

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2 CITY OF STREATOR, ILLINOIS,)
3 Petitioner,)
4 vs) No. PCB 02-4
5 ILLINOIS ENVIRONMENTAL PROTECTION)
6 AGENCY,)
7 Respondent.)

8

9 The following is a transcript in
10 the above-entitled cause taken before HEARING
11 OFFICER STEVEN C. LANGHOFF and stenographically
12 taken before GEANNA M. IAQUINTA, CSR, a notary
13 public within and for the County of Cook and
14 State of Illinois, at 119 West Madison, Room
15 206, Ottawa, Illinois, on the 14th day of
16 November, A.D., 2001, scheduled to commence at
17 9:00 o'clock a.m., commencing at 9:07 a.m.

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

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ILLINOIS POLLUTION CONTROL BOARD,
600 South Second Street
Suite 402
Springfield, Illinois 62704
(217) 782-2615

5

BY: MR. STEVEN C. LANGHOFF, Hearing Officer

6

BARNES & THORNBURG,
10 South LaSalle Street
Chicago, Illinois 60603
(312) 357-1313

8

BY: MS. CAROLYN S. HESSE and
MS. BETH A. HARVEY

9

10 Appeared on behalf of the City of Streator,

11

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
1021 North Grand Avenue
Springfield, Illinois 62794
(217) 782-5544

12

13

BY: MS. DEBORAH J. WILLIAMS

14

Appeared on behalf of the Illinois
Environmental Protection Agency.

15

16 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

17

Ms. Alisa Liu

18

Mr. Anand Rao

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1 HEARING OFFICER LANGHOFF: Good morning,
2 everyone. My name is Steven Langhoff. I'm the
3 Pollution Control Board hearing officer who has
4 been assigned this matter and will be
5 conducting the hearing today. This is PCB
6 02-4, City of Streator versus Illinois
7 Environmental Protection Agency.

8 For the record, it is
9 Wednesday, November 14th, and we are beginning
10 at 9:07 a.m. Are there any members of the
11 public present? Thank you. I want to note for
12 the record that there are members of the public
13 present. Members of the public are encouraged
14 and allowed to provide public comment if they
15 so choose.

16 I want to welcome Board
17 employees Anand Rao and Alisa Liu of the
18 technical unit who will be sitting in for the
19 hearing.

20 I will remind the parties that
21 the Board rules do allow the Board to ask
22 questions of the witnesses who are on the

23 stand. I will provide the Board employees with
24 an opportunity to ask any questions that they

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1 might have.

2 At issue in this case is a
3 request for a five-year variance filed by the
4 city of Streator or Streator from restricted
5 status rules to allow additional hookups to its
6 wastewater treatment plant.

7 The Illinois Environmental
8 Protection Agency or Agency made a
9 recommendation to deny the variance request.
10 The statutory decision deadline in this matter
11 is January 8th, 2002. I want to take a brief
12 moment to let everyone know what is going to
13 happen today and after the proceeding today.

14 You should know that it is the
15 Pollution Control Board and not me that will
16 make the final decision in this case. My job
17 as a hearing officer requires that I conduct
18 the hearing in a neutral and orderly matter so
19 that we have a clear record of proceedings here
20 today.

21 It is also my duty to assess

22 the credibility of any witnesses giving
23 testimony today, and I will do so on the record
24 at the conclusion of the proceedings. We will

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1 begin today with opening statements from the
2 parties and then we will proceed with the City
3 of Streator's case followed by the Agency
4 having an opportunity to put on a case in its
5 behalf. We'll then conclude with any closing
6 arguments that the parties wish to make, allow
7 for any public comment, and then we will
8 discuss off the record a briefing schedule,
9 which will be set on the record at the
10 conclusion of the proceedings.

11 Again, the Board's procedural
12 rules and the Act provide that members of the
13 public shall be allowed to speak or submit
14 written statements at the hearing. Any person
15 offering such testimony today or tomorrow shall
16 be subject to cross-examination by both of the
17 parties.

18 Any such statements offered by
19 members of the public must be relevant to the
20 case at hand. This hearing was noticed

21 pursuant to the Act and the Board's rules and
22 regulations and will be conducted pursuant to
23 Section 104.236 and Sections 101.600 through
24 101.632 of the Board's procedural rules.

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1 At this time, I'll ask the
2 parties to make their appearance on the record,
3 beginning with Streator.

4 MS. HESSE: Carolyn Hesse of Barnes
5 & Thornburg on behalf of the City of Streator.

6 MS. HARVEY: Beth Harvey of Barnes
7 & Thornburg on behalf of the City of Streator.

8 HEARING OFFICER LANGHOFF: Thank
9 you. And for the Agency.

10 MS. WILLIAMS: I'm Deborah
11 Williams, assistant counsel with the Illinois
12 EPA.

13 HEARING OFFICER LANGHOFF: Thank you.
14 Are there any outstanding or prehearing motions
15 that the parties would like to present before
16 we proceed?

17 MS. HESSE: Yes. We've agreed to
18 certain facts to which Illinois EPA and the
19 City of Streator stipulate.

20 HEARING OFFICER LANGHOFF: Thank you.
21 For the record, I've been handed their
22 stipulations. Thank you. Any other
23 preliminary matters that we need to discuss?
24 Would the City of Streator

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1 like to make a brief opening statement on its
2 client's behalf?

3 MS. HARVEY: Yes, we would. Since
4 1986, the City of Streator has lost 4,000
5 jobs. That's 4,000 jobs in a city with a
6 population of 14,200. The city is aging.
7 About half of the population is over 55.

8 While this is not elderly in
9 today's environment, it does mean that many of
10 these people are on fixed incomes and they are
11 retired. Raising taxes on its citizens to
12 cover the cost of repairs of infrastructure is
13 burdensome. The city needs growth. It needs
14 jobs. It needs industries and corporations to
15 view Streator as a good place to locate and
16 prosper.

17 To support growth and
18 development, the city needs infrastructure.

19 During the last decade, the city has expended
20 over \$30 million to upgrade the city's
21 infrastructure for the wastewater treatment
22 plant and sewer lines. Under the consent
23 decree, the city has undertaken significant
24 measures to eliminate the use of septic tanks.

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1 The treatment plant was
2 upgraded to increase -- to treat increased
3 loads. Now, the treatment plant has
4 demonstrated an exceptional compliance record
5 with BOD5 limits, which are the limits for
6 organic loading.

7 During 2000 and 2001, the city
8 experienced occasional problems with ammonia --
9 meeting the ammonia discharge limitations. It
10 also experienced one occasion of noncompliance
11 for total suspended solids. Beginning in July
12 of 2000, the city began adding manufactured
13 bacteria to aid in nitrification.

14 In addition, the decant line
15 from the sludge storage tank was relocated from
16 the oxidation ditch to the head works. The
17 city's significant industrial user is seeking

18 waste to equalize their load to the city. Most
19 recently, the city has committed to removing
20 sludge when it reached 90 percent storage
21 capacity.

22 The city also is making
23 efforts to land apply the sludge more
24 frequently and has -- is currently underway --

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1 plans are underway to install a belt filter
2 press to allow landfill disposal of sludge
3 rather than land application.

4 Finally, and most importantly,
5 the city has approved a \$4 million bond issue
6 to finance upgrades to the wastewater treatment
7 plant and/or to extend sewer lines. The city
8 hired Chamlin & Associates to evaluate the
9 operating and monitoring data for the
10 wastewater treatment plant.

11 Based on the current operation
12 of the facility, as it is configured, the
13 facility could be rated at 8100 pounds per day
14 of organic loading. The current design basis
15 of 5,000 pounds per day does not reflect the
16 ability of a plant to effectively treat

17 increased organic loads.

18 The city submitted a report to
19 rerate the plant to the IEPA. If the plant
20 were rerated to 8100 pounds per day, the
21 organic loading to the facility would be less
22 than that rating and the facility could be
23 removed from restricted status.

24 The variance should be granted

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1 because failure to grant the variance will
2 create a hardship on Streator, and granting the
3 variance will result in no environmental harm.

4 Streator's hardship is real.
5 It is not self-imposed. The environmental
6 harm, if at all, is minimal. The hardship is
7 not self-imposed because self-imposed hardship
8 is evidenced by inactivity in decision-making.

9 As previously discussed,
10 Streator has taken diligent steps to address
11 ammonia and solids management issues. How do
12 we know that the environmental impact is
13 minimal? All we have to do is look at the
14 data. Streator has a perfect compliance record
15 with BOD5 effluent limitations. Streator has

16 the ability to treat increased organic loads.

17 The additional loads from the
18 Kroger strip mall and the Super 8 Motel are
19 less than eight pounds a day. Eight pounds to
20 a facility that can handle 8100 pounds is less
21 than one-tenth of a percent. That additional
22 load would not even be noticed.

23 The City of Streator asks the
24 Board to grant a variance from restricted

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1 status to allow the additional connections to
2 the wastewater treatment plant.

3 HEARING OFFICER LANGHOFF: Thank you,
4 Ms. Harvey. Ms. Williams, would you like to
5 give an opening now?

6 MS. WILLIAMS: Sure.

7 HEARING OFFICER LANGHOFF: Thank
8 you.

9 MS. WILLIAMS: Good morning. My
10 name is Deborah Williams, and I'm assistant
11 counsel with the Environmental Protection
12 Agency, and I'm also a special assistant to the
13 attorney general. I've brought four Agency
14 employees with me today who I will introduce in

15 just a moment, and before that, I'd like to
16 make just a few brief opening remarks.

17 The Illinois EPA is here today
18 to provide testimony in support of its
19 recommendation in this matter that the City of
20 Streator be denied the requested variance from
21 restricted status. Streator has not met its
22 burden under Section 35 of the Act to
23 demonstrate that the relevant regulation poses
24 arbitrary or unreasonable hardship on the

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1 petitioner.

2 The Agency's determination to
3 place Streator on restricted status in
4 September of last year was by no means
5 arbitrary, but rather the unavoidable result of
6 numerous discussions with Streator that its
7 wastewater treatment plant was operating
8 significantly over its designed capacity and,
9 in fact, by the second half of 2000 was
10 operating at over 160 percent of the designed
11 organic burning capacity. Nor has Streator
12 been able to demonstrate that the hardship
13 resulting from being placed on restricted

14 status is unreasonable.

15 In fact, the speculative and
16 unquantified hardship that is presented in
17 Streator's variance petition is unfortunately
18 the logical and unavoidable result of any
19 restricted status determination.

20 In addition, the environmental
21 harm which results from the current operation
22 of Streator's wastewater treatment plant above
23 its designed capacity and the harm that will
24 result from additional connections to the

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1 already overloaded plant is not minimal or
2 nonexistent as Streator has indicated.

3 Streator's sewage treatment
4 plant has had numerous violations of the
5 ammonia limitations in its discharge permit as
6 well as some suspended solids violations over
7 the last several years in addition to its
8 exceedance of its organic loading capacity.

9 Streator claims these
10 violations are unrelated to its organic
11 loading, but the Agency strongly disagrees with
12 this claim. In addition, you will hear

13 Streator continually reiterate that its sewage
14 treatment plant is in compliance with the BOD
15 effluent limitations.

16 While the Agency agrees that
17 Streator has been in compliance with the BOD
18 limits contained in its permits, it will
19 explain for the Board why compliance of those
20 limits alone does not demonstrate that the
21 plant can adequately treat the BOD5 loading it
22 is receiving into the plant. In fact, the
23 ammonia violations are a direct result of the
24 BOD loading to the sewage treatment plant.

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1 Any hardship claim by the city
2 in this case is self-imposed. The Agency's
3 restricted status determination exempted all
4 projects that had applied for permits or were
5 needed to fulfill a ten-year-old consent decree
6 from restricted status.

7 Any projects which seek to
8 connect to Streator's plant now have had ample
9 notice of Streator's situation and chose to
10 proceed anyway. In fact, the city has treated
11 restricted status as a minor technical glitch

12 that will quickly be resolved by a variance
13 from the Board to allow development to proceed
14 on Streator's schedule.

15 The Agency has brought several
16 experts today with me who I'd like to introduce
17 at this time. First, directly to my left, we
18 have Charles Corley, who's an inspector from
19 our -- the field staff in our Rockford regional
20 office. Mr. Corley will outline the field
21 investigations that were performed to serve for
22 the basis for the Agency's analysis of
23 Streator's variance petition.

24 Mr. Corley has had 25 years of

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1 experience inspecting facilities in the
2 Streator -- over 25 years of experience
3 inspecting this facility in particular and
4 other facilities in the Streator area and will
5 outline the information obtained from recent
6 visits to the Streator plant including the
7 components that make up the plant and how it
8 works and Streator's most significant
9 industrial user, Red Wing, or as it's now
10 known, Carriage House.

11 Next, I have Roger Callaway to
12 the far left, I guess, of our Agency staff over
13 here. He's from the Agency's compliance
14 assurance section. Roger will be able to
15 provide insight to the Board as to Streator's
16 past and current compliance situation,
17 including the measures Streator has agreed to
18 undertake to come into compliance with its
19 ammonia limitations and whether Streator is
20 currently in compliance with the Agency's
21 restricted status determination.

22 We also have Gary
23 Bingenheimer, in the center, of the permit
24 section. Gary will explain the permitting of

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1 Streator's sewage treatment plant, the recent
2 history of organic loading to the plant which
3 led to the Agency's determination to place
4 Streator on restricted status, and the Agency's
5 approval last spring of a plan submitted by the
6 city to get the city off restricted status.

7 Finally, we have Al Keller,
8 who is the manager of the Northern Municipal
9 Unit of the bureau of water's permit section.

10 He can explain for us the rating and rerating
11 process for the wastewater treatment plant,
12 including the fact that every component of
13 Streator's sewage treatment plant as a whole
14 must be able to handle the organic load it is
15 receiving in the analysis the Agency will take
16 to determine when and if Streator can be
17 rerated to a higher design capacity, and that's
18 all I have at this time. Thank you very much.

19 HEARING OFFICER LANGHOFF: Thank
20 you, Ms. Williams. Ms. Hesse, you may present
21 your case-in-chief, please.

22 MS. HESSE: As my first witness,
23 I'd like to call the mayor of Streator.

24 HEARING OFFICER LANGHOFF: Thank you.

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1 (Witness sworn.)

2 WHEREUPON:

3 R A Y S C H M I T T,
4 called as a witness herein, having been first
5 duly sworn, deposeth and saith as follows:

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

7 by Ms. Hesse

8 Q. Mayor Schmitt, could you please

9 state your full name for the record and spell
10 it for the court reporter?

11 A. Ray Schmitt, S-c-h-m-i-t-t.

12 Q. Mr. Schmitt, are you currently the
13 mayor of Streator, Illinois?

14 A. Yes, I am.

15 Q. How long have you lived in
16 Streator?

17 A. I've lived in Streator since 1963.

18 Q. And how long have you been mayor?

19 A. I've been mayor since 1999, two
20 years.

21 Q. Have you held any other public
22 offices in Streator?

23 A. Prior to that, I was on the
24 Streator city council. I got elected in 1987.

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1 Prior to that, I was on the city planning
2 commission since 1976.

3 Q. Could you provide some background
4 information on the City of Streator? How large
5 is Streator?

6 A. Streator basically had a population
7 back in 1960 about 16,900. We have

8 approximately 8,000 people laying right in the
9 outlying areas right around us that's not
10 annexed to the city.

11 Over a period of the last 20,
12 30 years, we've probably lost 2000 of our
13 residents, mainly our young, young graduated
14 kids that move away due to lack of jobs.

15 Q. What is the current population of
16 Streator?

17 A. The current population in the 2001
18 census is 14,142.

19 Q. What is the population of Streator
20 like at the present time?

21 A. I don't understand that question.

22 Q. Okay. You had mentioned that young
23 people move away.

24 Has this resulted in an aging

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1 population in the City of Streator?

2 A. Well, it's due to the fact that the
3 industry that I work in was Owens-Brockway
4 Glass. It was a glass maker from 1960 when I
5 originally started at Owens-Brockway to a total
6 employment of about 3575 people. When I

7 retired in 1999 before I took office as mayor,
8 it had a total employment of approximately 350
9 employees on the payroll and probably 275
10 full-time jobs.

11 Q. Has another company by the name of
12 Anchor also left town?

13 A. Back in 1994, Anchor Glass
14 Division, which was a -- not a division of
15 ours, but a competitor to ours, had a glass
16 plant that originally employed probably back in
17 1960 probably in the area of 2500 to 3,000
18 people, and they downsized through the years
19 down to 450 people. In 1994, they decided to
20 close the plant completely so that it was
21 another loss of 400 jobs.

22 Q. So all together, about how many
23 jobs have been lost in Streator?

24 A. We've lost probably a total of --

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1 Lipton Tea used to make -- they had their
2 factory there. They closed it in '63 or '64,
3 somewhere in there. Anthony Truck Body made
4 truck bodies for -- not only for commercial
5 use, but also they made the swamp buggy things

6 for the federal government in World War II and
7 the Korean war and that closed.

8 So approximately over the last
9 40 years we've probably lost a total of 4,000
10 to 4500 jobs.

11 Q. Has this resulted in a lot of
12 people that are retired or on fixed incomes
13 living in Streator?

14 A. I would say the biggest majority of
15 them. I haven't really seen any data on it,
16 but for the age group that I'm in at the
17 present time, probably 50 to 60 percent of our
18 people are probably 55 years of age and older,
19 and probably of that 50 percent probably 30
20 percent of those are probably 65 years of age
21 and older.

22 Q. Has this made it difficult to raise
23 tax revenues?

24 A. Well, I think, you know, anybody

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1 that's in a community knows that with the
2 elderly, it's tough. They're on fixed
3 incomes. With the taxes the way they are, real
4 estate taxes and stuff, yes, it's going to

5 be -- it's going to be tough on them because a
6 lot of those people, their pensions and stuff
7 that they got are anywhere between 250 to \$600
8 a month total. So it makes it tough on them.

9 Q. Okay. Mr. Mayor, I would like to
10 show you a document and ask you to identify
11 what that is for the record?

12 A. This is a map of the City of
13 Streator which also shows in the map are -- it
14 has 22 different commercial and high school,
15 city park, library, different areas
16 and different sites of the city that we have in
17 our community that Streator tourism puts out.

18 Q. Does this map accurately reflect
19 various areas of the City of Streator?

20 A. Yes, it does.

21 MS. HESSE: I'd like to mark this
22 as Exhibit 1. I have multiple copies.

23

24

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1 (Exhibit No. 1 marked
2 for identification,
3 11-14-01.)

4 BY MS. HESSE:

5 Q. Mayor Schmitt, are you familiar
6 with a consent order that was entered between
7 the City of Streator and the State of Illinois?

8 A. Yes, I am.

9 Q. Do you recall when the consent
10 order was entered?

11 A. I would say approximately in '88 or
12 89.

13 Q. Was that consent order also amended
14 in '92?

15 A. The consent order was amended in
16 1992 to include the MacIntosh project, and the
17 reason it was amended for that sole purpose was
18 is back -- back in the '90s somewhere the
19 Illinois Attorney General's Office, along with
20 the LaSalle County State's Attorney's Office,
21 had filed a -- some type of class action suit
22 against the residents living in MacIntosh
23 conditioned on the count of they were polluting
24 the waters of the State of Illinois, and they

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1 had a meeting at the Knights of Columbus at
2 that time and at that time they were told if

3 they were annexed to the city that there
4 possibly was a chance they could become grant
5 eligible. I was told that by the Illinois
6 Attorney General's Office.

7 So we annexed the people of
8 the City of Streator and put it in a consent
9 decree, and then we found out that there was a
10 different agency, that they were not -- they
11 were not the people to be telling us that it
12 was grant eligible.

13 So we went to the IEPA with
14 it. It was not in a consent decree before
15 prior to our master compliance plan. So,
16 therefore, it was not grant eligible.

17 Q. Pursuant to the consent decree, did
18 the City of Streator develop a compliance plan
19 to bring -- to upgrade the sewage treatment
20 plant and bring various areas into service by
21 the sewage treatment plant?

22 A. Prior to 1987?

23 Q. No. Pursuant to the condition
24 decree.

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1 A. Yes.

2 Q. And why was it important to bring
3 those homes onto service by the sewage
4 treatment plant?

5 A. Well, one of the concerns that we
6 had was is when we looked at the compliance
7 plan our engineers did and we decided that we
8 would go ahead and invest some money to sink
9 our main sanitary, our main trunk lines, deeper
10 so we could have the ability to, number one, be
11 able to treat all the treatment for not only
12 the city, but also the surrounding areas so all
13 of the stubs that we run off into the areas
14 outside of the city would be deep enough to
15 handle everybody.

16 We thought at that time it was
17 a good idea because with the environmental the
18 way it was, everybody sooner or later was going
19 to have to have their sewer treated. So we did
20 make that available to them.

21 Q. How much money has the City of
22 Streator spent on upgrading -- this is to date,
23 upgrading the sewage treatment plant and
24 extending sewage trunk lines?

