 tons a day.

15 **Q. And didn't they also include a**  
16 **condition which said that if ERDS asked permission**  
17 **to accept 600 tons per day it would be granted?**

18 A. I believe it's in there after we  
19 would show that there was a need and that we  
20 could handle it. I think that's in there, but  
21 it was approved for 300 tons a day initially.

22 **Q. And Mr. Hock was authorized to**  
23 **testify on behalf of ERDS at the citing hearing?**

24 A. Yes.

1 MR. MORAN: Thank you, Mr. Ipema.

2 Nothing further.

3 HEARING OFFICER HALLORAN: Thank  
4 you, Mr. Moran.

5 County?

6 MR. HELSTEN: Yes. Thank you,  
7 Mr. Halloran.

8 C R O S S - E X A M I N A T I O N  
9 by Mr. Helsten

10 Q. I have several questions, Jay. I'm  
11 a little bit confused.

12 A. Okay.

13 Q. So it's your testimony today that  
14 the request for citing approval that you filed  
15 with the village did not ask for a cap or a  
16 ceiling on the amount of waste you could accept  
17 at any given day, correct?

18 A. Correct. Because I looked at other  
19 facilities and I did not see other facilities in  
20 the area that also have caps. I seen that -- and  
21 I was watching the most recent application that  
22 came up in Round Lake and they didn't put in a cap,  
23 but it was imposed after.

24 Q. Okay. That said, you heard your

1 **dad's testimony.**

2 A. Uh-huh.

3 **Q. You sat here today. You were present**  
4 **in the room and you heard your dad's testimony,**  
5 **correct?**

6 A. Yes.

7 **Q. Do you agree with your dad's**  
8 **testimony?**

9 A. Is there a specific part? I mean,  
10 yes, I do.

11 **Q. That's a fair question. Here's**  
12 **the specific question I have for you. Does ERDS**  
13 **intend for there to be a cap or a ceiling on the**  
14 **amount of waste that can be actually accepted at**  
15 **the facility on any given day?**

16 A. Did we intend to?

17 **Q. Do you?**

18 A. Do I intend to?

19 **Q. Yes.**

20 A. Do I? Yes, because that's what  
21 we're -- that's what was put into the conditions  
22 of...

23 **Q. And just so I'm clear, what is that**  
24 **cap that you intend?**

1 A. What is the cap that we intend?

2 Q. Yes.

3 A. I would say at least 600 tons  
4 because that's what we demonstrated that we could  
5 handle.

6 Q. Okay.

7 A. In a safe...

8 MR. HELSTEN: Nothing further.

9 HEARING OFFICER HALLORAN: Village,  
10 any questions?

11 MR. WALSH: No.

12 HEARING OFFICER HALLORAN: Okay.

13 Mr. Mueller?

14 C R O S S - E X A M I N A T I O N

15 by Mr. Mueller

16 Q. Jay, let's talk about volume and  
17 capacity. What's your understanding of volume?

18 A. Volume would be the amount of waste  
19 that actually comes into the facility.

20 Q. And what is ERDS's intent as to daily  
21 volume at this facility?

22 A. About an average of 200 tons a day.

23 Q. Has that number ever changed?

24 A. No.

1           **Q.           And what's your understanding of**  
2 **capacity?**

3           A.           Capacity is the amount that a  
4 waste transfer station can actually handle without  
5 being -- having garbage out the doors, having  
6 trucks backed up on the street, being able to  
7 operate in a safe and efficient manner.

8           **Q.           And you testified that Mr. Hock, in**  
9 **your opinion, demonstrated that the facility had**  
10 **a theoretical safe capacity of 600 tons per day at**  
11 **least?**

12          A.           Yes.

13          **Q.           If your intended volume is only**  
14 **200 tons per day, why are you interested in a**  
15 **theoretical maximum safe capacity that might be**  
16 **larger?**

17          A.           For the purpose of flexibility.  
18 There's times where like just recently over the  
19 holidays you're combining a few days of service  
20 into one because of a day that's not -- that you  
21 did not go out to pick up the garbage. So your  
22 volume increases on those particular days because  
23 you're picking up double the amount of waste.  
24 So you need that flexibility to be able to handle

1 that in a day.

2 **Q. Okay. So the absence of a volume**  
3 **restriction gives you some flexibility**  
4 **operationally?**

5 A. Yes.

6 **Q. But does that change your intended**  
7 **volume?**

8 A. No.

9 **Q. And that intended volume again has**  
10 **been and what is what number?**

11 A. An average of 200 tons per day.

12 **Q. Now, when you talked to the county**  
13 **about a secondary host agreement, why even have**  
14 **that discussion with the county?**

15 A. Because it is their solid waste  
16 plan.

17 **Q. Okay. And what was the county's**  
18 **primary concern in those discussions and as**  
19 **reflected in the secondary host agreement?**

20 MR. HELSTEN: You are asking  
21 for Jay's understanding?

22 MR. MUELLER: Your understand  
23 of what the county's primary --

24 MR. HELSTEN: Not what the

1 county's concern is, because Jay --  
2 unless he's a mind reader -- can't  
3 testify as to what the county's concern  
4 was, but he can testify as to what his  
5 understanding was based upon his  
6 participation in those negotiations.

7 MR. MUELLER: Fair objection.  
8 I will rephrase.

9 HEARING OFFICER HALLORAN: Thank  
10 you, Mr. Mueller.

11 BY MR. MUELLER:

12 **Q. What was your understanding of**  
13 **the county's primary concern in the host agreement**  
14 **discussions?**

15 A. The county's primary concern was that  
16 the waste went to Prairie View landfill.

17 **Q. And that concern was accommodated in**  
18 **the final host agreement?**

19 A. Correct.

20 **Q. Why was there even, if you know, a**  
21 **discussion about 600 tons per day?**

22 A. The reason -- the discussion of  
23 the 600 tons per day was because of our cost  
24 of hauling the garbage for Rockdale, we have --



1 we would need to be able to afford to do that.  
2 So we asked for not having 600 a day. They  
3 originally asked for -- I think it was a much  
4 higher number than 600 tons a day. We asked  
5 for that. I'm sorry. We asked for it because  
6 of the cost that it takes to haul -- to fulfill  
7 our obligation to Rockdale.

8 **Q. So if I understand it, there was**  
9 **a discussion about would there'd be some point**  
10 **where you'd be making enough money on the**  
11 **operation to afford a host fee to the county?**

12 A. Yes.

13 **Q. And that was determined to be what**  
14 **number?**

15 A. 600 tons.

16 **Q. Did you ever intend to get to 600**  
17 **tons per day?**

18 A. No.

19 **Q. Now, when you met with Mr. Hock**  
20 **and his team initially, what were your design**  
21 **instructions to him?**

22 A. We had -- my design instructions  
23 to him is that we had a piece of property and  
24 where it was located, the size of the property,

1 we needed to design a facility that could fit  
2 on that property and operate safely.

3 Q. So did he design for a volume or  
4 for a space?

5 A. For a space.

6 Q. And after his design was done,  
7 what did he tell you the facility could safely  
8 manage?

9 A. Above 200 tons per day.

10 Q. And Mr. Hock ran a 200-ton per day  
11 scenario -- through-put scenario in the application,  
12 correct?

13 A. Yes.

14 Q. And then he also ran a 600-ton per  
15 day through-put scenario in the application?

16 A. Correct.

17 Q. Why did he even run the 600-ton per  
18 day scenario if you intended to do 200 tons per  
19 day?

20 A. To see if we could do it safely  
21 because it was also worded in the host agreement  
22 with Will County.

23 Q. You never told Mr. Hock to design  
24 a 600-ton per day facility, did you?

1 A. No.

2 Q. It turned out that in his opinion,  
3 the design for that space could accommodate that  
4 volume, right?

5 A. Correct.

6 Q. And your belief is that now gives  
7 you operational flexibility in a margin of safety?

8 A. Yes.

9 Q. So if you only intended a volume  
10 of 200 tons per day, why would you request that  
11 the county or that the village of Rockdale not  
12 impose a volume restriction?