1 A. In some of our areas, we had low
2 income grants that we got. In the biggest
3 majority of our areas that we had, it was a
4 70/30. The State of Illinois paid 70 percent
5 of it and the City of Streator came up with the
6 other 30 percent. We're approximately in the
7 area between of 26 and 30, 33 million,
8 somewhere in there.

9 Q. And how much of this has been money
10 that had to be raised by the City of Streator?

11 A. Thirty percent of it basically has
12 been raised by the City of Streator. What we
13 did over a term, we started out from \$2.00 a
14 month in sewer rates before we got in the
15 compliance plan. The average sewer rate today
16 is probably 35 to \$40 for the average
17 homeowner.

18 Q. And what is the total amount that's
19 been spent by Streator?

20 A. We've approximately spent \$10
21 million already.

22 Q. And has Streator recently passed a
23 bond issue to raise additional funds?

24 A. We did recently pass -- the city

1 council recently passed a bond issue to be able
2 to draw in \$4 million. At the present time,
3 we've only drawn 920-some thousand due to the
4 fact that the belt filter press would be able
5 to get it on line.

6 Q. Is Streator currently in compliance
7 with the consent order?

8 A. To the best of my knowledge, we
9 are, yes.

10 Q. Has Streator been adding the areas
11 to the consent order that -- or added the areas
12 listed in the consent order to the sewage
13 treatment system?

14 A. We just finished our last consent
15 order, which was area 15, which is on the east
16 side of our city. That will be coming on
17 line. We just finished that up. That should
18 be coming on line within the next month or so.

19 Q. I'd like you to refer to the map
20 that's been marked as Exhibit 1, and could you
21 describe to us, using the map to give reference
22 points, which areas have been added to the
23 sewage treatment plant?

24 A. Well, the area 15 that I talked

1 about would be on Route 18. It would be the
2 area that would be right above where the
3 Streator tourism sign on the right-hand side in
4 the center by the airport. It would be on
5 State Route 18.

6 Q. Could you mark on the original
7 exhibit that area?

8 A. This is our last -- final consent
9 decree order.

10 Q. Just a second.

11 MS. HESSE: Let the record reflect
12 that Mayor Schmitt has marked on the map a
13 rectangular area and wrote on that Area 15.

14 MS. WILLIAMS: Can I take a look?

15 MS. HESSE: Sure.

16 BY MS. HESSE:

17 Q. Could you describe Area 15, now,
18 please?

19 A. Area 15 is one of our last and
20 final consent decrees that was grant eligible,
21 and we just finished that up. We got the
22 contract for that back in April or May, and
23 they just finished that project and it has come
24 on line. In fact, we've got I think a church

1 presently that is hooked to it and the
2 residents are in a process of being hooked to
3 it at the present time.

4 Q. For the residents to hook up, do
5 they each individually now need to install
6 their own lines from their homes to the city
7 line?

8 A. We run the sanitary line and we
9 stubbed the line from the sewer up to the
10 property line and then they connect from
11 there. It's up to the individual homeowner to
12 hook it up to themselves.

13 Q. Is it Streator's practice that when
14 they run a sewer line such as this or install a
15 new sewer line that they provide the stub ins?

16 A. In all the new runs -- all the new
17 storm -- all the new sanitary lines we run, we
18 want to stub all the property up to the
19 property lines therefore so you don't have to
20 come back in and cut our street back apart and
21 destroy it. So we make sure that all the runs
22 that we put, whether it would be to the
23 outlying areas where we stub them off our main
24 interceptors for future growth that we would

1 not have to come back into our street area,
2 curb and gutter street area, and cut it apart
3 again.

4 Q. Would it be an additional expense
5 if Streator did have to go back in and cut it
6 apart to install the stub after the sewer line
7 is connected?

8 A. Well, it's going to be an
9 additional expense because the contractor is
10 going to be responsible for cutting the street
11 apart, and we just feel that it just ruins the
12 integrity of the street by doing that. So,
13 therefore, we stub it off and make sure we get
14 it out of the area.

15 Q. Are there additional areas that
16 Streator is presently planning to add to
17 service by the sewage treatment plant?

18 A. We are in the process of -- the
19 MacIntosh area that I talked about, that was
20 one of the areas out of the three areas that
21 the IEPA did let us -- did not put in
22 restricted status. One was the MacIntosh
23 addition. The other one was Liberty Village,
24 which is an assisted-living area for the

1 elderly. The other area was the Area 15, which
2 was in the city, and they also allowed us to
3 pick up some homes that was in the city that
4 was actually not in that consent decree, but
5 they did allow us to pick up those homes that
6 were in the city that was also -- we had
7 considered them to be polluting the
8 groundwater.

9 Q. You had mentioned earlier that you
10 were told that you would not be able to get
11 grant funds to connect the MacIntosh area.

12 Are you still trying to get
13 grant funds for that area?

14 A. We've been trying to get grant
15 funds for that area for -- ever since we were
16 told that it was not eligible under the consent
17 decree. So we went to our legislators and we
18 worked on them. However, what we did do at the
19 time is when we had annexed them people, we had
20 told them that we would have a \$2500 tap fee
21 with grant money and without grant money we
22 would max it -- their assessment would be maxed
23 at \$4,000.

24 However, we did fail to get

1 any grant money at that present time. So what
2 we're in the process of doing is Congressman
3 Lawler and his aides and also our
4 representatives are working on a package to get
5 that. What this entails is is not only the
6 area of MacIntosh, but also the area that's in
7 LaSalle County and as in Ridge Township, which
8 lies right next to it. We will give them also
9 the opportunity and work with them to be able
10 to take care of their problem the same as ours
11 at the same time.

12 Q. Is that an area that LaSalle County
13 has expressed concerns that they would like
14 connected to the system?

15 A. That is the area that I think a
16 letter was sent to either the IEPA or the
17 Pollution Control Board, one of the areas that
18 there was concern in. However, if we can take
19 care of the MacIntosh problem, that is still
20 not going to take care of their problem.
21 They're a separate government in that area, but
22 we certainly want to work together with those
23 people to solve their problem the same as ours.

24 Q. What is the cost estimate to extend

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1 the sewer service to that area?

2 A. The cost estimate to extend the
3 sewer into that area is a main trunk sewer line
4 which would run from our Prairie Creek
5 interceptor to the northern part of the city.
6 It is estimated a total cost of about \$2.1
7 million.

8 Q. What is this Cobble Stone
9 Development?

10 A. Cobble Stone Development is to the
11 east of the MacIntosh addition. Right at the
12 present time, there's a one single family
13 dwelling resident sitting on that property.
14 That is a 40 or 50 planned unit development
15 that is there that is in the process, and we've
16 been kind of stalling this due to the fact that
17 we would be able to get grant money to run the
18 interceptor. So they would have the
19 opportunity not only to share in the cost of
20 the interceptor, but also to be able to go into
21 that interceptor, which would be a lot more
22 convenient for them versus going the other way

23 and overloading their sewer.

24 Q. This development that currently has

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1 one home and may have 50 homes in the future,
2 is that one of the things that -- one of the
3 areas that was exempted from the IEPA's letter
4 notifying Streator of restricted status?

5 A. Yes.

6 Q. Are there other projects that are
7 being developed in the city of Streator, for
8 example, commercial projects that would like to
9 connect to the sewage treatment plant system?

10 A. We have got two projects right at
11 the present time. One was the Kroger -- the
12 Kroger store and Sandor Corporation has added a
13 strip mall to the south edge of that. They had
14 applied for a permit from the IEPA, and I think
15 their water usage per day was 1580 gallons.
16 The IEPA's restriction on it is 1500. So,
17 therefore, knowing that they could not dump
18 into the sanitary sewer, what they did was
19 applied to the LaSalle County for a variance
20 for a septic tank system to supply those six
21 businesses so they would have someplace to put

22 their sanitary sewer until we get this here
23 straightened out, and the LaSalle County Health
24 Department did allow that. So I noticed when I

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1 come by there this morning it was installed.

2 The next project is a 40-unit
3 motel that sets to the south of that
4 approximately a half a mile. It's a brand new
5 Super 8. That is not completed yet. It looks
6 like it may be completed by the end of December
7 hopefully. That is the one that we're asking
8 for relief on.

9 The MacIntosh project and the
10 Cobble Stone project, if we started on it today
11 would not be coming on line for at least a
12 year, year and a half anyway. The Cobble Stone
13 actually would not come up to full speed
14 probably for another five to ten years we're
15 looking at.

16 Q. Is that because those homes have
17 not been built yet?

18 A. On the Cobble Stone, there's one
19 home in development. That's the only home
20 that's there. On the MacIntosh project, that

21 is a fully developed area of approximately 50
22 to 75 residential homes, no commercial.

23 Q. And why would it take a year to
24 bring MacIntosh on line?

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1 A. Well, we've got to run an
2 interceptor probably three-quarters of a mile
3 to this and then do all the infrastructure work
4 in the subdivision. So it would be -- if you
5 look at what we did with Area 15, if we let the
6 contract in April and this is November, so
7 they're just approximately going to be coming
8 on line, but they won't be full up on line
9 probably for another six months anyway.

10 Q. Earlier you mentioned that Streator
11 has approved a \$4 million bond issuance?

12 A. Yes.

13 Q. And what is the current status of
14 that?

15 A. We're drawing \$920,000 on it to be
16 able to install our belt filter press, which
17 will give us the capacity for our sludge
18 storage on site. One of the things that the
19 IEPA demands is you have 150 days of storage on

20 site.

21 At the present time, we have
22 anywhere from 85 to 90. So we're installing a
23 belt filter press to give us capacity for the
24 storage. The other \$3 million is sitting there

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1 that we haven't drawn against. The IEPA was
2 going to -- our engineers was going to look at
3 rerating the plant to see if we had to have
4 additional work there. If we did, we were
5 talking of installing what they call a vertical
6 loop reactor system which is in the area of
7 approximately 2.5 to \$3 million. So that's
8 what that is set for.

9 Q. When was the \$4 million bond issue
10 passed?

11 A. It's got to be a month, month and a
12 half ago to really be accurate on the set date,
13 I would say.

14 Q. So it's very recently been passed?

15 A. Yes.

16 Q. Did Streator go through the
17 traditional process of soliciting bids from
18 contractors to build this sludge belt filter

19 press?

20 A. Yes.

21 Q. Did it do so on an expedited basis?

22 A. Well, when we originally took a
23 look at it, there was a few of the consult
24 people that thought the bids come in where they

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1 liked them. So what they did is they -- the
2 contractor that we had agreed on was U.S.
3 Filter. Raymond Beling Engineering firm had
4 put the whole package together, and they come
5 in and the consult felt that at that time that
6 it looked like it was high. So they did go out
7 for bids, and J.J. Henderson out of Joliet
8 actually was awarded the bid. He's coming
9 along real good with it. We look like we're
10 ahead of schedule. So that's where it's at.

11 Q. Was one of the conditions of the
12 contract with J.J. Henderson that the sludge
13 belt filter press be constructed on an
14 expedited basis?

15 A. One of the things that was built
16 into the contract was it had to be up and on
17 line by January 25th. That was the assurance

18 given to us by the engineering firm that it
19 would be.

20 Q. So Streator has done everything it
21 could to make sure that the sludge belt filter
22 press is constructed and operational as soon as
23 possible?

24 A. Yes.

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1 Q. You had also mentioned the VLR
2 installation.

3 Is that something that
4 Streator is planning to evaluate, whether it is
5 truly needed?

6 A. We were going to -- the IEPA had
7 notified us that they would take a look at the
8 rerating of our treatment plant and if they're
9 not satisfied with it and it was not operating
10 sufficiently to be able to rerate it that that
11 is one of the things that we will do is to
12 install a vertical loop reactor to make sure
13 that it satisfies the Agency.

14 MS. HESSE: Would you mark this as
15 Exhibit 2, please?

16 (Exhibit No. 2 marked

17 for identification,
18 11-14-01.)

19 MS. WILLIAMS: I mean, I have to
20 object. This is a witness that we're not able
21 to cross-examine. It's written testimony. The
22 Board rules don't allow written testimony
23 unless both parties agree.

24 HEARING OFFICER LANGHOFF: Anything

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1 else, Ms. Williams?

2 MS. WILLIAMS: No.

3 MS. HESSE: It's being presented to
4 advise the Board as to what Streator's
5 understanding is of this company's plans, and
6 the Board does allow public comments and
7 written comments on the record to be entered
8 into the record.

9 HEARING OFFICER LANGHOFF: Anything
10 else?

11 MS. WILLIAMS: I have no objection
12 to this being submitted as public comment. If
13 read, we would like to send something into the
14 Board as public comment. I have an objection
15 to it being brought in as written testimony.

16 There is definitely some dispute about what's
17 going on at this company. We don't have our
18 independent knowledge if we're unable to
19 cross-examine this witness.

20 HEARING OFFICER LANGHOFF: Thank you.
21 Ms. Hesse, anything else further?

22 MS. HESSE: As I mentioned, it's
23 being presented to show what Streator's
24 understanding is in their discussions with Red

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1 Wing.

2 HEARING OFFICER LANGHOFF: Even though
3 it has been offered, I'm going to sustain the
4 objection and allow you to submit this to the
5 Board in the form of public comment.

6 MS. HESSE: Okay. Submit it as
7 public comment.

8 HEARING OFFICER LANGHOFF: For the
9 record, I'm sustaining the objection. This is
10 an affidavit of Wilson Haller, H-a-l-l-e-r,
11 that was marked Exhibit 2. Thank you.

12 BY MS. HESSE:

13 Q. Mayor Schmitt, have you had -- let
14 me back up a second.

15 Mayor Schmitt, is there an
16 industrial facility in the town that's referred
17 to as Red Wing?

18 A. Yes.

19 Q. Generally, what does Red Wing do?

20 A. Red wing makes -- they make syrup.
21 They also make -- they did make peanut butter.
22 They also made honey. They've been there
23 since -- they've changed names a couple, two,
24 three times, but basically it's the same

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1 company, just other companies have merged
2 together or changed the name, but basically it
3 has been in the city for the last 15 years.
4 Just recently in '94 I think it was they
5 started to -- they got a big contract with this
6 syrup company, which is Mrs. Butterworth's to
7 make their syrup for them.

8 Q. Okay. Is Red Wing one of the
9 largest contributors to the wastewater
10 treatment plant at Streator?

11 A. Red Wing is probably, I would say,
12 30 to 40 percent of our organic loading of the
13 treatment facility.

14 Q. Have you recently had discussions
15 with Wilson Haller of Red Wing?

16 A. Yes.

17 Q. And who is Wilson Haller?

18 A. Wilson Haller is presently the
19 plant manager of the Red Wing company in the
20 city of Streator.

21 Q. Has he advised you to various
22 changes that the plant -- that the Red Wing
23 plant has been undertaking with respect to its
24 wastewater flow?

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1 A. Yes.

2 Q. And what are some of the -- and
3 referring you now to a document that's been
4 marked as Exhibit 2 that is being submitted to
5 the Board as a public comment, did you ask that
6 Mr. Haller present -- prepare this affidavit?

7 A. Yes.

8 Q. And is it your understanding, based
9 on the information given to you by Mr. Haller,
10 that Red Wing is going to also be reducing the
11 amount of its organic loading to the plant?

12 A. To the discussion we had, Red

13 Wing's contract comes up with the syrup company
14 next June.

15 Q. And what's happening next June?

16 A. I'm almost scared to say what will
17 happen, but supposedly it will significantly
18 reduce our load to the wastewater treatment
19 facility. That will be for sure.

20 Q. Did Mr. Haller tell you that the
21 contract to produce the syrup is not going to
22 be renewed?

23 MS. WILLIAMS: Objection.

24 BY THE WITNESS:

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1 A. Yes.

2 HEARING OFFICER LANGHOFF: There's an
3 objection. What's the grounds?

4 MS. WILLIAMS: Hearsay and leading.

5 HEARING OFFICER LANGHOFF: Thank you.
6 Ms. Hesse.

7 MS. HESSE: This is being presented
8 to -- we can bring in Red Wing if we need to,
9 but the purpose it's being presented is to
10 advise the Board why the city of Streator wants
11 to wait to see what happens next June with Red

12 Wing's wastewater before they make the decision
13 on the VLR to advise the Board that it's the
14 City of Streator's understanding that there's
15 going to be some reductions coming up in the
16 organic loading to the plant, and part of the
17 reason that Streator is seeking a variance is
18 to allow Streator to continue operating and to
19 put the additions in while waiting to see what
20 happens with Red Wing.

21 HEARING OFFICER LANGHOFF: Ms. Williams,
22 anything further?

23 MS. WILLIAMS: We'd really be
24 thrilled to have Red Wing come in and talk

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1 about what they're going to be doing, and if
2 she has the ability to call someone from Red
3 Wing to come and talk about it, I'd love to
4 have that testimony on the record, and I'm sure
5 Streator would like to have them come in on the
6 records too, but I don't think it's appropriate
7 for the Mayor to talk about discussions that he
8 had with them that are outside --

9 HEARING OFFICER LANGHOFF: I'm going
10 to overrule the objection. Although, it is

11 hearsay, I find that it meets the test of 101.6
12 and I find that it's material and relevant
13 would be relied upon by reasonably prudent
14 persons in the conduct of serious affairs, and
15 the reason I'm not letting the affidavit in as
16 substantive evidence is that it would be
17 allowing Mr. Haller to testify at this point.
18 If you want to bring Mr. Haller in to testify,
19 that would be fine. I'm going to overrule your
20 objection on the hearsay grounds.

21 MS. HESSE: We did not bring
22 Mr. Haller in because this is a request for a
23 variance for the city of Streator and that's
24 our focus.

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1 HEARING OFFICER LANGHOFF: And I'm
2 not sure that we got the answer to the question
3 that was objected to that it was leading to,
4 and I'm going to overrule that objection also.
5 So do you have an answer?

6 THE COURT REPORTER: Yes
7 BY MS. HESSE:

8 Q. Mayor, to summarize your testimony,
9 why is this request for a variance important to

10 the City of Streator?

11 A. Well, I think in the past two
12 years, we've had a great amount of development,
13 and the problem that we have is is while --
14 although we're working the with the IEPA to
15 have our plant rerated, what we're up against
16 right at the present time is a motel that's
17 going to amount to very little of organic
18 loading to our treatment plant, and at the
19 present time, we're on restricted status and
20 we're not allowed to add this to the treatment
21 plant.

22 So it's going to send a
23 message not only to the developers that we will
24 not be doing nothing with the City of Streator

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1 until we are off of restricted status, and
2 right at the present time, that's hanging out
3 there in the open where we've got one of our
4 Kroger projects is going to seek a variance to
5 put a septic tank in so they can start their
6 business up, and that will just put such a
7 black eye on the economic development of the
8 whole community, and to me this is -- not being

9 able to get a variance for these two projects,
10 Kroger and the motel, is just going to set
11 Streator back another five or ten years in
12 development.

13 We've just got going and now
14 this is in front of us again. I don't think
15 that this amount of organic loading that's
16 coming out of that motel in a day is going to
17 amount to that much. We've got the belt filter
18 press in operation and got it on the line to
19 being built. The IEPA is looking at that, of
20 rerating the treatment plant.

21 So I think this really hurts.
22 If we don't get this, it's going to hurt our
23 economic development. It has already. We've
24 got projects setting out in the wings and we're

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1 not being able to do anything because we don't
2 know where we're at. We feel that the
3 treatment plant is capable of handling this,
4 and it's just a matter of difference, different
5 interpretations, that's all.

6 MS. HESSE: Thank you, Mayor.

7 HEARING OFFICER LANGHOFF:.. Anything

8 further, Ms. Hesse?

9 MS. HESSE: Not on direct for the
10 mayor.

11 HEARING OFFICER LANGHOFF: Ms. Williams.

12 MS. WILLIAMS: I wasn't exactly
13 sure what you were going to say. So I'm kind
14 of regrouping here.

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

16 by Ms. Williams

17 Q. You stated in your testimony --

18 HEARING OFFICER LANGHOFF: Ms. Williams,
19 if you prefer, you can City down or stand
20 anywhere you want, whatever you are comfortable
21 with.

22 MS. WILLIAMS: I'll stand for a
23 little while.

24 HEARING OFFICER LANGHOFF: And I

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1 apologize for interrupting.

2 MS. WILLIAMS: That's fine.

3 BY MS. WILLIAMS:

4 Q. You testified that the MacIntosh
5 and Cobble Stone developments won't be coming
6 on line until at least a year, year and a half

7 down the road; is that correct?

8 A. That's true.

9 Q. Longer for Cobble Stone even?

10 A. Sure, because that development is
11 not going to develop that fast. It's not like
12 a big developer took it over and they're going
13 to develop a bunch of homes.

14 Q. You also stated that to your
15 knowledge the city is in compliance with the
16 consent decree that was signed between the
17 State of Illinois and the city back in --

18 A. If we put the MacIntosh in the
19 consent decree, to the best of my knowledge, I
20 don't think there's any set date on when that
21 has to be finished. The other consent decrees,
22 yes.

23 Q. And you'd like to see this variance
24 granted to allow the addition of the Hotel

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1 Super 8 and the Kroger strip plaza to be able
2 to connect to your plant, right?

3 A. Yes.

4 Q. But, in fact, the request that
5 you've made to the Board does not limit it at

6 all to those two projects, correct? It would
7 allow any new projects to connect to the plant?

8 A. Those are the projects right at the
9 present time that are going to really be
10 impacted, really impacted by that.

11 Q. I'm not sure -- did that answer the
12 question? It would allow any other projects,
13 though, that were to come over the next five
14 years to try and --

15 A. We don't anticipate --

16 Q. The plans would not be prohibited?

17 A. We don't anticipate any other big
18 projects other than your normal -- your normal
19 sanitary gas station something like that where
20 you have just one sanitary outlet where nothing
21 is -- a 1500 hundred gallon water. We don't
22 have that. We don't anticipate that at the
23 present time.

24 Q. But nothing would prohibit those

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1 connections from your --

2 A. I don't -- I don't know what those
3 legal rules are.

4 Q. Okay. I understand.

4 exemption from the restricted status
5 determination included some projects that were
6 not specifically laid out in the consent
7 decree?

8 A. They are right in the same area.

9 Q. Okay. And isn't that because prior
10 to placing Streator on restricted status, you
11 held several meetings with the Agency to
12 discuss your needs and what projects were
13 pending and what would be a hardship to have
14 restricted status for, correct?

15 A. Yes.

16 Q. Do you recall how many times you
17 met with the Agency to discuss that?

18 A. Well, since 1987, I've probably
19 been down there 15, 20 times with them. So I
20 pretty well know them all by first name, and I
21 think the reasons the meeting was held for is
22 because Mr. Keller at that time had notified us
23 that on some of these projects, especially at
24 the treatment plant, we were over our

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1 capacity. That was one of the reasons that we
2 was having a lot of meetings with the IEPA due

3 to that fact to see what measure we should take
4 to eliminate that and try to do that as fast as
5 we possibly could because we also knew that
6 certain projects we had had that was having --
7 would have going would certainly long-term
8 depend on that.

9 So we were trying to get that
10 corrected as soon as we can. However, we spent
11 about a year and a half --

12 Q. I'm sorry. Go ahead. What was
13 that?

14 A. Consequently, we spent about a year
15 and a half back and forth with the agency and
16 them looking at different engineering studies
17 that we had.

18 Q. Prior to being placed on restricted
19 status?

20 A. No.

21 Q. Or prior to and afterwards?

22 A. Afterwards, mainly.

23 Q. Mainly afterwards.

24 You didn't come in and meet

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1 with the Agency prior to being placed on

2 restricted status?

3 A. I think what you got -- what you
4 got to understand is from 1987 to 1999 before I
5 become mayor I worked for Owens-Brockway eight
6 hour days. So, yes, I did keep track of it,
7 but not as much track of it on a day-to-day
8 operations as you would as mayor.

9 Q. If I were to tell you that you came
10 and met with the Agency three times and had one
11 conference call prior to the final
12 determination, would you think that was
13 likely? Does that sound correct to you?

14 A. I would probably have more of them.

15 Q. Okay.

16 A. Because I wanted to keep the Agency
17 informed because I wanted to make sure that the
18 integrity of the City of Streator or my
19 integrity with the Agency did not go afoul due
20 to the fact that it was -- we were doing
21 something that we were not supposed to be
22 doing.

23 Q. When you had those discussions, did
24 you ever mention the Super 8 or the Kroger to

1 the Agency?

2 A. No, because they didn't think it
3 was going to be hooked up. We felt that at
4 that time we would be well ahead on what the
5 projects we had with our rerating the treatment
6 plant and also if we had to put the VLR system
7 we figured we would be ahead of that.

8 Q. I think you also stated something
9 to the effect about Kroger coming to IEPA for a
10 permit; is that correct? That's not what you
11 meant, is it?

12 A. To the best of my knowledge when
13 Kroger was built they also had a two-year
14 standing permit and then the permit run out and
15 the time run out for the additional. They had
16 originally had a permit. I did discuss this
17 with Mr. Keller, and the permit had run out on
18 it, but that permit was for additional -- I
19 think additional buildings on there, and then
20 the permit had expired. So they had to apply
21 again, and that's when they were denied.

22 Q. Okay. Now, I really appreciate
23 your explanation of the MacIntosh, Cobble
24 Stone, all these different subdivisions because

1 it gets a little confusing when you go back to
2 the '90s and talk about some of these different
3 subdivisions that were intended to be hooked up
4 to your plant.

5 Are you familiar with the
6 development called Kimberkell Estates?

7 A. Uh-huh.

8 Q. Now, that's a whole different area
9 from the consent decree area, correct?

10 A. It's right next to the consent
11 decree area, and it's not hooked up.

12 Q. It's not hooked up currently?

13 A. No. It has not been extended --
14 the sewer line has not been extended to their
15 property. The sewer line has been extended
16 close to their property in proximity due to the
17 fact that the city is in compliance. We have
18 people that live in the city that's in this
19 Area 15.

20 Q. Now, did you have reason to think
21 that that development was out -- was exempted
22 from the restricted status determination?

23 A. That area that would be -- that
24 we're talking about is there it's got one

1 individual home setting on a 51-acre parcel of
2 property that was zoned partially a single
3 family dwelling with eight residents on it and
4 also the rest, I, think is commercial
5 development. That was just annexed this year
6 into the city.

7 Q. You just annexed it this year?

8 A. I think so, yes. To the best of my
9 knowledge, I think it was this year. It's a
10 51-acre -- Kimberkell Estates has got one new
11 home setting on it approximately right now.
12 Can it be serviced by the city sewer? Yes.

13 MS. WILLIAMS: How do you want me
14 to number exhibits? Do you want me to continue
15 from her numbering?

16 HEARING OFFICER LANGHOFF: No.

17 MS. WILLIAMS: Would you prefer I
18 start --

19 HEARING OFFICER LANGHOFF: Agency 1
20 would be fine or if you can Agency A would even
21 be better. Okay.

22 MS. WILLIAMS: Okay.

23

24

1 (Exhibit A marked
2 for identification,
3 11-14-01.)

4 BY MS. WILLIAMS:

5 Q. I'd like to show you what I've
6 marked IEPA Exhibit A for identification.

7 Do you recognize that
8 document?

9 A. Yes.

10 Q. Can you tell us what it is?

11 A. This is an application for a permit
12 and construction for Kimberkell Estates where
13 the one home is setting on.

14 Q. Is your signature on this
15 application?

16 A. Yes, that is.

17 Q. Could you tell us what date you
18 signed this application?

19 A. Just recently.

20 Q. I believe the application says
21 10-23-01?

22 A. Yes.

23 Q. I guess I'm trying to understand
24 why given that the city has been placed on

1 restricted status for over a year you would
2 have signed this document that says the waste
3 treatment plant to which this project will be a
4 tributary has adequate reserve capacity to
5 treat the wastewater that will be added without
6 causing a violation of the Act?

7 A. I think the reason that I signed
8 that was is in Area 15 in our -- the areas that
9 we were allowed to put into the treatment
10 facility it states in there that Area 15, along
11 with some other homes that are connected to it,
12 this home that we're talking about in this
13 Kimberkell Estates right here is a one single
14 family home that's setting on a 51-acre lot and
15 the rest being commercial.

16 It is not hooked up to
17 sanitary line. It is, like I say, been
18 extended to include a church which was also in
19 the consent decree.

20 Q. But this area was not in the
21 consent decree?

22 A. What's that?

23 Q. This particular area was not in the
24 consent decree?

1 A. It's right across the street from
2 it.

3 Q. Across the street?

4 A. Yes.

5 Q. Okay. Thank you.

6 You testified for us that
7 Streator has done everything it could to ensure
8 that the belt filter press is up and running as
9 soon as possible, correct?

10 A. It's got a deadline date with the
11 contractor as a January 25th start-up.

12 Q. And you've expedited the
13 contracts --

14 A. Yes.

15 Q. -- you've passed the bonds and
16 you've got the money available?

17 HEARING OFFICER LANGHOFF: I'm sorry.
18 Was there an answer?

19 MS. WILLIAMS: I guess it was the
20 question. He testified that he's done all
21 those things. I'm sure there wasn't a question
22 yet.

23 HEARING OFFICER LANGHOFF: I'm sorry.

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1 BY MS. WILLIAMS:

2 Q. Does that -- and that includes, I
3 assume, applying to the Agency for a permit?

4 A. That will -- that is, to the best
5 of my knowledge, is being done, yes, by our
6 engineers.

7 Q. So the engineers are taking care of
8 that stuff?

9 A. Our engineers will discuss that
10 with you. That's a little out of my category.

11 Q. Okay. We'll save that for them.

12 But out of the \$4 million
13 bond, you will still then have 3 million left
14 for future projects, but you haven't committed
15 that money to being used for the vertical loop
16 reactor yet, have you?

17 A. We have not because to the best of
18 my ability the Agency has-- will take a look at
19 rerating our treatment plant, and if that
20 happens and the Agency rules that we do not
21 need the VLR system, then we will not install
22 it. We will not invest \$3 million into

23 something that we're not going to need.

24 Q. We talked a little bit about your

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1 concern that the organic load from Carriage
2 House or Red Wing will be decreasing over the
3 next calendar year.

4 Do you have any kind of
5 agreement with them about what level of loading
6 they'll be providing to you from their plant?

7 A. No. If it's going to be that
8 significant, that will change a lot of
9 different dynamics of the treatment plant as
10 well. It will change the dynamics probably of
11 the VLR system if that load is dropped off. We
12 certainly won't be investing \$3 million to a
13 treatment plant to handle the capacity of the
14 city of 50,000 when Red Wing is pouring 50
15 percent of their loads. That would really be
16 foolish.

17 Q. Now, Streator has a sewer use
18 ordinance that applies to Carriage House, I
19 assume?

20 A. We have a sewer use ordinance that
21 applies to all our industrial people. We have

22 engineers going over that to take a look at
23 that. We feel that if you're a contributor to
24 it, you should be paying in proportion to what

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1 our cost is as well.

2 Q. And, in fact, Carriage House does
3 pay a significant portion of your cost?

4 A. Carriage House pays an average of
5 the sewer bill between 30 to \$40,000 a month,
6 depending.

7 Q. Isn't it true that a significant
8 portion of that, the money that they pay every
9 month is actually a surcharge or a penalty that
10 they're paying for exceeding a given amount of
11 loading to the plant?

12 A. They would be paying it in a
13 sewer-use fee, like I said, the 30 to \$35,000
14 range. Should they pay more? That's
15 debatable.

16 Q. But currently under your sewer use
17 ordinance, they can increase or decrease their
18 load to any level and just pay the fee?

19 A. That's basically the way it is set
20 up right at the present time. There's no set

21 fee. The only set fee that we do have is an up
22 front capital charge on everybody, a 1750 per
23 month for bonds to make sure that their money
24 is there for that, and then when we get into

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1 industrial by size of water lines, size of
2 pipes, it's different. The fee rate structure
3 is different, and I'm not really that familiar
4 with that.

5 Q. Sure.

6 So this is the first today the
7 first I've heard about Red Wing's plans to
8 possibly, you know, lose some of their business
9 or decrease their discharge to your plant.

10 Is it your testimony that
11 you're going to wait until June of next year to
12 make up your mind about what you want to do
13 with upgrading the plant then to find out what
14 happens with Red Wing?

15 A. No.

16 MS. HESSE: I object to the
17 question. This witness is already testified as
18 to what he believes the plans --

19 HEARING OFFICER LANGHOFF: What's the

20 grounds of the objection?

21 MS. HESSE: Going beyond the scope

22 of his --

23 HEARING OFFICER LANGHOFF: I'll

24 overrule your objection, and I believe it's

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1 already been answered, the question. He

2 already answered. He said no.

3 MS. WILLIAMS: Thank you.

4 BY MS. WILLIAMS:

5 Q. You also stated something to the
6 effect that you wanted to send a message to the
7 developers that you won't be doing anything
8 until you get off restricted status, get things
9 worked out with the Agency.

10 Does that correctly

11 characterize your testimony?

12 A. Well, I'll address two things for
13 you. Number one, address the thing with Red
14 Wing. We've got every intention and I think
15 I've made that very clear to Mr. Keller and the
16 Agency that we will do what we have to do to
17 get into compliance. We've got every intention
18 of doing that.

19 Number two, you don't have
20 to -- I don't have to tell a developer. I
21 don't have to tell anybody. They already
22 know. They already know that you're on
23 restricted status.

24 Q. You mean because it's public or are

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1 you saying it's been in the newspapers?

2 A. Sure. Absolutely. We've got every
3 intention. We're not waiting to see what Red
4 Wing does because we are not going to take the
5 change that if something would happen that they
6 wouldn't cancel their contract next June, where
7 will the City of Streator be at?

8 We will do what we have to do
9 to meet compliance with the IEPA, and we have
10 every intentions of doing that. We have
11 approximately a thousand homes setting to the
12 south side of the City of Streator at the
13 present time that are dealing with the IEPA and
14 a sewer system. We feel that if we can get
15 their plant rerated and even if Red Wing does
16 come back, we will have the capacity to
17 therefore to be able to treat their sanitary

18 sewer with them not having to go to their own
19 treatment facility themselves.

20 Q. But isn't it true, Mayor Schmitt,
21 that you told the developers of the Super 8
22 Motel not to worry, everything would be fine,
23 and they can go ahead and build, and you would
24 work out this technical glitch with the Agency?

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1 A. At no time did I ever tell
2 developers that I would work out anything with
3 the Agency because over the years working with
4 the Agency as long as I've been in office I try
5 to work with the Agency as best as I can. I
6 think I have done that. The Agency has worked
7 with me as best as they can.

8 They've got their rules. The
9 difference is is on some of them I just
10 disagree with them, some of them is all. It's
11 not that I don't defy the Illinois
12 Environmental Protection Agency, no. That's
13 not what the City of Streator is about, and
14 that's not what I'm about.

15 All we're asking for is a
16 variance for what we feel is right and we will

17 meet and do what we have to do to come into
18 compliance with the IEPA. I think your Agency
19 as well as the IEPA agency knows that we will
20 do the best we can with what we've got.

21 Q. But I just don't know if I
22 understand how that conveyed the message to
23 developers that not to build until you knew
24 that they were going to get off restricted

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1 status. It seems like you encouraged them to
2 build?

3 A. That developer has been building
4 that motel for the last four or five years, and
5 they just decided this year to up and do it,
6 and we also felt at that time when it was going
7 on at no time did I ever tell a developer that
8 he didn't need to worry about going in a
9 sewer. We knew that possibly that was going to
10 be a problem, but we also felt that we would
11 have the restricted status and stuff settled
12 prior to that.

13 However, that project is come
14 along. That's why we're here. That's why
15 we're requesting this variance.

16 Q. And the City did grant the Super 8
17 Motel a local sewer connection permit, correct?

18 A. Repeat that.

19 Q. The City of Streator did grant to
20 the Super 8 a local sewer connection permit
21 that you folks granted?

22 A. What we did was is I think in June,
23 the Illinois Department of Transportation is
24 widening -- put new curbs, gutters, sidewalks

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1 all in there. What we did do is we issued them
2 a permit to stub it out of the street to the
3 property.

4 Q. Okay. That's yes?

5 A. Yes.

6 MS. WILLIAMS: Okay. All right.

7 Thank you very much. I appreciate it.

8 HEARING OFFICER LANGHOFF: Anything further,
9 Ms. Hesse?

10 MS. HESSE: Yes. I have a couple
11 questions.

12

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

14 by Ms. Hesse

15 Q. Mayor, I believe earlier you
16 testified that even though the city has
17 received a large percentage of grant funds from
18 the state and others to construct sewer lines
19 that it's still been a large expense to the
20 City of Streator itself?

21 A. Absolutely.

22 Q. And about how much money has the
23 City of Streator come up with itself?

24 A. Probably \$10 million worth.

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1 Q. And this is for a town of a
2 population of how large?

3 A. 14 -- right at the present time,
4 14,142.

5 Q. Earlier when Ms. Williams was
6 questioning you, you had mentioned a number of
7 meetings with Illinois EPA.

8 At those meetings, did
9 Illinois EPA make suggestions from time to time
10 to the city of Streator on the operation of its
11 wastewater treatment plant?

12 A. They have on several occasions,
13 sure.

14 Q. Has Streater tried to implement
15 IEPA's suggestions?

16 A. Yes, we have.

17 Q. Earlier, Ms. Williams was asking
18 you with respect to the Kimberkell Estates
19 subdivision.

20 A. Yes.

21 Q. Is it your understanding that that
22 area was included as an exception to the
23 restricted status?

24 A. It was my -- it was my conclusion

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1 with the IEPA that when we have dealt with them
2 and predecessors to -- predecessors back in '85
3 that it's of the Illinois Environmental
4 Protection Agency to hook up everybody that is
5 either dumping, number one, into mine shafts or
6 into open creeks to try to connect into the
7 sewer. This is one -- this is one home is all
8 this is. It's one possible home, and it's --
9 the pipe has not even been laid from our main
10 to the area. That's all this permit is for
11 because if that is the case by the time next
12 June or July when this thing is ready to be

13 hooked up to it, we will have the permits to do
14 that work.

15 MS. HESSE: I'd like this marked as
16 an exhibit as well.

17 HEARING OFFICER LANGHOFF: Does
18 counsel have a copy?

19 MS. HESSE: They have a copy
20 somewhere.

21 (Exhibit No. 3 marked
22 for identification,
23 11-14-01.)

24 HEARING OFFICER LANGHOFF: This is

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1 marked as Exhibit 3.

2 BY MS. HESSE:

3 Q. Mayor Schmitt, I'd like to show you
4 what's marked as Exhibit No. 3.

5 Could you identify that for
6 the record?

7 A. Yes. This is a letter we received
8 notifying us that we are going to be on
9 restricted status.

10 Q. Does that letter also list areas
11 that are exempt from the restricted status

12 determination such that Streator can go ahead
13 and add those areas?

14 A. Yes.

15 Q. To the sewage treatment system?

16 A. Yes.

17 Q. Would you refer to the paragraph
18 numbered as paragraph number one at the bottom
19 of that first page?

20 A. Installation of sanitary sewage to
21 serve East Main Street area under the consent
22 decree. This will include the existing
23 dwellings, three churches, a retirement center
24 expansion, and several proposed single family

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1 lots.

2 Q. Is it your understanding that that
3 exception includes the Kimberkell Estates
4 subdivision?

5 A. It was my understanding that that's
6 what they meant by that. That's how they
7 interpreted that. However, that is not a total
8 subdivision. It is -- at the maximum when it
9 gets built it will be eight homes.

10 MS. HESSE: Thank you. No further

11 questions.

12 HEARING OFFICER LANGHOFF: Ms. Williams,
13 anything on recross?

14 MS. WILLIAMS: Well, one thing I
15 did forget, I would like to enter the exhibit
16 into evidence that I marked as A. I don't know
17 if I asked for it to be entered.

18 HEARING OFFICER LANGHOFF: I haven't
19 been offered any of them. I think we'll do
20 that after Mr. Schmitt steps down.

21 Anything from the technical
22 unit for Mayor Schmitt?

23 MS. LIU: Good morning, Mayor
24 Schmitt.

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1 THE WITNESS: Good morning.

2 MS. LIU: Earlier this morning you
3 mentioned that about 4,000 to 4500 jobs have
4 been lost over the past four years in the City
5 of Streater.

6 How many jobs do you
7 anticipate the new Super 8 Motel and the Kroger
8 strip mall to bring to the city?

9 THE WITNESS: Those jobs that we're

10 talking -- and let me go back and I'll
11 reiterate so it don't look to you people that
12 we've lost a total of 4500 and haven't
13 recuperated. We have -- one of the reasons
14 we're here is one of our big contributors has
15 approximately hired some 200 people through
16 this adding this new syrup line on.

17 Also, we have Vactor
18 Manufacturing that makes a municipal cleaner.
19 They have closed a plant down in Alabama and
20 moved it to Illinois to Streator, which has
21 supplied 125 jobs for us, good paying jobs.

22 Red Wing supplied
23 approximately 200 more. We've had a -- just
24 had the closing of one of our lumber yards.

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1 However, we've had several telemarketing places
2 that have come in that have employed 100 or so
3 people. The Anthony Body Truck company has
4 shut down. There is a Streator U.S. Truck Body
5 that took its place.

6 However, in the biggest
7 majority of these cases, other than the Vactor
8 Corporation, when this happens we lose 14 -- we

9 lose 3,000 or 4,000 jobs at 10, 12, \$14 and
10 hour, and they're being replaced by jobs that
11 are paying seven and \$8 an hour, and that
12 really has a devastating effect on your
13 community.