13 A. Well, so that we would have the  
14 flexibility to operate -- to handle the waste  
15 that came to us.

16 Q. Such as the scenario you just  
17 testified about with regard to the holidays?

18 A. Correct.

19 Q. Where you've got a double day?

20 A. Correct.

21 Q. And is ERDS appealing the village's  
22 maximum volume restriction of 300 tons per day?

23 A. No.

24 Q. And why aren't you appealing that?

1           A.       Because we feel that that's adequate  
2 to handle what we -- the waste that we intend to  
3 take in on a daily basis.

4           **Q.       And how much volume does ERDS control**  
5 **at the present time on a daily basis?**

6           A.       Around 125 tons per day.

7           **Q.       So you folks would have to actually**  
8 **significantly expand your business to even get to**  
9 **the intended 200 tons per day?**

10          A.       Correct.

11                   MR. MUELLER: That's all I have,  
12 Mr. Ipema. Thank you.

13                   HEARING OFFICER HALLORAN: Thank  
14 you.

15                               Mr. Moran?

16           R E D I R E C T       E X A M I N A T I O N  
17                               by Mr. Moran

18           **Q.       Mr. Ipema, ERDS at no point asked**  
19 **Rockdale to approve a through-put limited to an**  
20 **average of 200 tons per day, did it?**

21          A.       No.

22                   MR. MORAN: Mr. Hearing Officer,  
23 I have an exhibit from the Rockdale record,  
24 which has already been identified. Would

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1           you want it identified for this hearing as  
2           well or can I simply reference the exhibit  
3           as it was presented to Rockdale?

4                       HEARING OFFICER HALLORAN: I think  
5           just referencing. If there's just one,  
6           that would be fine. Thank you.

7                       MR. MORAN: May I approach the  
8           witness?

9                       HEARING OFFICER HALLORAN: Yes,  
10          you may.

11                      MR. MORAN: Thank you.

12                               (Document previously marked  
13                               as Hock PowerPoint Exhibit  
14                               No. 7 for identification.)

15 BY MR. MORAN:

16                      **Q.       Mr. Ipema, I'm going to show you**  
17           **what was marked as Exhibit 7. It was demonstrative**  
18           **evidence before the village of Rockdale. It was**  
19           **the PowerPoint presentation that Mr. Hock used as**  
20           **a basis or support for his testimony.**

21                               **I'm going to address your**  
22           **attention to what I think is Page 17 of Exhibit 7.**  
23           **It actually doesn't have a number on it, but if**  
24           **you look at the numbers that are provided, they're**

1 all even numbers. So it follows after 16. So I'm  
2 assuming it's 17.

3 At any event, as I said, it is  
4 Page 17 of this Exhibit 7. It's the top slide,  
5 the top half of the page, which is entitled,  
6 "Summary." It says, "The Proposed MTS." Is MTS  
7 the Moen Transfer Station?

8 A. Yes.

9 Q. And this identifies the through-put  
10 capacity or volumes that would be proposed --

11 A. Uh-huh.

12 Q. -- for the Moen Transfer Station.  
13 Could you read through those bullet points for  
14 us?

15 MR. MUELLER: Now, I'm going to  
16 object because I think it's beyond the  
17 scope of direct.

18 HEARING OFFICER HALLORAN: Okay.  
19 Mr. Moran?

20 MR. MORAN: Well, this is part  
21 of Mr. Hock's testimony, what he presented.  
22 It deals with both capacity and volumes for  
23 the Moen Transfer Station. It was certainly  
24 what I covered not only on direct, but

1 what was covered --

2 HEARING OFFICER HALLORAN: Yes.

3 I agree. Overruled. You may proceed.

4 BY THE WITNESS:

5 A. And what is your question regarding?

6 BY MR. MORAN:

7 **Q. My question is does this slide**  
8 **accurately describe both the capacity and volume**  
9 **that was proposed for the Moen Transfer Station?**

10 MR. MUELLER: I'm going to object  
11 to the use of the terms capacity and volume.  
12 If he wants to ask about the slide without  
13 characterizing what it is, I don't have a  
14 problem with that.