14 So we'll be looking
15 develop-wise, we don't -- we've got K-marts and
16 places like that. We're not no real huge
17 community to have a Target or a Kohl's or
18 something like that that you're looking at. So
19 what we depend on mainly is the Super 8s, the
20 department stores, the Fashion Bugs, the places
21 like this. Those are our mainstay of our
22 community so they don't drive out of our
23 community and shop.

24 In your smaller areas like

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1 this, we have to depend on these people, and we
2 do depend on them for jobs. Now, I mean, we
3 all realize is that a motel, those jobs ain't
4 going to be 12, 14, \$15 an hour, but they're
5 still jobs, and that's what we take a look at.

6 We have got a couple of
7 projects going that has absolutely got nothing

8 to do with the sewer, but hopefully that we're
9 going to be able to market ourselves good
10 enough in that area to be able to pull that
11 company to our place.

12 When we look at stuff like
13 this, and, you know, we're well aware of what
14 we've got to do. It's just you -- sometimes
15 you can't get there fast enough. It's very
16 frustrating to me, but this is -- you know,
17 it's not only our community. It's a lot of
18 your small communities. There's no downtowns,
19 nothing anymore.

20 So we're just on our way
21 working back up, and we've had a good head of
22 steam come along. Yes, we're well aware of the
23 problem we have with the IEPA, and we're
24 willing to straighten those out, but we're just

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1 asking for some relief in the meantime so we
2 can get on our feet.

3 HEARING OFFICER LANGHOFF: Thank you,
4 Mr. Schmitt. Did Mr. Schmitt answer your
5 question?

6 MS. LIU: Yes, he did. I have

7 further questions, if that's okay.

8 HEARING OFFICER LANGHOFF: Go ahead,
9 please.

10 MS. LIU: The new developers that
11 come in that aren't able to connect to the
12 sewer system, do they need to apply for some
13 sort of special variance to install a septic
14 system instead?

15 THE WITNESS: We were very
16 fortunate where the Kroger Company was because
17 that's a 24-acre site, a 64,000 square foot
18 building approximately it's setting on, and we
19 were very fortunate that they had an area that
20 they could use that's not near a body of water
21 anyway to be able to put a septic system in
22 that handles it.

23 However, they will only be on
24 that septic system until we either come in

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1 compliance, we get off of restricted status, or
2 we get a variance so we can put them in a
3 sanitary -- put them in a sanitary sewer.
4 Their store presently is in a sanitary sewer.
5 This is an addition, 100-by-297 foot strip mall

6 that's being added to it. That is the part
7 that was -- we'll be installing a septic system
8 to do that.

9 MS. LIU: Earlier, Ms. Williams had
10 mentioned that Kroger had applied for some sort
11 of permit, the time had lapsed and it expired,
12 and then they reapplied.

13 What type of permit was that?

14 THE WITNESS: I will really be
15 truthful with you. I don't know. I do know
16 that they did -- when they built the Kroger
17 store that a permit was issued to add extra
18 storage to it, and I think the permit was for
19 two years. However, that permit had run out
20 and could no longer be used for this project.

21 So when they actually applied
22 for it, evidently they must have had
23 anticipated that they were going to do
24 something. The only thing is the permit run

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1 out.

2 MS. LIU: What other developments
3 do you anticipate or see or would like to
4 invite to the community over the next five

5 years?

6 THE WITNESS: I think one of the
7 nicest developments that we've got going right
8 now, and that's -- you know, it's got nothing
9 to do with really a consent decree or anything
10 because it's already been put in. It's one of
11 our assisted-living centers for our senior
12 citizens. It's our Liberty Village project.
13 You've probably seen some of those.

14 I think that's been a great
15 asset to our community. Also, the Vactor
16 Manufacturing Company has been a great asset
17 with jobs and stuff and we just feel that this
18 is -- this is just not the time for something
19 like this to happen to us, and partially some
20 of it is fault, but yet it's not. We will do
21 the best with what we've got and that's all.
22 We can only -- our citizens at the age -- we're
23 only going to absorb so much.

24 MS. LIU: There has been a lot of

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1 mention of this consent decree, and the Agency
2 provided a copy of the text in their latest
3 response. There is a reference to a map that

4 shows different areas that were affected by the
5 consent decree, but the map wasn't provided.
6 You spoke of an Area 15 earlier this morning.

7 I was wondering if that map
8 for the consent decree could be provided by
9 either you or the Agency? Would that be a
10 possibility?

11 THE WITNESS: Sure. We have those
12 maps.

13 MS. LIU: That would be terrific.

14 THE WITNESS: They're all different
15 areas of the community.

16 MS. LIU: Okay. You also mentioned
17 earlier that the residents pay about 35 or \$40
18 a month in sewer fees.

19 Does this cover just the sewer
20 or is it sewer and drinking water?

21 THE WITNESS: We do not own the
22 water company, and that's one of the reason
23 8,000 people are laying outside the city. That
24 is just strictly a sewer bill. Also, on there

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1 I deducted that. The average senior citizen
2 would probably pay a \$30 sewer bill, but the

3 average -- on average it would be 35 to 40
4 and there's a \$5.50 a month -- 55 cent a month
5 garbage that is on there that we bill.

6 We have a contract with Waste
7 Management to handle our garbage, and we assess
8 that along with a -- we have a tax that
9 generates the rest of the money for us, but
10 that's also on the sewer bill. Those are the
11 only two things that's actually on the sewer
12 bill is the sewer bill itself and the garbage
13 bill. They're both billed together. Our
14 billing department does that together.

15 We do not own our own water
16 company. That is a just a straight sewer
17 bill. Our water bill -- my water bill, it's
18 just the wife and I, it only runs 20 to \$25 a
19 month. So that's on top of the 30 to \$35.00 a
20 month sewer bill. That's why I think we went
21 back to the age group that we looked at, and
22 it's tough on them.

23 MS. LIU: You mentioned as part of
24 your defense that the hardship would be an

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1 economic one on the city, but no hard figures

2 were ever provided.

3 Is that something that the
4 city could prepare in terms of quantifying it,
5 quantifying the economic impact in a dollar
6 figure at all?

7 THE WITNESS: Maybe I would let the
8 city manager address that more so than me.

9 MS. LIU: That would be fine.

10 THE WITNESS: Yes.

11 MS. HESSE: We will be calling him
12 as a witness.

13 MS. LIU: While we're on the
14 subject, could you please tell us who else will
15 be testifying from the city?

16 MS. HESSE: Sure. Yes. We're
17 going to have Larry Good of Chamlin &
18 Associates who is the city's consulting
19 engineer testify, and then Paul Nicholson, who
20 is the city manager, is going to testify about
21 the city's efforts with economic development
22 and can address some of these questions.

23 HEARING OFFICER LANGHOFF: And what
24 about Mr. Gaarbs?

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1 MS. HESSE: We're not going to call
2 him as a witness because the information he
3 would present would have been largely
4 duplicative.

5 HEARING OFFICER LANGHOFF: Thank you.
6 I thought you were.

7 MS. WILLIAMS: So did I. That's
8 because it's duplicative?

9 MS. HESSE: Yes, duplicative of
10 what Larry Good would have testified about.

11 MS. LIU: One of the main things
12 you're planning to do to help rectify the
13 situation is to have the plant rerated so it
14 can show better what it's actually capable of
15 doing.

16 How long did you anticipate
17 that that rerating process might take?

18 THE WITNESS: I think what enters
19 into this whole equation is our Carriage House
20 or Red Wing corporation. That's when our
21 organic loadings started to go up on us and had
22 identified at that time that something had to
23 be done.

24 One of the reasons that we

1 really seen the organic loading go up is when
2 their company changed plant managers, you never
3 seen the other plant manager. I don't know
4 what they did with it, if they took it in and
5 tanked it someplace to -- where they could get
6 rid of it.

7 When the new plant manager
8 come in, it was altogether different. That's
9 when our -- that's when our loading started to
10 go up, and so, therefore, the red flag went up
11 not only with the IEPA, but with us. Something
12 was going to have to be done, and we were well
13 aware of that, and they started working on
14 that. Sometime those wheels just keep grinding
15 and grinding and you seem like you're not
16 getting anyplace.

17 MR. RAO: Just to follow up, this
18 rerating process, do you have any idea as to
19 how long it will take for the Agency to do it
20 once you get all the information to the
21 Agency?

22 THE WITNESS: I wouldn't. You
23 know, I don't know. You know, I don't know
24 what they're -- you know, I can imagine the

1 magnitude of workload that they've got compared
2 to what I would have, and my own personal
3 consensus of being the mayor of the city is we
4 work with the Agency as much as we possibly
5 can, and the Agency in all and all has been
6 gracious to us. The only thing is is we
7 disagree on this point, and I disagree
8 wholeheartedly on this point.

9 HEARING OFFICER LANGHOFF: Anything
10 further?

11 MS. LIU: What date were you hoping
12 that this variance would begin?

13 THE WITNESS: That the what?

14 MS. LIU: What date were you hoping
15 that the variance would begin?

16 THE WITNESS: That would be up to
17 you people. That's not a decision that -- if I
18 was to hope what date if you granted me the
19 variance it would begin, this afternoon, but in
20 all honesty, as soon as we possibly could get
21 it.

22 We do not see any big huge
23 contributor adding to our sewer treatment
24 system that is going to offset our rerating or

1 our belt press or any of those things. Those
2 are the areas that we do have to come into
3 compliance with.

4 We're just looking for some in
5 between stuff to help us so we don't shut down
6 our economic development to a point where we're
7 stopped. We're at that point right now. We
8 particularly don't care how we got there,
9 whether it's by not being able to get the plant
10 rerated or by us not doing on our part. We're
11 at the point where we certainly have to have
12 some kind of relief, temporary relief, from
13 this as soon as we possibly can get it.

14 However, I know how the Agency
15 operates, and it takes a while to do these
16 things. So we certainly would -- the sooner we
17 can get a hearing or get a date on it, the
18 sooner it will -- you know, the better it's
19 going to be for us one way or the other no
20 matter however the Agency rules.

21 MS. LIU: I do have one last
22 question. A lot of subdivision names and
23 development names were kind of thrown up into
24 the air. For the sake of putting them into

1 perspective, I was wondering if you could
2 provide with some street addresses.

3 There was mention of the Super
4 8 Hotel. Do you know what street address
5 that's located at?

6 THE WITNESS: That's the corner --
7 the Super 8 Motel?

8 MS. LIU: Yes.

9 THE WITNESS: It's at the corner of
10 Fourth and North Bloomington Street. It's on
11 Route 23.

12 MS. LIU: How about the Kroger
13 strip mall?

14 THE WITNESS: The Kroger strip mall
15 is located approximately half a mile to the
16 north of that right alongside of our municipal
17 golf course at the corner of Oakley Avenue
18 and Route 23.

19 MS. LIU: Cobble Stone?

20 THE WITNESS: Cobble Stone is
21 located to the west of -- west on Oakley Avenue
22 approximately three blocks to the west of
23 there. The MacIntosh addition is located right
24 next to it right across the street from the

1 YMCA, the Knights of Columbus, and Liberty
2 Village.

3 The area that I think -- and I
4 don't know probably if the Pollution Control
5 has seen it, but the LaSalle County Health
6 Department, that area, is right straight across
7 the street from the MacIntosh area where we
8 could service both of those areas, and I have
9 already approached LaSalle County Health
10 Department on working with those people and
11 their tip to clean up both of those problems
12 together at the same time. I think that would
13 be the thing to do.

14 MS. LIU: Thank you very much.

15 MS. HESSE: Could I ask one
16 follow-up question?

17 HEARING OFFICER LANGHOFF: No.
18 Thank you, Mayor Schmitt.

19 THE WITNESS: Thank you.

20 HEARING OFFICER LANGHOFF: Would you
21 like to offer your exhibits at this time?

22 MS. HESSE: Yes, I would.

23 HEARING OFFICER LANGHOFF: One and
24 three?

1 MS. HESSE: Yes.

2 HEARING OFFICER LANGHOFF: Any objections?

3 MS. WILLIAMS: No.

4 HEARING OFFICER LANGHOFF: Exhibit 1

5 and Exhibit 3 will be admitted? May I have the

6 original Exhibit 1, please, and 2 is going to

7 be accepted as a public comment.

8 What about -- we can do it

9 now. Would the Agency like to offer Exhibit

10 A?

11 MS. WILLIAMS: Sure. Yes.

12 HEARING OFFICER LANGHOFF: Any objections?

13 MS. HESSE: No.

14 HEARING OFFICER LANGHOFF: I'll admit

15 that also. We're going to take a five-minute

16 break and be back at five to.

17 (Break taken.)

18 MS. HESSE: Our next witness is Larry Good.

19 (Witness sworn.)

20 WHEREUPON:

21 L A R R Y G O O D,

22 called as a witness herein, having been first

23 duly sworn, deposeth and saith as follows:

23 this type of work?

24 A. Over 30 years.

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1 Q. Are you familiar with the city of
2 Streator's wastewater treatment plant?

3 A. Yes, I am.

4 Q. How did you become familiar with
5 Streator?

6 A. Earlier this year, the city hired
7 us to assist them, you know, in evaluating the
8 belt filter press project and ongoing
9 activities including the -- looking at rerating
10 the plant, and so in the course of carrying out
11 those duties, we've become familiar with the
12 operation of the plant.

13 MS. HESSE: I'd like this marked as
14 an exhibit.

15 (Exhibit No. 4 marked
16 for identification,
17 11-14-01.)

18 HEARING OFFICER LANGHOFF: It's marked
19 as Exhibit 4.

20 BY MS. HESSE:

21 Q. Mr. Good, I've handed you what has

22 been marked as Petitioner's Exhibit No. 4.

23 Could you identify what that

24 is, please?

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1 A. This is an aerial photograph of the
2 city's wastewater treatment plant.

3 Q. Does this accurately reflect what
4 the wastewater treatment plant looks like?

5 A. Yes, it does.

6 (Exhibit No. 5 marked
7 for identification,
8 11-14-01.)

9 MS. HESSE: Is that Exhibit 5?

10 HEARING OFFICER LANGHOFF: Yeah, Exhibit
11 5.

12 BY MS. HESSE:

13 Q. Mr. Good, I've handed you also what
14 has been marked as Petitioner's Exhibit No. 5.

15 Would you describe what that
16 is, please?

17 A. This is a site plan showing the
18 city of Streator's wastewater treatment plant
19 and labeling the major structures.

20 Q. Could you describe the various

21 operations that are carried out at Streator's
22 wastewater treatment plant?

23 A. The plant receives raw sewage into
24 their influent lift station pumps to the

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1 headworks building where it's screened and grit
2 is removed. The flow then flows to a
3 three-channel oxidation ditch where the
4 activated sludge process, the oxidation ditch
5 is the activated sludge process for the plant,
6 which then discharges to two circular vinyl
7 clarifiers.

8 The treated flow or the
9 clarifying flow goes through a disinfection
10 process and is either gravity pulled or pumped
11 to the river. So it also includes the excess
12 first flush, excess flow of treatment for wet
13 weather flows to the plant, and there is
14 various sludge handling structures including a
15 gravity belt thickener.

16 Q. How has Streator been disposing of
17 its sludge in the past?

18 A. Their process has been to waste
19 sludge from their activating sludge process to

20 a temporary storage tank where it's then
21 thickened with this gravity belt thickener.
22 It's stabilized and stored in various storage
23 structures on site until such time during each
24 year when it is trucked and applied on land.

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1 Q. And what is the purpose of
2 constructing the belt filter press?

3 A. During the wintertime when land
4 application is either limited or not able to be
5 accomplished at all, the sludge storage has
6 proven to be inadequate to take them through
7 the winter without having some effect on the
8 plant operation.

9 So the belt filter press will
10 allow them to dewater sludge and dispose of it
11 in the landfill during the winter thus ensuring
12 that they can keep adequate storage to properly
13 operate the plant.

14 Q. And I believe you mentioned you
15 requested or you prepared a report to request a
16 rerating from the Illinois EPA of the sewage
17 treat plant?

18 A. That's correct.

19 Q. In preparing the request for
20 rerating, did you also evaluate what the
21 additional load would be from some of the
22 proposed projects?

23 A. Yes, I did.

24 Q. Also, in preparing these various

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1 documents, did you also look at the plant's
2 existing data for its effluent quality?

3 A. Yes, I did.

4 MS. HESSE: I'm going to give you
5 two at once.

6 HEARING OFFICER LANGHOFF: Six and
7 seven.

8 (Exhibit Nos. 6 and 7
9 marked for identification,
10 11-14-01.)

11 BY MS. HESSE:

12 Q. Mr. Good, I'm handing you what's
13 been marked as Exhibit Nos. 6 and 7.

14 Could you please identify what
15 those are?

16 A. Exhibit No. 6 is a chart plotting
17 the daily effluent CBOD5 concentration for the

18 period from August 2000 through the end of
19 October 2001.

20 Q. And what is Exhibit No. 7?

21 A. It covers the same period of time
22 and it plots effluent CBOD in pounds rather
23 than concentration.

24 Q. Do these documents accurately

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1 reflect the data that you've reviewed?

2 A. Yes.

3 Q. And what do you determine from
4 looking at these documents?

5 A. These documents indicate that over
6 this period of time, the effluent BOD
7 concentration, which is the primary indicator
8 of the quality of the effluent going to the
9 stream, has -- has been excellent. It has
10 never approached the permit limits for daily
11 maximum. In fact, the daily data has not even
12 exceeded the monthly average permit.

13 Q. And what are the permit limits for
14 CBOD5?

15 A. The monthly average of ten
16 milligrams per liter and a daily maximum of 20

17 or perhaps it's daily or weekly maximum --
18 daily.

19 (Exhibit Nos. 8 and 9
20 marked for identification,
21 11-14-01.)

22 BY MS. HESSE:

23 Q. Mr. Good, you've been handed what
24 has been marked as Exhibits 8 and 9.

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1 Could you identify what those
2 are, please?

3 A. Eight is a similar chart over the
4 period August of 2000 to October 2001 depicting
5 the daily values of effluent solids in terms of
6 concentration.

7 Q. And what is Exhibit 9?

8 A. Similar information in pounds
9 rather than concentration.

10 Q. And what can you determine from
11 looking at these exhibits? I'm sorry. Let me
12 back up a second.

13 Do these charts accurately
14 reflect the data that you reviewed?

15 A. Yes, it does.

16 Q. And what do you determine from
17 reviewing Exhibits 8 and 9?

18 A. That the ability of the plant to
19 remove suspended solids has likewise been very
20 effective. Over the course of this period of
21 time there was one excursion which resulted
22 from a combination of the problems that it
23 mentioned with respect to the lack of storage
24 of sludge in the wintertime, some precipitation

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1 event that brought high flows to the plant that
2 washed out some solids from the clarifiers.

3 Q. Did this occur in January of 2001?

4 A. Yes, it did.

5 Q. Was this after a particularly
6 adverse winter in December of 2000?

7 A. Yes. There was a lot of snow on
8 the ground and the precipitation event that
9 altogether created a flow situation to the
10 plant and the high solids that were in the
11 plant and caused this excursion.

12 Q. What activities has Streator
13 undertaken or is in the process of undertaking
14 to avoid this type of excursion in the future?

15 A. The installation of the belt filter
16 press which will allow them to better control
17 their storage and ensure that they don't have
18 too high of a inventory of solids in the
19 plant.

20 (Exhibit No. 10 marked
21 for identification,
22 11-14-01.)

23 BY MS. HESSE:

24 Q. Mr. Good, I've handed you what's

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1 been marked as Exhibit No. 10.

2 Could you identify what that
3 is?

4 A. This is a chart depicting effluent
5 ammonia concentration from the Streator plant
6 over the period from August of 2000 to October
7 2001.

8 Q. Does this accurately reflect the
9 data that you have reviewed?

10 A. Yes. Excuse me. Yes, it does.

11 Q. Do you need some water?

12 A. Yes, I do.

13 MS. HESSE: Could we get some water

14 for the witness?

15 MS. WILLIAMS: Can I ask for
16 petitioner's counsel to clarify for the record
17 whether the witness prepared the charts that
18 we're looking at?

19 HEARING OFFICER LANGHOFF: You can
20 ask that on cross.

21 MS. WILLIAMS: But it does go to
22 the admissibility of the exhibits, right?

23 BY MS. HESSE:

24 Q. Mr. Good, did you cause to have

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1 these charts prepared?

2 A. Yes, I did. The charts were
3 prepared from -- by the plan operator from his
4 data and it does reflect the hard copy data
5 that I have reviewed.

6 Q. Did you have these charts prepared
7 because it's easier to visualize the plant's
8 compliance history as compared to looking at
9 sheets of data?

10 A. Yes.

11 Q. Could you explain to me what's
12 happening with the data in Exhibit No. 10?

13 HEARING OFFICER LANGHOFF: I'm
14 sorry, Ms. Hesse. Ms. Williams, do you have a
15 request?

16 MS. WILLIAMS: I didn't hear the
17 last answer. Do you think you could repeat
18 about who prepared the charts?

19 THE WITNESS: The plant operator
20 actually prepared them from his computerized
21 database which represents the hard copy data
22 that I had looked at.

23 MS. WILLIAMS: Thank you very much.

24 HEARING OFFICER LANGHOFF: Thank you,

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1 Ms. Hesse.

2 BY MS. HESSE:

3 Q. Could you explain to me what's
4 going on with the data in Exhibit No. 10?

5 A. This chart, the red line there
6 indicates the daily maximum permit limit for
7 effluent ammonia from the Streator plant. This
8 particular parameter has different limits in
9 the summer months versus the winter months.

10 The data indicates that there
11 were some excursions in late 2000 through the

12 winter of 2000-2001 in terms of the daily max,
13 which is what this chart shows. During this
14 period of time, we know that the solids
15 inventory in the plant was excessive because of
16 the sludge storage problem.

17 Since the early spring, there
18 has been just one or two excursions of effluent
19 ammonia to date.

20 Q. Has the plant undertaken various
21 measures in order to improve its ability to
22 treat ammonia?

23 A. Yes, it has.

24 Q. What are those measures?

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1 A. As we've indicated, first of all,
2 to construct and install the belt filter press
3 in order to be able to properly manage the
4 solids within the plant. The operator has been
5 feeding the manufactured nutrient additions to
6 attempt to improve the biological nitrification
7 process.

8 The operator has relocated a
9 decant line to the head of the plant rather
10 than directly back into the oxidation ditch.

11 This high ammonia stream decant by going back
12 to the head of the plant appears to create less
13 of a shock to the activated sludge process by
14 allowing it to be diluted before it can be
15 reduced into the process.

16 Q. Are you working with the City of
17 Streator's wastewater treatment plant to also
18 determine additional efforts that might be done
19 to address ammonia issues?

20 A. Yes. We -- recently, we had some
21 discussions as to the possibility of installing
22 permanent feed equipment to be able to add
23 nutrient to the influent to the plant to
24 provide a better environment for magnifiers,

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1 magnifier growth biological nitrification.

2 We've also begun to
3 investigate the possibility of some treatment
4 of the decant stream to condition it to help
5 provide a steady conditioned source of
6 nutrients to enhance that process.

7 Q. The nature of the influent to the
8 sewage treatment plant, would you characterize
9 that as being relatively high organic loading

10 as compared to overall other factors like
11 nitrogen loading?

12 A. Well, because of the high strength
13 BOD load of the major industrial contributor,
14 that load does not carry with it the other
15 nutrients in typical domestic waste
16 proportions. The combination of -- the net
17 effect is that the raw load to the plant is
18 deficient in nitrogen compared to the
19 carbonation slope.

20 Q. Is that why you're considering the
21 possible additional nitrogen to the wastewater?

22 A. That's correct.

23 (Exhibit No. 11 marked
24 for identification,

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1 11-14-01.)

2 BY MS. HESSE:

3 Q. Mr. Good, I've handed you what's
4 been marked as Exhibit No. 11.

5 Could you explain what this
6 is, please?

7 A. This is a chart that represents the
8 monthly average organic loading, BOD loading,

9 to the plant from January of '99 through
10 October of 2001.

11 Q. Does this accurately reflect the
12 data that you have reviewed?

13 A. Yes, it does.

14 Q. Was this also prepared by the
15 operator at the wastewater treatment plant at
16 your direction?

17 A. Yes, it was.

18 Q. And what does this chart show?

19 A. It shows that over this period of
20 time, the organic loading to the plant, with
21 rare exception, has -- well, basically it's
22 been as high as ten to 11,000 pounds per day on
23 a monthly average to as low as 4,000 pounds.

24 It shows a peak or a maximum

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1 period of -- period of time in late '99 and
2 early 2000 when the loadings were in the eight
3 to 10,000 pounds per day range, and since that
4 time, the loadings have dropped back down into
5 the six to 7,000 pound per day range.

6 Q. You had mentioned also that you
7 prepared a report to request that the Illinois

8 EPA rerate the plant?

9 A. Correct.

10 MS. HESSE: This is Exhibit 12?

11 HEARING OFFICER LANGHOFF: Yes.

12 (Exhibit No. 12 marked

13 for identification,

14 11-14-01.)

15 BY MS. HESSE:

16 Q. Mr. Good, you've been handed what's

17 been marked as Exhibit No. 12.

18 Could you explain what this

19 is?

20 A. This is the report that I prepared

21 at the request of the city to support the

22 request to rerate Streator's wastewater

23 treatment plant.

24 Q. Except for a typographical error in

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1 the first paragraph on page one, does this

2 report accurately reflect the work you have

3 done?

4 A. Yes, it does.

5 Q. Okay. And what should the correct

6 date be?

7 A. The date in the first paragraph
8 would be September the 15th, 2000.

9 Q. Could you explain to us, using
10 various exhibits in this, the work you looked
11 at and the factors that you considered in
12 determining that the plant could be rerated at
13 8100 pounds of BOD per day?

14 A. Starting with Exhibit A, which is
15 just an illustration of what the plant flow has
16 been over the period of time from August of
17 2000 to July of 2001, basically a 12-month
18 period of data that I had available to me at
19 the time that I did the evaluation, and it
20 shows the plant flows over that period of time
21 ranging from a low of about 1.8 million gallons
22 per day on a monthly average basis to a high of
23 just over 4.5 million gallons per day.

24 Q. And with respect to Exhibit B of

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1 your report?

2 A. Exhibit B shows the monthly average
3 BOD loading to the plant over that same period
4 of time. Again, during the early part of the
5 year, BOD loads were in the seven to 8,000

6 pound range dropping down into the four to
7 5,000, four to 6,000 pound per day range in
8 the -- through the early part of -- the first
9 part of 2001. The 12-month average for this
10 set of data was 6,227 pounds per day.

11 Q. Okay. If we could, skip over your
12 Exhibit C and come back to that later, and then
13 you have another one marked in your report as
14 Exhibit 1.

15 Q. Could you explain what that
16 is?

17 A. In Exhibit 1, I began to compare
18 various parameters to attempt to identify and
19 come to some opinion of what the plant's
20 capabilities were. This exhibit compares -- at
21 this point, I went back to the period of time
22 over which the EPA's restricted status letter
23 the data that was used, you know, at the time
24 that the plant was placed on restricted status

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1 from July of '99 through June of 2000.

2 Q. Over that period of time, and
3 according to the plant data records that I
4 reviewed, that annual average was a little over

5 7800 pounds per day. The other line on the
6 chart represents the effluent BOD concentration
7 wherein throughout that entire period of time
8 the monthly averages were at no time greater
9 than about five milligrams per liter compared
10 to a monthly average limit of ten.

11 Again, this chart represents
12 that monthly average trend. You know, the
13 individual daily data also indicated that there
14 were no daily values that were in excess of the
15 monthly average permit limit.

16 Q. So during this period of time of
17 high loading, the plant had no problem meeting
18 its BOD limit in the effluent?

19 A. That's correct.

20 Q. The chart that was marked in your
21 report as Exhibit No. 2, what is that chart?

22 A. Exhibit No. 2 represents in the
23 same influent BOD loading to the plant, it also
24 shows for comparisons of the BOD loading from

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1 the Red Wing industry. Basically, this chart
2 simply indicates, as has earlier been
3 indicated, that their contribution to the total

4 loading of the plant is significant,
5 representing 30 to 40 percent of the total over
6 the year.

7 Q. Okay. Referring now to your
8 Exhibit No. 3 to your report, what does this
9 exhibit show?

10 A. Exhibit 3, again, compares the
11 influent BOD concentration -- loading in pounds
12 with the effluent ammonia concentrations over
13 that same period of time. Again, the data is
14 reported here as a monthly average. During the
15 latter part of 1999 and into January of 2000,
16 the monthly average effluent ammonia was always
17 well within the effluent, the monthly average
18 effluent limitations for ammonia, even at the
19 time when the organic loading was as high as
20 it's ever been at the plant, in the eight to
21 10,000 pound per day range.

22 As we get into the winter,
23 January, February, March of 2000, in the
24 previously discussed problems with sludge

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1 inventories, the loadings from -- and the
2 loadings from the industry, the lack of

3 nutrients, the plant did suffer several
4 excursions both on the monthly average and the
5 daily maximum values.

6 Back in the summertime, May
7 and June, the limits were brought back down.
8 There was one other excursion later in the
9 summer as indicated there on the right-hand
10 side.

11 Q. During the period in January and
12 March it 2000, was that during the time period
13 when the plant was having excess sludge and
14 inventory?

15 A. Yes.

16 Q. And the purpose of the belt filter
17 press is to prevent that?

18 A. Correct. In fact, Exhibit 4
19 illustrates that, again, we've switched time
20 frames on this exhibit. We're going from
21 January of 2000 through July of 2001. This
22 chart illustrates the mixed liquor suspended
23 solids kept in the plant on a monthly average
24 basis compared to the monthly effluent ammonia

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1 concentration. This chart shows a direct

2 correlation between high mixed liquor solids
3 and effluent ammonia excursions being
4 consistent with what we've just said about the
5 high inventories in the plant.

6 Q. And what does Exhibit No. 5 show?

7 A. Actually, Exhibits 5, 6, and 7 kind
8 of taken together tend to just illustrate the
9 Red Wing BOD loading and it's -- the fact that
10 it had high peaks during the week, low values
11 on the weekends. The effluent ammonia data
12 from the Streator plant is also illustrated
13 there.

14 This chart is for the months
15 of January and February. To attempt to try to
16 quantify that weekend to weekday variation,
17 averages were calculated for the five-day
18 weekday averages and the two-day weekend
19 averages, and the -- over the two months,
20 January and February, those overall averages of
21 the difference between weekends and weekdays
22 are shown there in the two horizontal lines
23 with the weekday being approximately 4,000
24 pounds per day and the weekend less than a

1 thousand pounds per day.

2 Exhibit 7 shows the same type
3 of comparison, but for the months of July and
4 August, which illustrates two things. One, in
5 total, the averages between weekend and weekday
6 both were higher than in the winter, but that
7 the ratio between weekend and weekday was much
8 smaller which reflects the efforts that Red
9 Wing was attempting to make in terms of
10 experimenting with their ability to try and
11 equalize the flows over the total seven days to
12 help mitigate whatever, if any, effect that
13 that wide fluctuation was causing the treatment
14 plant.

15 Q. Okay. The left-hand margin has the
16 caption BOD pounds in thousands.

17 Is that pounds of BOD loading
18 to the plant?

19 A. No. It's pounds of BOD from Red
20 Wing.

21 Q. Thank you for clarifying that.

22 And what is Exhibit No. 8 to
23 your report?

24 A. Exhibit 8, proposed rating

1 criteria, was an attempt to review the
2 capacities of the various components of the
3 plant that would be impacted by being rated at
4 a higher level of BOD, particularly the
5 oxidation ditch volume and aeration or oxygen
6 transfer capabilities and the clarifier loading
7 capabilities.

8 Q. Do the Illinois regulations allow
9 the use of actual operating data from a plant
10 to rerate a plant?

11 A. I don't know that the regulations
12 specifically address rerating, but certainly in
13 terms of design and rating of treatment
14 facilities there's standards explained, a
15 procedure for submitting documentation in
16 support of actual operations when that data is
17 available.

18 Q. And could you refer to Exhibit 9 of
19 your report then?

20 A. Exhibit 9 was a summary of the
21 proposed sludge management plan criteria
22 intended to show how the -- even at the higher
23 rating of 8100 pounds per day that the belt
24 filter press installation, which is under

1 construction, would be able to process the
2 amount of solids created within the parameters
3 that EPA had indicated; that is, to have a
4 reasonable workweek, five days, less than eight
5 hours a day to accomplish the dewatering and to
6 have some safety factor built in to the sludge
7 storage in the event there was a problem with
8 the press.

9 Q. After evaluating all of this data
10 and the work that you've done, what is your
11 opinion as to the amount of organic loading
12 that the Streator plant can handle?

13 A. Based on evaluating the data, it's
14 my opinion that with respect to BOD removal,
15 the plant has exhibited capacity to handle and
16 to accomplish that portion of its requirement
17 even at sustained organic loadings of eight to
18 10,000 pounds per day.

19 My review also has indicated
20 that the ability of the plant to meet the
21 effluent ammonia requirements is not -- again,
22 the plant does have the ability when the --
23 when it's not being hindered by the sludge
24 solids meeting the effluent ammonia

1 requirements at a much higher level than its
2 current rating.

3 It has had ammonia
4 excursions. We've discussed the reasons. Just
5 the fact of the high organic loading to the
6 plant in and of itself does not -- doesn't mean
7 it's the thing that keeps them from meeting the
8 effluent requirements, and, therefore, I
9 believe that the plant can be -- is capable of
10 processing 8100 pounds of BOD per day.

11 Q. Is that the number that Streator is
12 asking Illinois EPA to rerate the plant at?

13 A. Yes.

14 Q. And what is the plant currently
15 rated at?

16 A. The construction permit which was
17 provided for the plant construction rated it at
18 5,000 pound per day of organic loading.

19 Q. Are you aware of some of the past
20 and some of the possible future operating
21 changes that may take place at Red Wing?

22 A. I have been informed that they have
23 indicated the likelihood of the loss of one
24 company that they produce product for, that

1 that would be potentially reduce the loading to
2 the plant by as much as 50 percent.

3 Q. Streator has been contemplating
4 whether to -- at least to install the vertical
5 loop reactor.

6 If Red Wing does decrease its
7 organic load to the plant, what is the
8 likelihood that the VLR would be needed?

9 A. Well, as I have indicated here, I
10 think the plant is capable of treating
11 significant organic load without the VLR.
12 Certainly, if we reduce from 6500 to 4500 or if
13 there were even 5,000 pounds per day of
14 loading, then the necessity of the VLR would
15 be -- would be -- it would be unlikely that a
16 plant expansion would be needed.

17 I don't envision that if the
18 loadings were to be reduced to that level that
19 there would be no need for a plant expansion.

20 Q. Approximately, how much would it
21 cost for Streator to obtain and construct a VLR
22 at the plant?

23 A. As I recall, the estimates that
24 were in the engineering report were on the

1 order of two and a half million dollars.

2 Q. Would there be additional costs for
3 the engineering as well as the system itself?

4 A. Again, I did not prepare that
5 report. I think that engineering costs are
6 included in those numbers, but I'm not sure.

7 Q. Okay. From the work that you've
8 been doing for the City of Streator, have you
9 also evaluated the organic loading from
10 different categories of sources that may be
11 added to the sewage treatment plant?

12 A. Yes, I have.

13 Q. Did you consider sources that have
14 already been permitted and that were allowed to
15 be added to the plant as an exception to
16 restricted status?

17 A. Yes.

18 Q. And what would be the loading from
19 those sources to the plant?

20 A. The sources that have already been
21 permitted would create a load of approximately
22 123 pounds per day of BOD.

23 Q. Have you looked at the loading to

24 the plant if the MacIntosh and Rosemont

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1 subdivisions are added?

2 A. Yes. That area along with the
3 scattered housing that was discussed earlier
4 would add about a 49 pound per day of BOD
5 loading.

6 Q. Have you also looked at what the
7 BOD loading would be for new commercial
8 facilities such as the Super 8 Motel and the
9 Kroger strip mall?

10 A. Yes. Those facilities would add an
11 estimated total of eight pounds per day.

12 Q. And this eight pounds per day that
13 would be added from the facilities for which
14 Streator is seeking a variance is what percent
15 of the total organic loading to the plant?

16 A. About one-tenth of one percent.

17 Q. Is this information shown in
18 Exhibit C to your report?

19 A. Yes, it.

20 MS. HESSE: No further questions.

21 HEARING OFFICER LANGHOFF: Thank you,

22 Ms. Hesse. Ms. Williams.

23
24

C R O S S - E X A M I N A T I O N
by Ms. Williams

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1 Q. I'd to apologize to start out
2 because I think anyone else at this table would
3 probably do a better job of asking the
4 questions because I don't understand as much as
5 they do about the technical aspects of your
6 report.

7 But the main concept I think I
8 took out of your testimony was that, and I
9 think this is a quote, sludge storage has
10 proven to be inadequate to get Streater through
11 the winter without ammonia violations; is that
12 correct?

13 A. Well, that's generally correct. I
14 mean, I'm not sure it's a direct quote.

15 Q. So it's your -- no, I'm not asking
16 you to say it was a quote, but it's been your
17 conclusion by analyzing all the data that the
18 main problem they've had with ammonia
19 violations comes from a lack of sludge storage
20 capacity?

21 A. A significant problem is the lack

22 of sludge storage capacity which has limited
23 the operator's ability to properly manage the
24 solids that are in the treatment portion of the

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1 plant.

2 Q. You also testified that the plant
3 has been pretty good at treating the influent
4 that it receives for most other factors?

5 A. Correct.

6 Q. And, in fact, that's what treatment
7 plants are designed to do, correct, treat the
8 influent that they're receiving and spit it
9 out --

10 A. That's correct.

11 Q. -- within the permit factors?

12 I guess I should turn to these
13 Exhibits a little bit that you presented. I'm
14 looking now at Exhibit 6, the first one, where
15 we have CBOD effluent versus the permit limit
16 as a concentration and also Exhibit 7 in
17 pounds. This shows the -- I guess just to
18 clarify for me, the red line, the bright red
19 line here, that's the daily max value?

20 A. That represents the daily maximum

21 permit limit.

22 Q. There isn't a line to show us what
23 the monthly average --

24 A. The monthly average limit is

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1 canned. It is not shown.

2 Q. Now, the numbers that are plotted
3 along the chart, are those then also daily --

4 A. Those are daily values.

5 Q. -- max values?

6 A. Those are the daily values.

7 Q. Is that true for all the
8 exhibits --

9 A. That's true.

10 Q. -- the daily values?

11 A. That's true for six through ten,
12 and 11 does illustrate monthly averages.

13 Q. Averages.

14 Do you find these values to
15 sort of be within a normal range of variation
16 that you typically see at a wastewater
17 treatment plant?

18 A. Yes, I guess so. A well-operated
19 plant will have variations in any event both

20 due to variations in the load, weather
21 conditions, a lot of other things as well as
22 just the experimental air or the measurement of
23 air in terms of the analysis of samples, which
24 is a standard situation we have to deal with.

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1 The variation is typical. The
2 level -- the absolute value of the results I
3 would say it's better than average for an
4 activated sludge treatment plant.

5 Q. And the data that this is based on,
6 it was based on samples collected by?

7 A. These are samples collected by the
8 plant operator and analyzed in their labs.

9 Q. And could you explain who the plant
10 operator is?

11 A. Pardon me?

12 Q. Who is the plant operator at this
13 facility?

14 A. The plant is operated under
15 contract with the city by U.S. Filter Operator
16 Services. Greg Gaarbs is the chief operator.

17 Q. As part of your assumptions that
18 you put into your report to rerate the plant,

19 how often did you assume sludge would be
20 removed from the plant?

21 A. In terms of my evaluations, I
22 assumed that -- first of all, the data that we
23 were looking at made no assumptions about the
24 fact that during the summer and fall typically

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1 sludge was being handled at adequately. They
2 disposed of the sludge on land in the fall
3 after the crops were off the land, and they
4 started running into problems when they were
5 unable to get the sludge out in a timely
6 fashion because weather and other delays.

7 In terms of looking to the
8 future, the assumption is that with the
9 addition of the belt filter press, whether it
10 be by land application or liquid or by
11 dewatered sludge application to the landfill
12 that they would adequately manage the sludge
13 allowing them to adequately control the solids
14 inventory in the plant.

15 Q. But I'm not if sure if I
16 understand. I'm trying to understand. I think
17 you said it a very simple way, but I'm still

18 not sure I understand.

19 So you're saying it doesn't
20 matter how often they remove sludge? It won't
21 matter how often they remove sludge?

22 A. Correct.

23 Q. Okay.

24 A. So long as they remove it in ample

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1 time, that they always have storage available,
2 that they can get sludge out of the treatment
3 process when they need to.

4 Q. And if they're unable to control
5 when they move the sludge out --

6 A. With the belt filter press, they
7 can control it because they can do that without
8 regard to weather conditions and availability
9 of land.

10 Q. I think I understand better now.

11 Are you able to testify by any
12 chance to when sludge was last removed from the
13 plant?

14 A. I can testify that when I was at
15 the plant approximately -- well, it was one day
16 last week, and the trucks were rolling as I was

17 there.

18 Q. Okay. Removing sludge while you
19 were at the plant. Okay.

20 HEARING OFFICER LANGHOFF: That's a
21 yes, Mr. Good?

22 THE WITNESS: Yes.

23 HEARING OFFICER LANGHOFF: Thank you.

24 BY MS. WILLIAMS:

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1 Q. Is your testimony correct with
2 regards to Exhibit 8 and 9 that the blue line
3 that goes straight from the bottom of the chart
4 to the top that relates to prior problem with
5 sludge over capacity as well?

6 A. Correct. The sludge storage was at
7 capacity. The solids level in the plant itself
8 was high such that when they had the high flows
9 due to the weather event it washed out some
10 solids that day.