15 HEARING OFFICER HALLORAN: Okay.  
16 Mr. Moran?

17 MR. MORAN: Well, I think certainly  
18 he can address whether this indeed describes  
19 both the capacity and the volume proposed  
20 for the Moen Transfer Station.

21 HEARING OFFICER HALLORAN: I agree.  
22 Overruled.

23 BY THE WITNESS:

24 A. What I -- if you're asking me what

1 I -- what do I think that this means? Is that  
2 what you're asking me?

3 BY MR. MORAN:

4 **Q. No. I'm asking you does this**  
5 **properly describe the capacity and the volume**  
6 **that was proposed for the Moen Transfer Station?**

7 A. It describes that the transfer  
8 had a station capacity of 600 tons and was readily  
9 available to manage a volume of 200 tons.

10 **Q. Well, then if I could direct your**  
11 **attention to the specific language here --**

12 A. Uh-huh.

13 **Q. -- it says in the third bullet**  
14 **point can manage acceptance volumes greater than**  
15 **600 tons per day under many scenarios. Is that**  
16 **a correct statement?**

17 A. Correct. Because the scenarios  
18 that were brought up was our flexibility of hours  
19 in different scenarios. It could manage more  
20 than 600, but the volume that we anticipate is  
21 200 tons. So it could -- I'd rather handle --  
22 be able to safely handle more than 200 tons  
23 because we want to operate the facility in a  
24 safe manner. So if we can handle more, like



1 600 tons, if we can handle it, but we're only  
2 taking 200, I feel that's a lot safer scenario  
3 than the alternative than taking a facility  
4 that takes 1,800 tons a day, but only has a  
5 capacity of 1,200 tons a day.

6 **Q. And 600 tons per day was the**  
7 **threshold that was included in the host agreement**  
8 **with Will County, correct?**

9 A. I'm sorry. Say that again.

10 **Q. And 600 tons per day, which was**  
11 **the threshold that was put in the host agreement**  
12 **with Will County that would trigger an obligation**  
13 **to pay host fees to the county, correct?**

14 A. In the host agreement, correct.

15 **Q. But what you're telling us now it**  
16 **was never the intent of ERDS to ever reach 600**  
17 **tons per day even though it was put in the agreement**  
18 **with Will County?**

19 A. The reason that the 600 tons a day  
20 with the county was put in there was because of  
21 the cost of the host -- the primary host agreement  
22 with Rockdale because at -- once the 200 -- once  
23 we stopped -- once the 20 years is over with  
24 Rockdale, then we will continue on with the

1 host fee to the county.

2 **Q. Is it accurate to say it was never**  
3 **ERDS's intent to ever to accept 600 tons per day**  
4 **at this facility?**

5 A. I'm sorry. Say that again.

6 **Q. Was it ERDS's intent that the**  
7 **facility would never accept 600 tons per day?**

8 A. Was it our...

9 **Q. It was never ERDS's intent to ever**  
10 **realistically accept 600 tons per day?**

11 A. The 600 -- like I said, the 600  
12 tons a day was because of the host agreement  
13 that we had with the county. The intent of the  
14 transfer station was to handle the volume of  
15 the garbage that we were going to take. The  
16 county never asked us what we intended to take.