11 Q. You would agree, would you not,
12 that once establishing the designed organic
13 capacity of a plant the sludge storage and
14 handling ability does need to be taken into
15 account as a factor for what the capacity would

16 be?

17 A. Yes.

18 Q. And you took that into account in
19 your analysis?

20 A. Yes.

21 Q. With regard to this Exhibit No. 10,
22 Exhibit No. 10 plots effluent ammonia values
23 versus the permit level, correct?

24 A. Correct.

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1 Q. And the value -- we can see by
2 looking at this chart that there's a red line
3 which goes straight across and then jumps up
4 and comes back down.

5 That represents the winter
6 versus the summer ammonia standards?

7 A. Right, and that's the daily maximum
8 value --

9 Q. So this chart does not show the
10 monthly average?

11 A. Correct. This is showing daily
12 data, and it's showing the daily max permit
13 levels.

14 Q. And according to this data, the

15 last violation of a daily max ammonia limit was
16 in July, around July 31st --

17 A. Correct.

18 Q. -- of this year?

19 Would you say that was
20 slightly unusual to have a violation in the
21 summer at this facility?

22 A. Yes, it is somewhat unusual. The
23 sludge storage is not a problem then
24 typically.

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1 Q. Okay. Now, I will look at this
2 last -- Exhibit 11, and this plots the monthly
3 average influent loading to the plant from
4 all -- we're talking -- let me first ask is
5 this from all the influent to the plant?

6 A. Yes.

7 Q. Not just from Red Wing?

8 A. Correct.

9 Q. Okay. And it's monthly average
10 values?

11 A. Correct.

12 Q. Okay. So it's correct that in
13 nearly every case, the influent to the plant is

14 over the design capacity of 5,000 pounds per
15 day?

16 A. It's above the design rating of the
17 plant, yes.

18 Q. And, in fact, in quite a
19 substantial portion of this time period, it was
20 over the recommended level in your report of
21 8100 pounds per day as well, correct?

22 A. Yes. There was a several-month
23 period of time in '99 that it was.

24 Q. Also, with regard to this last

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1 chart, you have to at least agree for this
2 chart, Mr. Good, that it's not typical to see
3 influent loading to a plant with this wild a
4 variation, correct?

5 A. No.

6 Q. No, you don't have to agree?

7 A. I do not have to agree.

8 Q. Okay. Can you give us some other
9 example of other plants where you've seen this
10 kind of --

11 A. The -- I mean, we're looking at a
12 period of time here over almost three years. A

13 lot of things can happen there, particularly
14 when an industrial discharger of significance
15 is part of the equation, but in many plants
16 from month to month these numbers will have
17 significant variation.

18 I haven't really calculated
19 the standards of deviation for this or others.
20 So I can't quantify that variation, but
21 significant variation is not unusual.

22 Q. Have you seen other plants go from
23 20,000 pounds per day to down to I think under
24 a thousand pounds per day?

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1 A. No.

2 Q. No, you've never seen another plant
3 be that wild?

4 MS. HESSE: I'm going to object to
5 the question. The question is not premised on
6 the data that was presented. The data does not
7 show variation from 20,000 to less than a
8 thousand pounds.

9 HEARING OFFICER LANGHOFF: Overruled.

10 BY MS. WILLIAMS:

11 Q. Could you tell us in some more

12 detail about the type of belt filter press that
13 you contemplated when you wrote your report?

14 A. When I wrote the report, the belt
15 filter press that's going in was determined.

16 Q. So could you identify the --
17 there's some questions I'd probably rather ask
18 of the plant operator, but I've got you here.

19 A. Okay.

20 Q. Could you outline the
21 specifications that you were given to work with
22 in your report?

23 A. Well, the belt filter press is a
24 two-meter-wide press which has a gravity

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1 dewatering as well as the belt portion of the
2 press such that it is manufactured as it's
3 guaranteed, it's capacity to produce 2,000
4 pounds per hour when fed a one percent
5 concentration of feed solids.

6 Q. Are you familiar with these types
7 of presses of this specification here?

8 A. Yes.

9 Q. And how many of those have you had
10 experience with?

11 A. I have evaluated belt presses on
12 various occasions. I've actually been involved
13 in the design and construction and operation of
14 only two or three.

15 Q. Okay. I asked the mayor, I
16 believe, about the permitting process for the
17 belt filter press and he referred me to his
18 engineers.

19 Was he meaning you?

20 A. I don't remember what question that
21 was.

22 Q. Did you submit a permit application
23 to the Agency for this project?

24 A. No, I did not.

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1 Q. Okay. Have you seen such an
2 application?

3 A. I have seen copies of the
4 application.

5 Q. Do you know who submitted that?

6 A. Applied Technology is the company
7 who was a part of the design build contractor
8 that's installing stalling the facility.

9 Q. If by some chance this belt press

10 when installed was not able to perform to the
11 specifications promised by the manufacturer,
12 would that change your conclusions in your
13 report?

14 A. Well, the first thing it would do
15 was signal a need to require the manufacturer
16 to remedy the problem.

17 Q. Oh, absolutely.

18 But beyond that?

19 A. If the decision were made to live
20 with the press that didn't meet the
21 specification, yes, then it would affect the
22 calculations.

23 Q. Okay. What role if your analysis
24 that Streator's plant can handle 8100 pounds of

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1 influent per day did the measures to be
2 undertaken by the major industrial user play?

3 A. It -- some. I guess the assumption
4 there was that the major industrial user was
5 going to be required to follow through with
6 efforts to equalize the flow in the event that
7 that proved to be effective improvement.

8 Q. So you didn't assume a particular

9 technology; you just assumed a more equalized
10 flow.

11 Is that how you looked at it?

12 A. Well, again, with respect to the
13 industrial user, that's what I was looking at,
14 yes.

15 Q. Okay. So if the industrial user
16 were to abandon their commitment to equalize
17 their flow, that would also change the results
18 of your conclusion?

19 A. It would -- I guess it would put
20 more emphasis on making sure that we come up
21 with effective means through the other
22 possibilities that I mentioned in terms of
23 enhancing the plant's ability to adequately
24 cause nitrification to occur under varied

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1 conditions.

2 Q. So are you saying you think that
3 this plant still can handle 8100 pounds per day
4 without the equalization measures?

5 A. In terms of what I'm -- what I've
6 said is that I think the -- whether it's 8100
7 or 6700 or 5,000, the problems associated with

8 the effluent ammonia excursions aren't directly
9 related to whatever that magnitude of BOD
10 loading is. It's been the solids inventory,
11 it's been the nutrient imbalance, those are
12 things looking at how we're going to control
13 those things.

14 Q. So are you then saying instead that
15 equalizing the flow is the most important
16 aspect of maintaining compliance with the
17 effluent limits?

18 A. All I can say right now is looking
19 at the January/February data compared to the --
20 I think it was June, July, August, I don't
21 recall, it illustrated that Red Wing was making
22 some efforts to equalize at that time. This
23 really hasn't been enough time to really see
24 what the impact, you know, that that would have

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1 on the plant in terms of consistently meeting
2 the effluent ammonia required.

3 Q. Okay. Thank you. I'd like to ask
4 you one question about your Exhibit 7 of your
5 report. So my understanding is this is trying
6 to get at what we know so far about the results

7 of the changes that have been implemented at
8 Carriage House at that time, correct?

9 A. This basically just represents that
10 for this period of time they had been able to
11 increase their weekend flows such that the
12 fluctuation from weekday to weekend was less
13 marked.

14 Q. Are these actual numbers that are
15 plotted on here or averages or what are we
16 looking at?

17 A. Those were the average -- the data
18 points represent for the weekday a five-day
19 average; for the weekend, a two-day average.

20 Q. Can you explain to us why with
21 the -- what would be the explanation for why
22 the disparity between the weekday and weekend
23 numbers has come closer together, but yet the
24 average values are going up? Do you have an

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1 explanation for that?

2 A. The total -- the overall average
3 discharge went up.

4 Q. So the overall average will go
5 up --

6 A. The weekday average and the weekend
7 average went up with it.

8 Q. I think this is sort of another
9 paraphrase, anyway, if not a quote where you
10 stated that you believe the plant has the
11 ability of meeting its effluent ammonia levels
12 when it's not hindered by sludge solvent. I
13 think that's what I wrote down. I might have
14 missed something there.

15 But my understanding of your
16 testimony is that by doing something about the
17 sludge handling problem, you believe the plant
18 would be able to meet its ammonia effluent
19 limits in the future; is that correct?

20 A. What -- I guess the total of what
21 I'm saying is that the effluent ammonia
22 excursions have showed a correlation with the
23 high solids concentration in the treatment
24 process, that the ability to properly manage

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1 sludge will give the operator the ability to
2 control those solids. That will play an
3 important part in controlling effluent ammonia
4 concentrations.

5 We've also discussed the fact
6 that there is a nutrient imbalance because of
7 the industrial load. There are other things
8 that we are looking at to give the plant a
9 safety factor in being able to consistently
10 meet those requirements with that type of
11 loading.

12 Q. And that's normally what you try
13 and do when you're designing a plant's --

14 A. Certainly.

15 Q. -- components, right, build in a
16 safety --

17 A. You don't want the operator to have
18 to work on the edge every day.

19 Q. Wouldn't you agree, though, that
20 it's reasonable for the Agency to conclude that
21 the belt filter press needs to be operational
22 before this plant's capacity can be changed?

23 A. Yes.

24 MS. WILLIAMS: Okay. I think

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1 that's all I have for right now.

2 HEARING OFFICER LANGHOFF: Thank you,

3 Ms. Williams. Ms. Hesse, redirect?

4 MS. HESSE: Yes.

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

6 by Ms. Hesse

7 Q. Mr. Good, you had mentioned that
8 you're aware of the permitting process for the
9 sludge belt filter press?

10 A. Yes.

11 Q. Has a permit application been
12 submitted?

13 A. Yes.

14 Q. In the permit application, is the
15 Agency requesting information in the schedule
16 for a schedule G?

17 A. That's my understanding.

18 Q. And what is schedule G?

19 A. It's a schedule that describes how
20 the sludge to be removed from the plant will be
21 handled.

22 Q. Does schedule G also ask for a copy
23 of the landfill permit if the sludge is going
24 to be landfilled?

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1 Could I give you something to
2 refresh your recollection?

3 A. Yes, you could.

4 MS. WILLIAMS: What are you giving
5 him?

6 MS. HESSE: I'll show you. What
7 number were we on?

8 HEARING OFFICER LANGHOFF: Are you
9 going to mark this and offer it?

10 MS. HESSE: I don't really have to
11 use it as an exhibit if it's to refresh his
12 recollection.

13 HEARING OFFICER LANGHOFF: We're on
14 13.

15 MS. HESSE: Okay.

16 BY MS. HESSE:

17 Q. Mr. Good, I've handed you some
18 papers.

19 Could you identify what those
20 are?

21 A. The entire package is basically the
22 forms for use, applications for permit and
23 construction approval and other schedules and
24 instruction.

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1 Q. Does one of those forms include

2 schedule G?

3 A. Yes, it does.

4 Q. Okay. After reviewing schedule G,
5 does this refresh your recollection as to
6 what's required on the schedule?

7 A. With respect to landfilling, it
8 asks you to identify the type of landfill, its
9 name and location, and IEPA permit numbers.

10 Q. Is the City of Streator attempting
11 to obtain additional information by EPA's
12 request regarding landfilling?

13 A. What I'm personally aware of is
14 that we are applying for a permit from a
15 landfill in order to be able to discharge this
16 or deliver this sludge to their facility.

17 Q. Is it your experience that
18 landfills typically want a sample of the
19 material that's going to be disposed of at the
20 landfill?

21 A. Yes.

22 Q. And what has been the difficulty
23 that Streator has had in providing a sample
24 from the sludge belt filter press to give to

1 the landfill?

2 A. They have submitted a sample of the
3 sludge in terms of obtaining chemical
4 characteristics. However, they do not have,
5 because the press is not in operation, a sample
6 of the material as it will be, that is, when
7 it's delivered to the landfill.

8 Q. And is the reason that the belt
9 filter press is not in operation is because
10 it's not permitted yet?

11 A. Because it's not -- well, it's my
12 understanding that they have not yet issued the
13 construction permit. So it's not yet hooked up
14 and in operation.

15 Q. So that we're in kind of a catch 22
16 situation here where an actual sample from
17 the -- once it's constructed, an actual sample
18 of the belt filter press cannot be obtained
19 until it's operational and it cannot be
20 operational until the permit has been issued?

21 A. I'm not sure what the Agency's
22 actual position is on when and what additional
23 information they will have to have before they
24 issue the permit.

1 Q. Thank you.

2 With respect to the discussion
3 you had earlier on the excursions, has the
4 frequency of those decreased in recent months?

5 A. Yes. Since first of this year,
6 we're still in a period of time when the sludge
7 storage was an issue, but since then, the
8 excursions as I indicated earlier there's been
9 a couple this summer since the limit dropped
10 down for the summertime value.

11 Q. And earlier I believe you mentioned
12 that you're working with the City of Streator
13 to identify how a possible nutrient balance
14 might be addressed; is that correct?

15 A. Correct.

16 Q. How long do you think it's going to
17 take before you finish the investigation before
18 you would be able to make a recommendation to
19 the city?

20 A. I anticipate that would be a three
21 to four month process to complete the data
22 collection and the evaluation and reach a
23 conclusion and make a recommendation.

24 MS. HESSE: Thank you.

1 MS. WILLIAMS: I just have one
2 question for recross.

3 R E C R O S S - E X A M I N A T I O N
4 by Ms. Williams

5 Q. With regards to the schedule G
6 completion issue, are you aware of the advice
7 the Agency gave to Streator on that point? I
8 don't know if you're the right person to ask.

9 But are you aware that the
10 Agency helped -- gave the city the information
11 about how to fill out the schedule G in the
12 situation that they found themselves in?

13 A. Not really.

14 MS. WILLIAMS: Thank you.

15 HEARING OFFICER LANGHOFF: Nothing
16 further?

17 MS. WILLIAMS: No.

18 HEARING OFFICER LANGHOFF: Any questions
19 from the Board's technical unit?

20 MS. LIU: We have several
21 questions. Would now be a good time for a
22 recess?

23 HEARING OFFICER LANGHOFF: No. Go
24 ahead. We're going to take a lunch as soon as

1 you're done with your questions.

2 MS. LIU: Good afternoon, Mr. Good.
3 I have several questions for you regarding the
4 contents of the petition. I was wondering
5 first off if you were familiar with the NPDES
6 permit the city has for the treatment plant?

7 THE WITNESS: I'm somewhat familiar
8 with it, yes.

9 MS. LIU: Do you happen to have a
10 copy of it available to you?

11 THE WITNESS: I have one with me,
12 but not right here. Do you have it handy?

13 MS. WILLIAMS: We have it. We can
14 get it.

15 MS. LIU: One of the requirements
16 in the petition for a variance is to describe
17 the areas that would be affected by the
18 discharge that would be allowed if the variance
19 were granted, and I was wondering if you could
20 describe what those areas would be?

21 THE WITNESS: The areas of -- the
22 impact -- if the variance were granted, what
23 impact that would have on the parameters in the
24 permit? Is that what --

1 MS. LIU: No, no. Actually, it
2 just go to actually what areas would be
3 impacted by the discharge if the variance were
4 granted, such as, what the receiving streams
5 would be, what the -- what piece of land would
6 be used to apply the sludge, the location of
7 those areas.

8 THE WITNESS: Okay. I guess the
9 receiving stream would receive an additional
10 amount of BOD loading, which would be too small
11 to measure. The additional amount of sludge
12 that would be produced would be too small to
13 measure.

14 MS. LIU: What would the receiving
15 streams be, do you know?

16 THE WITNESS: The receiving stream
17 of the discharge?

18 MS. LIU: Correct.

19 THE WITNESS: It's the Vermilion
20 River.

21 MS. LIU: And where is the land
22 where the sludge would be applied?

23 THE WITNESS: It's various farmland
24 around the community. I do not personally know

1 what land they use for the sludge application.

2 MS. LIU: Something local?

3 THE WITNESS: I really don't even
4 know how far they haul it. They contract with
5 a company to haul the thickened sludge. I'm
6 not familiar with where they dispose of it.

7 MS. LIU: I'm not sure if it's
8 something you want to add in your posthearing
9 brief, but it is one of the requirements in the
10 petition.

11 MS. HESSE: We can add that in the
12 posthearing brief.

13 MS. LIU: I asked you to take a
14 peek at the NPDES permit because I notice that
15 there are several CSO outfalls and treatment
16 plant discharge points that are listed in
17 there. They also, on what appears to be page
18 12 of the fax copy of the NPDES permit that we
19 received, list the receiving waters for those
20 CSO outfalls as well as the treatment plant
21 discharges, and I was wondering if you could
22 look through those and identify the distinctly
23 separate receiving bodies of water besides the
24 Vermilion River?

24 you like to clarify that?

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1 THE WITNESS: You're right. I
2 didn't write that, and particularly -- well, it
3 is my understanding from discussions that the
4 intent there was to look at the fact that we
5 were discussing the variations in the
6 industrial discharge, some of the impacts of
7 that.

8 It's just -- it's not a
9 statement that, I guess, adequately explains
10 it. No, I don't really agree that it will
11 operate better at higher loadings. It's a more
12 complex issue than that.

13 MS. LIU: In your engineering
14 judgment, you feel that the relationship is
15 more closely defined between the mixed liquor
16 suspended solids and the effluent rather than
17 the organic loading to the plant; is that
18 correct?

19 THE WITNESS: Yeah. Based on the
20 data we've looked at, the correlation between
21 the effluent ammonia excursions is related more
22 to the mixed liquor solids than it is to the

23 absolute organic loading to the plant.

24 MR. RAO: Mr. Good, I've got a

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1 follow up to Ms. Liu's question.

2 After you made this
3 correlation between mixed liquor or suspended
4 solids and ammonia excursions, did you check
5 into the literature to see if -- you know, if
6 there's any side effects for the correlation as
7 far as, you know, in the literature itself
8 there's been some relationship that's been
9 established between, you know, mixed liquor or
10 suspended solids and effluent ammonia levels?

11 THE WITNESS: No, I haven't.

12 MS. LIU: Earlier in your testimony
13 when you were discussing the anticipated
14 increase in load to the plant from the new
15 developments you mentioned that there would be
16 approximately 123 pounds per day of BOD5
17 delivered from the Cobble Stone to Liberty
18 Village in Area 15, and you also mentioned that
19 another 49 pounds per day of BOD5 was expected
20 from the scattered single family homes and Area
21 20 of the MacIntosh interceptor area?

22 THE WITNESS: Right.

23 MS. LIU: Just to clarify for my
24 sake, I notice in reading the Illinois EPA's

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1 restricted status letter that they have a
2 category for what they call outstanding
3 permits and permits that were issued within the
4 last two years, and they estimate that the
5 total of all of those permits was 18 pounds of
6 BOD5 per day, and I was wondering if somehow
7 the 123 plus 49 was figured in elsewhere that
8 was -- or considered part of the exemptions on
9 the restricted status? I'm a little confused.
10 I'm sorry.

11 THE WITNESS: I can't explain
12 that. I don't know what permits that 18 pounds
13 covered.

14 MS. LIU: Okay. You estimated that
15 the plant might be capable of operating at a
16 capacity of around 8100 pounds BOD5 per day.

17 Will that rerated design be
18 enough to accommodate the new developments that
19 the city is hoping to see over the next five
20 years?

21 THE WITNESS: Based upon the
22 averages over the last 12 months, which were
23 6300 pound per day average, that would
24 represent, you know, a significant increase

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1 from 6300 to 8100. It would be -- if it's just
2 commercial and residential development that
3 we're talking about, it certainly would handle
4 that. Another Red Wing coming to town, of
5 course, would be an entirely different matter.

6 MS. LIU: There is no problem with
7 the hydraulic capacity at all with these
8 proposed developments, is there?

9 THE WITNESS: Again, the -- we
10 haven't really discussed the hydraulic flow
11 rate of the facility because so much of this
12 load is organic in high concentrations as well
13 as just high pounds. The hydraulic loads at
14 this time in the foreseeable future don't
15 appear to be an issue.

16 MS. LIU: Do you know if the
17 construction and installation of the belt
18 filter press is proceeding as scheduled?

19 THE WITNESS: It appears -- again,

20 as we've already learned, I'm not completely
21 aware of the permitting issues that are
22 pending, but assuming that that does not impede
23 anything, they are currently ahead of
24 schedule. So they should have no problem

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1 meeting the January 25th deadline for being in
2 operation.

3 MS. LIU: Okay. Do you know if
4 those equalization tanks have been installed or
5 put into operation yet at the Carriage House
6 facility?

7 THE WITNESS: I do not believe that
8 any permanent construction has taken place. I
9 do not know that, but I'm relatively certain
10 that it hasn't. What they've done is -- the
11 data that I've presented was based on, you
12 know, efforts that they made, which I think
13 were temporary facilities that they had to try
14 and experiment and see what they could do.