17 **Q. And that would include amounts up**  
18 **to and in excess of 600 tons per day, correct?**

19 A. Correct.

20 MR. MORAN: Thank you.

21 HEARING OFFICER HALLORAN: Okay.

22 Mr. Helsten?

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R E - C R O S S - E X A M I N A T I O N

by Mr. Helsten

**Q. Mr. Ipema, after Mr. Mueller's cross-examination and Mr. Moran's redirect, I'm even more confused. I'm going to try and clarify.**

**So Mr. Hock told you the facility could safely manage 200 tons per day; is that correct?**

A. Yes.

**Q. Okay. Now, Mr. Mueller asked you what your intended volume was at the facility and you said an average of 200 tons per day, correct?**

A. Yes.

**Q. Okay. Is that an average in your -- is it your understanding that average is a weekly average, a monthly average, an annual average?**

A. That was never defined what that average would be.

**Q. What's your understanding of what it was?**

A. What's my understanding of what it would be?

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**Q. Yes.**

A. It could be a weekly average.

**Q. Okay. That being -- so it's an average of 200 tons per day?**

A. Yes.

**Q. Let me ask you this: Let's say for four days, you received zero waste --**

A. Uh-huh.

**Q. -- and on the fifth, you received 1,000 tons. Do you consider that then to be an average of 200 tons per day?**

A. Calculating it, yes. Is that going to be the scenario? No.

**Q. Why isn't that -- that's what I'm getting at. That's exactly what I'm getting at. Thank you. Why isn't that going to be the scenario? Tell me why.**

A. Because we operate every day of the week.

**Q. Why wouldn't -- why couldn't you take the 1,000 then under your testimony on the fifth day since it averages 200 tons per day?**

A. Because we don't generate 1,000 tons on one day.

1           **Q.           If you did?**

2           A.           But we don't.

3           **Q.           If you did, would you -- is it**  
4 **your -- if you could generate -- capture 1,000**  
5 **tons per day, is it your intention to accept**  
6 **it at this facility?**

7           A.           No. All of it? No.

8           **Q.           Okay. What is your intention?**  
9 **That's what I'm confused about.**

10          A.           Our intention is to safely handle  
11 the amount of garbage we haul, which would be an  
12 average of 200 tons per day. So right now, we  
13 handle currently about 125 tons a day. In the  
14 service area of the Moen transfer, we would  
15 continue to do that, but as, like, in our -- in  
16 our hearing, there's still routes that are by  
17 Prairie View. So some of that garbage is still  
18 going to go directly to Prairie View because  
19 we're not going to bring it all the way back up  
20 to the transfer station on the way back. So our  
21 average will be consistently 200 tons a day.

22          **Q.           Okay. You had told Mr. Mueller,**  
23 **in response to one of his questions, as I recall,**  
24 **that if you increased your average volume -- daily**

1 volume to 200 tons per day, that would be a  
2 significant increase, correct? Is that what  
3 you said?

4 A. From where we're at now, yeah.

5 Q. Likewise, then 300 tons a day  
6 would be an even more significant increase, correct?

7 A. Correct.

8 Q. And 400 would be even more  
9 significant?

10 A. Correct.

11 Q. And 500 would be even more  
12 significant, correct?

13 A. Yes.

14 Q. 600 would be even more significant?

15 A. Correct.

16 Q. Following the line of questioning  
17 that Mr. Mueller and Mr. Moran took you through,  
18 just so I'm clear, if you could capture an average  
19 of 600 tons per day in the market, is it your  
20 intention to take that 600 tons per day into this  
21 facility?

22 A. Not only to this facility, no.

23 Q. And why is that?

24 A. Because we have some routes that

1 are by other facilities that are outside the  
2 Moen Transfer Station service area.

3 Q. Well, is it only then -- is it  
4 not your intention simply because it's more  
5 efficient from -- cost efficient from a transport  
6 point of view to take it directly to Prairie  
7 View?

8 A. Only those routes that -- from an  
9 efficiency standpoint that are close to there,  
10 yes.

11 Q. Okay. But if it was more efficient  
12 to take that waste -- all of that 600 tons per day  
13 percent average -- into the Moen Transfer Station,  
14 is it your -- would it be your intention to take  
15 it into the Moen station?