15 MS. LIU: It sounds as if
16 Streater's plan is, quote, to have the plant
17 rerated before it decides whether or not it
18 want's to make the investment in the vertical

19 loop reactor, and if it comes to that point
20 where the city decides it would like to do
21 that, could you lay out an approximate relative
22 time schedule of how long that the bidding and
23 construction and actual operation of that unit
24 process would take?

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1 THE WITNESS: Of the VLR?

2 MS. LIU: Yes.

3 THE WITNESS: Once the decision is
4 made, you know, to proceed with it, the design
5 could be, you know, three to five-month
6 process, 90 days for permitting, and, you know,
7 probably eight months to a year for bidding and
8 award and construction.

9 MS. LIU: One of the points in the
10 petition requires that the amount of the
11 emissions be characterized. I know you've
12 spoken to the BOD levels. I was wondering if
13 you could, perhaps, quantify it in a gallons
14 per day anticipated load?

15 THE WITNESS: For these pending
16 loads that we're referring to, it would be
17 perhaps less than 5,000 gallons a day.

18 MS. LIU: In your engineering
19 judgment, could you please summarize, again,
20 what you felt the impacts to the receiving
21 streams would be?

22 THE WITNESS: The impact of the
23 addition of these eight pounds per day of BOD
24 compared to the current loading of 6300 pounds

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1 per day would be an amount that could not be
2 measured in terms of the additional load on the
3 stream.

4 MS. LIU: Would the additional
5 quantity of discharge in terms of the volume of
6 water have any negative impacts that you could
7 foresee?

8 THE WITNESS: I haven't calculated
9 that percentage, but it's 5,000 out of
10 approximately two million gallons a day
11 currently. So, again, it's a near negligible
12 increase in the load to the plant.

13 MS. LIU: There was mention made in
14 the amended petition of a report prepared by
15 Raymond engineering. I was wondering if that
16 might be included in the records somehow.

17 MS. HESSE: Yes. We can provide
18 that as an exhibit. I have a spare copy with
19 me.

20 MS. LIU: Okay. Have you seen the
21 report? Are you familiar with it?

22 THE WITNESS: Yes, I am.

23 MS. HESSE: I will provide it after
24 the lunch break.

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1 HEARING OFFICER LANGHOFF: Thank you.

2 MS. LIU: From your recollection,
3 could you summarize what Raymond's
4 recommendations were to upgrade the plant?

5 THE WITNESS: Basically, the
6 recommendations were two-fold. One was the
7 installation of the belt filter press and,
8 secondary, the installation of this vertical
9 loop reactor to increase the organic treatment
10 capacity of the treatment plant.

11 MS. LIU: Did they consider the VLR
12 an essential part of the design or was that an
13 option to seeing whether or not it was really
14 necessary?

15 THE WITNESS: I think as they

16 prepared the report, they were looking at it as
17 an overall part of the proposal to improve the
18 ability of the plant to treat the waste.

19 MS. LIU: On your petition as
20 Exhibit 5, the layout of the treatment plant,
21 just out of curiosity, where will the belt
22 filter press go?

23 THE WITNESS: It is -- let me make
24 sure I get the right number. Well, actually,

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1 there's a building that's called the control
2 building right in the middle sort of, just a
3 little to the left.

4 MR. RAO: Is there a number there
5 too?

6 THE WITNESS: No. It's just called
7 a control building, and that building is added
8 on to and the new press is being housed
9 partially in that building and partially in the
10 addition.

11 MS. LIU: Just out of curiosity,
12 where would the VLR go if it were built?

13 THE WITNESS: There's a couple of
14 different potential locations that were

15 considered, I think, either just below the
16 oxidation ditches or across the driveway just
17 above the oxidation ditches.

18 MS. LIU: Thank you very much.

19 MR. RAO: I had a follow up to one
20 of responses you gave to Ms. Liu's question
21 regarding the Raymond report where it mentioned
22 that both the belt press and the VLR was a part
23 of the overall design was recommended to
24 improve the treatment efficiency.

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1 You know, in the report, it
2 mentioned the treatment efficiency in terms of
3 both ammonia and BOD, and if you don't
4 construct the VLR, will that have an impact on
5 the effluent ammonia levels?

6 THE WITNESS: The -- I have not
7 really studied that report recently, and so I'm
8 not real sure I can adequately answer that
9 question without referring to the report.

10 MR. RAO: It would be helpful to
11 the Board if we can enter this in your brief,
12 especially if the VLR is not, you know, part of
13 your plan to improve the treatment plant to see

14 if it has any impact on the overall treatment.

15 MS. HESSE: The question is whether
16 the VLR will have an impact on the overall
17 treatment efficiency?

18 MR. RAO: Yeah, in terms of both
19 ammonia and BOD5.

20 HEARING OFFICER LANGHOFF: Anything
21 further? Thank you, Mr. Good. At this time,
22 would you like to offer your Exhibits 4 through
23 soon to be marked 13, which is the Raymond
24 recommendation?

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1 MS. HESSE: Yes. I would like to
2 offer into evidence the exhibits that we have
3 marked.

4 HEARING OFFICER LANGHOFF: Any objections?

5 MS. WILLIAMS: No.

6 HEARING OFFICER LANGHOFF: Then I
7 will admit Exhibits 4 through soon to be marked
8 13.

9 (Exhibit No. 13 marked
10 for identification,
11 11-14-01.)

12 HEARING OFFICER LANGHOFF: We're going

13 to take a short lunch break now. We will start
14 again in one hour at ten til. Thank you.

15 (Whereupon, further proceedings
16 were adjourned pursuant to the
17 lunch break and reconvened
18 as follows.)

19 HEARING OFFICER LANGHOFF: We're
20 back on the record. We're back from our lunch
21 break. Ms. Hesse, please call your next
22 witness.

23 MS. HESSE: Ms. Harvey is going to
24 present the next witness.

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1 HEARING OFFICER LANGHOFF: Fine.
2 Ms. Harvey.

3 MS. HARVEY: Paul Nicholson.
4 (Witness sworn.)

5 WHEREUPON:

6 P A U L N I C H O L S O N,
7 called as a witness herein, having been first
8 duly sworn, deposeth and saith as follows:

9 D I R E C T E X A M I N A T I O N
10 by Ms. Harvey

11 Q. Please state and spell your name

12 for the record.

13 A. My name is Paul C, middle initial,
14 Nicholson, spelled N-i-c-h-o-l-s-o-n.

15 Q. Where do you work?

16 A. The City of Streator.

17 Q. In what capacity, please, in the
18 City of Streator?

19 A. City manager.

20 Q. How long have you been employed by
21 the city?

22 A. Since May 8th, 2000.

23 Q. And what did you do before you were
24 employed by the City of Streator?

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1 A. I have served in three other
2 municipalities as city or village manager
3 comprising some 24 years of service in that
4 capacity.

5 Q. Are you familiar with the
6 Kimberkell project?

7 A. Yes, ma'am.

8 Q. And are you familiar with the
9 restricted status letter?

10 A. Yes.

11 Q. What is your understanding about
12 the relationship of that Kimberkell project
13 development and the restricted status letter?

14 A. It is my understanding that the
15 Kimberkell subdivision phase one, which is ten
16 subdivided and platted lots and which is
17 contiguous to unsewered Area 15 as it was
18 referred to in the consent decree was in
19 included in the letter establishing restricted
20 status classification to the city as one of
21 those which was exempted from the restricted
22 status classification.

23 Q. Was it named in that letter?

24 A. It was not. It is my understanding

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1 that that it was referred to and incorporated
2 in language which refers to unnamed residential
3 development or residences.

4 Q. Okay. Are you familiar with the
5 areas in LaSalle County that are near the
6 MacIntosh area?

7 A. Yes.

8 Q. Are those areas on septic tanks?

9 A. Those are served by septic, yes,

10 ma'am.

11 Q. What are the city's plans regarding
12 adding -- removing those areas from septic and
13 adding them to the waste treatment plant?

14 A. The city has taken the position
15 that it would like to be able to provide
16 sanitary sewer to those unincorporated
17 residences. However, we have been unable to do
18 so to date due to lack of funding and more
19 recently we are now precluded in addition due
20 to the restricted status classification that
21 the city finds itself under.

22 Q. So those areas were not exempted in
23 the restricted status letter?

24 A. They were not.

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1 Q. Okay. Can you describe the city's
2 plans for -- regarding the this \$4 million
3 bond issue and the uses of those funds?

4 A. I can. The City of Streator has
5 authorized the issuance of \$4 million in
6 general obligation alternative revenue sewer
7 bonds for the purpose of constructing
8 improvements to its wastewater treatment plant

9 and related facilities.

10 The primary focus for that
11 bond issue was first to complete sludge
12 modifications or sludge management
13 modifications at the wastewater treatment
14 plant. That initial issuance of \$920,000
15 closed on November 1st as earlier testimony has
16 pointed out.

17 A contract was signed earlier
18 this year with J.J. Henderson for that
19 construction. That construction is underway.
20 The belt filter press is in place, and the
21 building is being completed and is due to be on
22 line operational by on or about January 25th,
23 2000 (sic).

24 The second phase or

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1 approximately \$3.1 million was or is intended
2 to capitalize the construction of a vertical
3 loop reactor system, the VLR system that's been
4 referred to, or to construct other improvements
5 to the City's collection system and
6 specifically the construction of either or
7 interceptor sewers to serve the MacIntosh

8 unsewered area to the north, northwest portion
9 of the city.

10 The determination is to
11 whether those funds will be utilized to
12 capitalize VLR or trunk sewer construction will
13 be driven in large part by the rerating study
14 that the city conducted and is currently
15 pending before the Illinois Environmental
16 Protection Agency and the conclusions that the
17 Agency reaches relative to the effect of the
18 sludge management improvements versus the
19 overall picture for the operation of the
20 treatment plant.

21 Q. Okay. Earlier today we heard the
22 mayor discuss the state of the city's economy.

23 Can you give us some
24 indication of what the city is doing to attract

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1 new businesses?

2 A. The city of Streator undertook
3 beginning in approximately 1993-94 an overt
4 economic development strategy in an attempt to
5 attract new business and development and
6 redevelopment to the city.

6 That tiff district resulted in
7 the construction of a major General Motors
8 automotive development, Bill Walsh. That was
9 coupled in 1997-98 with a development --
10 redevelopment plan for a shopping -- area
11 shopping center, which was to be anchored by
12 Kroger Food Store. Kroger is out of
13 Indianapolis, Indiana, together with planned
14 and programmed additional commercial and retail
15 development in one or more phases.

16 Phase one of that additional
17 build-out is currently under construction as
18 has been referred to in testimony earlier today
19 as well. In addition, the city has partnered
20 with SACCI, with the State of Illinois
21 Department of Commerce and Community Affairs,
22 and the Governor's office at the appropriate
23 points in time to assist in attracting new
24 business to the community.

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1 Most notably in 2000, the
2 Vactor Manufacturing Corporation closed its
3 Alabama facility, consolidated its continental
4 United States operation into Streator, which is

5 its international headquarters, bringing back
6 to the City of Streator an additional 125 new
7 jobs.

8 That involved, as I've
9 suggested, a partnership wherein the city
10 utilized revolving loan funds to assist in the
11 program. The Department of Commerce and
12 Community Affairs and the Governor's Office
13 allowed Vactor to take advantage of the various
14 economic incentives that the State of Illinois
15 has available as part of its ongoing economic
16 development strategy to attract new business,
17 retain jobs, create new jobs, et cetera, in
18 those areas.

19 So, generally speaking, that
20 has been a strategy that the city has followed,
21 as I say, in a private partnership with the
22 Streator Area Chamber of Commerce Industry,
23 with the State of Illinois, which is the heart
24 of our strategy as it unfolds today.

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1 Q. Okay. Do you know how many jobs
2 might be brought by the Super 8 Motel?

3 A. We have estimated that the Super 8

4 Motel presently under construction will net in
5 terms of full-time jobs of full-time
6 equivalencies 12 to 15 additional jobs for the
7 city at that facility.

8 Q. Do you know how many jobs would be
9 available from the strip mall, the Kroger strip
10 mall?

11 A. The Kroger strip mall is somewhat
12 more problematical in developing estimates of
13 cost because some of the leased space is
14 unspecified at this time and its final
15 configuration will be determined by whom
16 executes leases, but based on what we have
17 today, seven stores, including the Blockbuster
18 video store, we are estimating that on a
19 conservative side there should be at least 50
20 to 60 additional jobs generated by those six or
21 seven stores, depending on the final makeup of
22 that commercial expansion, which is phase one
23 of the balance of that building.

24 Q. Okay. So you talked about the jobs

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1 that Vactor might provide, the Super 8 Motel,
2 the new stores in the strip mall.

3 Are there other industries or
4 commercial businesses that are looking at
5 Streator that might locate and provide jobs?

6 A. Yes, there are. Some of them are
7 either in the process of constructing at this
8 point in time and/or have been completed and
9 there are other prospective entities that are
10 considering Streator, yes.

11 Q. Are you having confidential
12 negotiations with any parties that you might be
13 able to share some generic information about
14 the kinds of jobs that might be available or
15 the number of jobs?

16 A. Yes.

17 Q. Would you like to elaborate on
18 that?

19 A. The city in partnership with SACCI
20 and with the State of Illinois is presently
21 engaged in confidential negotiations with a
22 major what I will categorize as a service
23 provider relative to the travel industry whom
24 is considering locating in Streator, which

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1 would involve the development or redevelopment

2 of existing facilities within the corporate
3 limits.

4 This is what has been referred
5 to in the local media as a Fortune 500 company,
6 which if the decision is ultimately reached and
7 the negotiations successful, will initially
8 generate 75 new jobs. Their estimates of cost
9 or rather estimates of employment up to a
10 maximum of 175 to 200 at maximum build-out or
11 development.

12 Q. Okay. From any of these new
13 businesses, are you able to project what kind
14 of tax revenues you might be seeing for the
15 city?

16 A. Yes. For example, with respect to
17 the Super 8 Motel, we project that upon full
18 operation that that unit should generate 20 to
19 \$25,000 in additional hotel/motel sales tax
20 revenue to the city. The city presently levies
21 a three percent hotel/motel taxing. Of course,
22 we only have the one unit, which was one
23 existing motel facility, which was constructed
24 some 40 years ago.

1 Relative to the commercial
2 development at Kroger Plaza, we have estimated
3 our sales tax revenues or additional sales tax
4 revenues for general operating purposes at 50
5 to \$75,000 of additional sales tax revenue that
6 would be available to the city upon completion
7 of this phase one and full operation.

8 Q. Given these potential jobs and tax
9 revenues, how would you characterize the future
10 of the City of Streator?

11 A. I would characterize the future of
12 the City of Streator as good, as sound, and
13 comparably speaking bright at this point in
14 time.

15 Q. Why is it important for Streator
16 to -- for the Board to grant this variance?

17 A. From my perspective as the city
18 manager and in my professional opinion as a
19 municipal management manager, it is critical
20 that this variance be granted in order to avoid
21 an overt action which would have the effect of
22 blunting or altogether halting the positive
23 business and economic growth and expansion that
24 we have been the beneficiary of as a

1 municipality over the last five to seven years.

2 MS. HARVEY: Thank you. That's
3 all. Thank you.

4 HEARING OFFICER LANGHOFF: Ms. Williams.

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

6 by Ms. Williams

7 Q. Mr. Nicholson, you stated you
8 started with the city in May of 2000; is that
9 correct?

10 A. Yes.

11 Q. Can you tell me if you were
12 involved in any of the discussions that were
13 held between the Agency and the city prior to
14 the restricted status determination?

15 A. I was.

16 Q. You came to the Agency to help
17 negotiate what projects would be exempted from
18 restricted status?

19 A. I was present at a meeting with the
20 Agency at which time those were discussed. I
21 wouldn't characterize it as a negotiation. It
22 was a clarification of what projects that the
23 city had, if you will, on its radar -- its
24 development radar screen at the time in order

1 to assist the Agency, from my perspective, in
2 understanding what was out there as they
3 considered whether or not to execute restricted
4 had status.

5 Q. Can you explain what you base your
6 opinion on that the Kimberkell Estates
7 subdivision was included in the exemptions?

8 A. First of all, the wording contained
9 in the restricted status letter; second, the
10 discussions that were held face-to-face, if I
11 recall, June or July, the first meeting at
12 which I was present which Agency members were
13 present in Springfield; subsequently, in one or
14 more telephone conversations between myself,
15 Mayor Schmitt, Mr. Keller, and/or or
16 Mr. Bingenheimer, as I recall those
17 discussions.

18 Q. Was the subdivision mentioned by
19 name by any chance?

20 A. My recollection is that the
21 subdivision Kimberkell, which at the time was
22 referred to as the Rinker, R-i-n-k-e-r,
23 subdivision, which was in the approval process
24 before the planning commission was the subject

1 of one of the developments that was presently
2 underway or was pending.

3 Q. A total of \$4 million was issued by
4 or approved for issuance by the city council?

5 A. Correct.

6 Q. And slightly less than a million of
7 that is going to be used on the project that's
8 being constructed currently?

9 A. Correct.

10 Q. As the city manager, did you ever
11 ask the city council to approve issuing bonds
12 that would have allowed coverage of both the
13 vertical loop reactor and connecting up the
14 remaining incentive-free projects and the new
15 homes?

16 A. Yes, I did.

17 Q. And what was the result of that or
18 can you tell us how much that would cost, I
19 guess, approximately?

20 A. No, I can't give you a specific
21 engineer's estimate of cost. The only cost
22 figure I have -- or estimate of cost that I
23 have was 1.6 or \$1.7 million, which, based on
24 what I understand, is an estimate of cost

1 preliminary to constructing the trunk or the
2 interceptor to serve that area. It did not
3 include the cost of acquisition of right of
4 way, for example, and/or the other balance of
5 the collection system.

6 What was discussed at the time
7 the \$4 million bond issue was assembled was the
8 ability of the City of Streator to utilize the
9 balance of the proceeds, the \$3.1 million, for
10 either the VLR system or the construction of
11 the trunk to serve the MacIntosh subdivision
12 and --

13 Q. You're saying it was never
14 discussed to approve enough money for both
15 projects?

16 A. No. Not in that sense, no.

17 Q. In referring to the economic
18 impacts of restricted status, you talked about
19 some plan developments including confidential
20 discussions with the Fortune 500 company?

21 A. Uh-huh.

22 Q. Can you tell us whether those type
23 of planned developments would require any
24 expansion of your sewage treatment facility?

1 A. Based on my understanding at this
2 time with respect to the specific reference you
3 make, it would not require any an expansion of
4 the sewer treatment facility.

5 Q. But it might require new
6 connections to the plant? Is that what you're
7 referring to by you're hedging a guess a little
8 bit, that there probably will be new
9 connections required, but not expansion of the
10 plan?

11 A. I'm telling you at this point in
12 time it would not require an expansion of the
13 plant based on what I understand. Two, that if
14 this is a successful negotiation, it could
15 result in a necessity for a new connection or
16 it could provide for the utilization of an
17 existing connection due to the fact that the
18 option is on the table to reutilize an existing
19 facility already connected.

20 Q. Okay. Thank you. I'm not exactly
21 sure how these things work in terms of
22 confidential negotiations with new businesses,
23 but can you tell us whether you had similar

24 discussions with the owners of the Kroger strip

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1 mall and the Super 8 Motel prior to their
2 beginning construction?

3 A. I cannot testify with respect to
4 the Kroger -- I'm sorry. Rephrase that.
5 Negotiations with respect to Kroger at what
6 point in time, initially, or the current phase
7 under construction?

8 Q. You're saying initially meaning
9 prior -- well, both. I guess both.

10 A. All right. The 1997-98 development
11 agreement was approved by a former city council
12 and involved a previous city manager. I cannot
13 testify to those negotiations. I can, however,
14 testify to the discussions relative to the
15 development, the plans, and the approvals
16 necessary for the build-out presently underway
17 pursuant to that development agreement.

18 Q. So were discussions held then?

19 A. Pardon?

20 Q. Discussions were held then with
21 Kroger?

22 A. Yes, ma'am. There were numerous

23 discussions that were held principally with the
24 Sandor Development Company, which is the

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1 developer, because it involved Kroger Foods out
2 of Indianapolis. They were also involved in an
3 ancillary function, but the primary
4 discussions, negotiations were conducted with
5 Sandor Development.

6 Q. Can you tell us when those began?

7 A. Those discussions -- the very first
8 discussions, as I recall, were the result of a
9 contact in late November or early December of
10 2000.

11 Q. Okay. So presumably you notified
12 Sandor Development of the restricted status
13 determination in September --

14 A. Pardon?

15 Q. -- of 2000?

16 I assume you notified them of
17 the restricted status determination at that
18 point?

19 A. We disclosed at the time of the
20 initial contacts with Sandor Development that
21 the City of Streator was on restricted status

22 as a result of IEPA action, correct.

23 Q. What impact did you indicate to
24 them this would have on their plans for

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1 development?