16 MR. MUELLER: Objection. That's  
17 a hypothetical and it assumes facts not  
18 in evidence.

19 HEARING OFFICER HALLORAN: Okay.  
20 Mr. Helsten?

21 MR. HELSTEN: No. I think I can  
22 ask a hypothetical. That's the whole idea  
23 of a hypothetical and I think we've been  
24 all over that in Mr. Moran's direct and

1 Mr. Mueller's cross. I think Mr. Mueller  
2 opened the door even more so with his  
3 cross.

4 HEARING OFFICER HALLORAN: Yes.  
5 Overruled. You may answer that, Mr. Ipema,  
6 if you can answer.

7 BY THE WITNESS:

8 A. All right. One more time on the  
9 question.

10 MR. HELSTEN: Could you read it  
11 back, please?

12 HEARING OFFICER HALLORAN: Lori,  
13 could you read it back?

14 (Whereupon, the requested  
15 portion of the record was  
16 read accordingly.)

17 BY THE WITNESS:

18 A. Only if it was okay by the Village  
19 of Rockdale.

20 BY MR. HELSTEN:

21 **Q. Pursuant to the special conditions**  
22 **that the village has imposed, correct?**

23 A. Correct.

24 MR. HELSTEN: Thank you.



1 HEARING OFFICER HALLORAN: Thank  
2 you.

3 Mr. Walsh and Mr. Stiff?

4 MR. WALSH: No.

5 HEARING OFFICER HALLORAN: Okay.

6 Mr. Mueller?

7 R E - C R O S S - E X A M I N A T I O N

8 by Mr. Mueller

9 Q. At the very end of Mr. Moran's  
10 redirect, he asked you a question that sounded  
11 like your intent is to take more than 200 tons  
12 per day if that volume is available to you. I  
13 just want to clarify that. Is that your intent?

14 A. To take more than the 200 tons?

15 Q. Yes.

16 A. No.

17 Q. So if the volume is available,  
18 you still -- you're not going to take it? You'd  
19 be content with 200?

20 A. Well, no. I would take it. If  
21 it's out there and there was a need for it, yes,  
22 we would. But right now, we are proposing the  
23 200 tons.

24 Q. You know your service area, don't

1     **you?**

2             A.        Yes.

3             **Q.        It's a fairly developed area?**

4             A.        Uh-huh.

5             **Q.        Do you foresee a scenario whereby**  
6 **the volumes you control could dramatically**  
7 **increase?**

8                     MR. MORAN:  Objection, relevance.  
9             His foresight on this issues is not germane  
10            to any issue we have here.

11                    HEARING OFFICER HALLORAN:  Yes.  
12            Is there any way you could rephrase that,  
13            Mr. Mueller?

14                    MR. MUELLER:  I'm struggling.

15                    HEARING OFFICER HALLORAN:  Take  
16            your time.

17                    MR. MUELLER:  I have nothing  
18            further.

19                    HEARING OFFICER HALLORAN:  Thank  
20            you.

21                                Mr. Moran?

22                    MR. MORAN:  Nothing further.  Thank  
23            you.

24                    HEARING OFFICER HALLORAN:  Thank

1           you.

2                               Sir, you may step down. Thank  
3           you so much.

4                               THE WITNESS: Thank you.

5                               (Witness excused.)

6                               HEARING OFFICER HALLORAN: All  
7           right. We can go off the record for a  
8           minute.

9                               (Whereupon, a discussion  
10                              was had off the record.)

11                              HEARING OFFICER HALLORAN: We're  
12           back on the record.

13                              We have been discussing the  
14           stature decision deadline and post-hearing briefs.  
15           Mr. Mueller has agreed to file an additional  
16           waiver of the stature decision deadline out to  
17           April 21, 2016, and from that number, we've decided  
18           that February 11, 2016, opening briefs are due.  
19           March 3, 2016, responses are due. March 14, 2016,  
20           any replies are due. I've also set public comment  
21           are due to be filed on or before February 5th. The  
22           parties have all agreed to reserve their closing  
23           argument for post-hearing briefs.

24                              I think that's it. I appreciate

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1 everybody's civility again. You guys are always  
2 great to work with and safe travels. Thank you.

3 (Whereupon, the above-entitled  
4 proceedings were adjourned.)

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