2 A. We did not speculate as to what
3 impact it would have. We disclosed to them the
4 fact that restricted status was a reality and
5 that the city was in a position where if an
6 IEPA permit was required that we would not be
7 able to extend sanitary sewer to them in all
8 likelihood.

9 Q. Did you explain to them when an
10 IEPA permit would be required?

11 A. I did not. I did not specifically,
12 no, ma'am.

13 Q. Was that issue discussed at the
14 meetings?

15 A. My recollection is that it was
16 generally discussed and that perhaps was
17 subsequently discussed with their engineers
18 and/or ours or other city officials.

19 Q. Did you hold similar discussions
20 with Mr. Sam Patel, the owner of the Super 8?

21 A. Yes, ma'am.

22 Q. And did you notify him of the
23 restricted status determination?

24 A. Yes, ma'am. The city disclosed

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1 from the initial discussions the restricted
2 status classification of the city.

3 Q. Was it discussed whether or not
4 Mr. Patel would need an IEPA permit at those
5 meetings?

6 A. Yes, it was.

7 Q. And was there a conclusion made
8 about whether or not he would need a permit?

9 A. There was ultimately a conclusion
10 reached that based on the estimated flows from
11 that proposed construction that an IEPA permit
12 would be required in all likelihood. Although,
13 candidly at the time there was confusion
14 relative to the application of the particular
15 threshold and how it was interpreted and/or
16 applied by the Agency, but our understanding
17 was that in all likelihood there was going to
18 be an IEPA permit required.

19 Q. Was it discussed whether local

20 permitting would be required as well?

21 A. In a general sense in terms of all
22 of the city's routine building and permitting
23 requirements, building, plumbing, electrical,
24 and so forth, yes, we discussed those

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1 generally. That would be routine in terms of
2 any discussion with any developer.

3 Q. In fact, the city did grant Super 8
4 a local sewer connection permit, correct?

5 A. There was a sewer connection permit
6 application that was signed by the city, that
7 is correct.

8 Q. And the fee was paid?

9 A. Yes.

10 Q. Do you ever recall telling
11 Mr. Patel that the issue of being able to
12 obtain an IEPA permit was no big deal, it would
13 be worked out, they could just go ahead and
14 build?

15 A. No.

16 Q. I believe you stated with regards
17 to the critical nature of being granted a
18 variance from the Board at this time that it

19 was necessary to avoid some sort of action that
20 would be perceived as a blunt cutting off of
21 growth to the city at this point in time,
22 correct?

23 A. Yes, ma'am, I did.

24 Q. I would assume that receiving a

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1 restricted status determination letter from the
2 Agency would similarly be a pretty blunt action
3 that would be perceived in that way as well,
4 correct?

5 A. Absolutely.

6 Q. But you didn't appeal that
7 determination at the time it was made, did you?

8 A. Would you please clarify?

9 Q. After you received the September
10 2000 determination, there was no appeal of that
11 determination taken by the city, was there?

12 A. That's not correct. We are in the
13 process of appealing that determination at this
14 this proceeding.

15 Q. So it's your testimony that this
16 proceeding is an appeal of that restricted
17 status determination that the Agency made to

18 the Pollution Control Board?

19 A. It is the net result. Following
20 the receipt of the restricted status letter,
21 the City of Streator, principally through the
22 office of the mayor, conducted a number of
23 discussions with IEPA representatives relative
24 to our ability to obtain relief.

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1 Running concurrently with the
2 restricted status letter, of course, was the
3 city's completion and submission of its basis
4 of design report for that treatment plant as
5 well, which has been the subject of earlier
6 testimony. Suffice it to say that the end
7 result of those discussions led the city to
8 conclude that in order to protect the city's
9 interest and the public health, safety,
10 and welfare that it had no alternative but to
11 seek relief in this form, IEPA petition for
12 relief in the form of a variance from the
13 restricted status designation in order to
14 enable us to complete the economic development
15 underway, but what was not provided for
16 exempted in the original restricted status

17 letter.

18 Q. So would you say that's why you
19 didn't appeal the Agency's determination at the
20 time it was made because of the exemptions
21 included in that letter?

22 A. No, I wouldn't say that at all. I
23 would say quite the contrary, that we attempted
24 to clarify whether or not there was any hope of

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1 appeal and we exhausted both at an informal and
2 formal administrative level what we believed to
3 be all of our avenues of appeal up to and
4 including face-to-face meetings with the
5 section or bureau chief relative to this
6 situation and were not successful.

7 Q. I have a couple of questions for
8 you related to the fact that in the filing
9 Streator made with the Board you signed
10 affidavits verifying the facts in each of the
11 petitions; is that correct?

12 A. Yes.

13 Q. I guess I would like to ask you
14 first a question that Ms. Liu asked of
15 Mr. Good, which is would it be your testimony

16 that the statement in the amended variance
17 petition is correct that the wastewater
18 treatment plant actually functions better with
19 higher organic loading than it does with less
20 organic loading?

21 A. I did not make that specific -- I
22 didn't reach that specific conclusion. I'm not
23 qualified as a professional to reach that
24 conclusion, but based on the information that I

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1 have from those that assembled it that I
2 approved, yes, I'm comfortable with that and
3 would testify to that effect.

4 MS. WILLIAMS: May I refer to the
5 response that was filed yesterday? Is it part
6 of the record?

7 HEARING OFFICER LANGHOFF: It is
8 part of the record.

9 MS. WILLIAMS: It is part of the
10 record.

11 BY MS. WILLIAMS:

12 Q. Do you have a copy of --

13 A. Not in front of me, I do not.

14 Q. -- the response that was filed

15 yesterday?

16 I'd just like to ask you a
17 couple questions. I haven't been able to
18 review this document very thoroughly yet, but
19 since we've got everybody here today, I want to
20 ask a couple of questions that I noticed.

21 The first one is on page
22 eight. There is a reference at the bottom of
23 the page to the dates when sludge was last
24 removed from the plant.

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1 A. Your page eight, the document page
2 number four?

3 Q. Document page eight?

4 A. Document page eight. Excuse me.

5 Q. I'm referring to the number at the
6 bottom center.

7 A. All right. Yes.

8 Q. Do you have personal knowledge of
9 whether sludge was actually removed on November
10 2nd, 5th, and 6th of this month?

11 A. Yes, I do.

12 Q. And it was removed on those days?

13 A. It was removed on though days, yes,

14 ma'am.

15 Q. And was the removal completed on
16 the 6th?

17 A. I do not know if it was completed.

18 Q. Do you know how much sludge was
19 removed from the plant?

20 A. No, ma'am, I do not.

21 Q. Who would know that?

22 A. It would be the plant operator,
23 Mr. Greg Gaarbs.

24 Q. Now, you contract out with

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1 Mr. Gaarbs' company to run the plant?

2 A. Yes, with U.S. Filter Operating
3 Systems, correct.

4 Q. Are they also responsible for
5 sludge removal?

6 A. They are not.

7 Q. That's a different contract?

8 A. That's correct.

9 Q. And who do you contract with for
10 that?

11 A. Metro-Ag, Inc.

12 Q. Have they been compliant with their

13 contract up to this point?

14 A. Not 100 percent, no.

15 Q. Can you be more specific?

16 A. There were issues relative to the
17 timeliness of their sludge removal efforts in
18 the late fall, early winter of 2000, which were
19 further -- which were complicated by, first,
20 wet weather; second, an early severe and hard
21 winter or the onset of an early hard winter,
22 which when coupled together created a situation
23 where in land -- the land that would be
24 utilized for land application could not be

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1 utilized given the climatic conditions.

2 Q. Is that the last time you had
3 problems with that company?

4 A. To the best of my knowledge, yes,
5 that was the last time there were major
6 concerns relative to Metro-Ag, compliance with
7 their contract as it related to sludge hauling.

8 Q. So their contract did not provide
9 that sludge would be removed by October of
10 2001?

11 A. I don't recall specifically if that

12 date exists in that document. I don't have it
13 in front of me. So I can't testify to it.

14 Q. I'd like you to turn your attention
15 to page 11 of the document. That's about as
16 far as I got.

17 In paragraph 31, I will skip
18 the first sentence, the second sentence says,
19 the consent decree mandates elimination of the
20 use of septic tanks within the city limits
21 because the city is underlaying with old mines
22 and the sewage has and continues to discharge
23 directly into those mines.

24 Is it your understanding that

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1 the consent decree mandates elimination of the
2 use of septic tanks in the City of Streator?

3 A. It is my understanding of that
4 consent decree that it mandates that upon the
5 ability of the city to service all areas of the
6 city with sanitary sewer and until such time as
7 we are able to do that that existing septic
8 systems can be permitted to remain in operation
9 and/or new septic systems installed if there is
10 sewer -- sanitary sewers unavailable pursuant

11 to a permit from the LaSalle County Department
12 of Health.

13 Q. If I asked you to review the
14 consent decree and show me where it talks about
15 that, would you be able to do that?

16 A. I could review it, yes, if you'd
17 like me to.

18 Q. Do you have a copy of our
19 recommendation attached --

20 A. No, ma'am, I do not.

21 Q. I'm going to refer you now to
22 Exhibit B of the Agency's recommendation, which
23 is a consent decree between the State of
24 Illinois and the City of Streator amended July

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1 1st, 1992.

2 Are you waiting for me to ask
3 another question?

4 A. I was, yes. I was waiting for your
5 initial direction.

6 Q. I was giving you time to review
7 it.

8 A. All right.

9 Q. Do you see anywhere in there where

10 it talks about mandating the removal of septic
11 tanks from Streator?

12 Does it refer instead to
13 eliminating discharge of raw sewage to the
14 mines and streams? Is that a more accurate
15 reflection of what the consent decree is
16 referring to?

17 A. It is more accurate to characterize
18 the consent decree as directly addressing
19 compliance with federal law in the elimination
20 of illegal discharges. There does not appear
21 to be any specific direct reference in this
22 document to septic systems that I see based on
23 this cursory review.

24 Q. Thank you. I have one other

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1 question. Give me just a second.

2 In several places in both the
3 original petition, the amended petition, and, I
4 believe, the response, Streator states that it
5 has consistently met its organic loading BOD
6 effluent limit.

7 Do you have any idea what an
8 organic loading effluent limit would be?

9 A. I would understand that to be a
10 calculation of organic materials or
11 concentration within an effluent discharge, but
12 that's a layman's interpretation.

13 Q. It's not your understanding that
14 loading refers to what's going into the plant
15 rather than what's coming out?

16 A. It could refer to either, as I
17 understand plant operations.

18 MS. WILLIAMS: I don't think I have
19 any other questions at this time for Mr. Nicholson.

20 HEARING OFFICER LANGHOFF: Thank you,
21 Ms. Williams. Ms. Harvey.

22 R E D I R E C T E X A M I N A T I O N
23 by Ms. Harvey

24 Q. Do you still have a copy of the

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1 consent decree?

2 A. I do.

3 Q. Would you turn to page three and
4 look at the paragraph at the top of the page
5 three, five lines down beginning additionally?
6 Could you read that out loud?

7 A. Yes. Quota, additionally, there

8 are 46 discharge locations on the sewer system
9 which discharge untreated sewage directly to
10 abandoned mine shafts underlying the city,
11 comma, during periods of heavy rainfalls,
12 period, end of quote.

13 Q. Thank you. Could you turn to page
14 12? There's a schedule of compliance --

15 A. Yes.

16 Q. -- under a paragraph labeled B.

17 A. Yes.

18 Q. Could you read that and the items
19 that are under that schedule of compliance?

20 A. Yes, I can. B, schedule of
21 compliance, paragraph, the City shall take
22 action as detailed in its municipal compliance
23 plan to construct improvements to its sewage
24 collection system and WWTP to achieve

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1 compliance with all applicable state and
2 federal laws and regulations in accordance with
3 the following schedules, colon, one, item, drop
4 shaft raising date, completed November 1, 1987;
5 two, spring flow monitoring, completed July 1,
6 1988; three, submission of basis of design,

7 completed September 1, 1988; four, submission
8 of plans and specifications, completed
9 September 1, 1989.

10 Q. If you would, like at 5H.

11 A. Yes.

12 Q. What is that item?

13 A. 5H reads specifically complete
14 construction of unsewered area 20 December 1,
15 1993.

16 Q. And then item six.

17 A. Item six, extend sewers to area
18 presently served by fragmented sewers, footnote
19 one, slash, a initiate construction, July.

20 Q. Can you read the footnote? What is
21 footnote one?

22 A. Footnote one, sewer fragment,
23 slash, sewer system is where a residence dense
24 or a group of residences are connected to a

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1 sewer pipe that is not connected to a sewage
2 treatment system, period. In the present case,
3 comma, this refers also to a sewer pipe that
4 discharged raw sewage into mine shafts beneath
5 the city, period.

6 Q. Okay. Thank you. One final -- all
7 this appears to be the same footnote. Okay.
8 Thank you.

9 Would you be able to
10 characterize the impact on the Fortune 500
11 company if the motel is not able to connect to
12 the sewage treatment plant?

13 A. Yes.

14 Q. Would you please do so?

15 A. In my opinion, I would characterize
16 the impact of a denial of connection as having
17 a significant negative impact on the manner in
18 which this prospective corporate citizen would
19 view the city of Streator in its ability to
20 attract, maintain, and sustain its economic
21 base.

22 Q. Okay. You were asked earlier about
23 whether or not the city had appealed the
24 restricted status letter?

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1 A. Yes.

2 Q. Did you pursue a legal challenge
3 either through the city attorney or through
4 hiring outside counsel to actually file an

5 appeal of the restricted status letter that
6 you're aware of?

7 A. Yes, I'm aware that we did.

8 Q. Okay. Was this challenge filed
9 before the Pollution Control Board?

10 A. Yes.

11 Q. Can you describe the nature of the
12 challenge that you're referring to?

13 A. The challenge to which I am
14 referring to which I understand is a petition
15 for a variance seeking interim relief to permit
16 the construction -- the connection of the motel
17 and the commercial development currently under
18 construction at Kroger plaza.

19 Q. Excluding the efforts to file the
20 petition for a variance, did the city file a
21 legal challenge or appeal to the restricted had
22 status letter that you're aware of?

23 A. Specifically to the restricted
24 status letter?

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1 Q. Correct, excluding the petition for
2 a variance?

3 A. I'm parceling my legal procedure,

4 and I don't know -- I can't answer the question
5 for you.

6 Q. Okay. Thank you. I'm sorry to
7 have to go back to the consent decree again,
8 but I failed to ask you the status of those
9 areas, we heard earlier the mayor discuss the
10 status of those areas that were the unsewered
11 areas, those area that were discharging
12 directly to the mine shafts.

13 Are you aware of whether or
14 not those areas have been connected to the
15 treatment plant?

16 A. If you're referring specifically to
17 the MacIntosh area, it has not been because
18 there is not infrastructure in place to which
19 they could connect. With respect to unsewered
20 Area 15, which was the last of the original
21 consent decree areas, that line has been
22 constructed and connections are currently
23 ongoing.

24 Q. Have all the areas, exclusive of

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1 the two you've just discussed that are listed
2 in that consent decree, to your knowledge, been

3 connected to the treatment plant? There is a
4 compliance schedule that you read part of.

5 A. Right. It is my understanding that
6 all of the areas contained in the original
7 consent decree, including Area 15, have been
8 connected. Unanswered Area 15 was the last of
9 those areas contained in the original consent
10 decree, and I differentiate and added the
11 amended consent decree.

12 MS. HARVEY: Okay. Thank you. No
13 more.

14 HEARING OFFICER LANGHOFF: Recross?

15 MS. WILLIAMS: No, I don't think
16 so. She clarified actually my questions
17 better.

18 HEARING OFFICER LANGHOFF: Any questions
19 from the Board's technical unit?

20 MR. RAO: I had a basic question
21 about, you know, what relief is the city
22 seeking from the Board in terms of, you know,
23 whether getting relief from restricted status?
24 Will that provide you to add as many

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1 connections as you want to the system or is

2 that for only a specific number of additional
3 connections that you are seeking relief?

4 THE WITNESS: It is my
5 understanding as a layman that the petition for
6 variance is crafted in such a manner as to seek
7 interim relief for connections for a defined
8 period of time. I think five years was the
9 time frame and/or until such time as the
10 rerating of the plant can occur within the
11 Agency and a determination made as to whether
12 or not to lift the restricted status.

13 The effect would be that if
14 our variance were granted as requested for that
15 defined time frame up to a maximum of five
16 years, we would be able to connect or to
17 provide additional connections to our sanitary
18 sewer system subject to whatever conditions the
19 Pollution Control Board may in its wisdom
20 constrain us with.

21 MR. RAO: On page four of your
22 reply, in the last paragraph at the last
23 sentence on page four, you state that if IEPA
24 is delayed in rerating the plant, IEPA has

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1 indicated it will not rerate the facility prior
2 to April 2003 was in the brackets, and then you
3 continue to say that the city requests the
4 Board to grant a variance to allow additional
5 connections as exceptions to restricted
6 status.

7 Can you please explain what,
8 you know, you're trying to state here with that
9 statement?

10 THE WITNESS: I believe that
11 paragraph nine, pages four and five, indicates
12 that given the administrative and procedural
13 time line within the Agency that at an absolute
14 minimum the City of Streator requests a
15 variance to at a minimum allow the two
16 connections that are referred to, the shopping
17 center and the motel.

18 MR. RAO: So you're saying at a
19 minimum you would like relief granted so that
20 you can add those two, you know, discharge
21 connections to your system?

22 THE WITNESS: It is my
23 understanding that at an absolute minimum. The
24 wording, however, here refers to allow

1 additional connections.

2 MR. RAO: It would be helpful if
3 you could clarify, you know, in your brief what
4 relief you're seeking as an absolute minimum
5 or, you know, if you want to make a
6 distinction, it would be helpful.

7 MS. HESSE: We will do so.

8 MS. LIU: Maybe along those lines
9 not only listing a specific additional
10 connection receiving, perhaps there's some sort
11 of a buffer that they also need to define that
12 in terms of the additional BOD load rather than
13 to connections, say, ten pounds of BOD or
14 something along those lines.

15 Good afternoon, Mr. Nicholson.
16 I have a couple of questions.

17 THE WITNESS: Good afternoon.

18 MS. LIU: Would the success of the
19 confidential negotiations that you are having
20 be threatened if the restricted status
21 remained?

22 THE WITNESS: Yes, I believe it
23 would in my opinion.

24 MS. LIU: How much extra would it

1 cost a new development to install a septic
2 system rather than to connect to a sewer?

3 THE WITNESS: I'm not qualified to
4 answer that. I do know that in the case of the
5 Kroger plaza expansion that Sandor Development
6 has characterized that additional expense.
7 It's the thousands of dollars to provide for
8 that additional or that alternative sanitary
9 sewage treatment alternative.

10 MS. LIU: So that would be a very
11 real disincentive to a developer to move to
12 your area?

13 THE WITNESS: Absolutely.

14 MS. LIU: What is the city's source
15 of drinking water, do you know?

16 THE WITNESS: The city's source of
17 drinking water is fresh potable water, the
18 principal supply being the Vermilion River,
19 which is diverted by the Illinois American
20 Water Company, a private water company which
21 provides a potable water source to the city.

22 MS. LIU: Since part of the concern
23 that the septic systems discharging into the
24 underground mines is the contamination of

1 groundwater, is there anyone in the city who
2 draws their source of water from wells?

3 THE WITNESS: Not to my knowledge
4 within the corporate limits of the city.

5 MS. LIU: To your knowledge, has
6 there been any standard evaluation done of
7 perhaps any groundwater pollution problems from
8 this?

9 THE WITNESS: From?

10 MS. LIU: From the discharge of
11 untreated sewage into the abandoned mines due
12 to the presence of septic systems.

13 THE WITNESS: The only evaluation
14 that I am personally aware of was groundwater
15 evaluation work that was done in conjunction
16 with a phase one and phase two environmental
17 assessment in connection with the city's
18 acquisition of a former manufacturing site
19 immediately adjacent to the Burlington Northern
20 Santa Fe Railroad.

21 MS. LIU: Very good. Thank you.

22 THE WITNESS: Thank you.

23 HEARING OFFICER LANGHOFF: Anything
24 further. Thank you, Mr. Nicholson.

1 THE WITNESS: Thank you.

2 HEARING OFFICER LANGHOFF: Do you
3 have anything further?

4 MS. HESSE: No further witnesses at
5 this time.

6 HEARING OFFICER LANGHOFF: Do you
7 want to take a five-minute break?

8 MS. WILLIAMS: That would be good.

9 (Break taken.)

10 HEARING OFFICER LANGHOFF: We're back
11 on the record. Ms. Williams.

12 MS. WILLIAMS: The Illinois EPA now
13 calls Roger Callaway to the stand.

14 (Witness sworn.)

15 WHEREUPON:

16 R O G E R C A L L A W A Y,
17 called as a witness herein, having been first
18 duly sworn, deposeth and saith as follows:

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

20 by Ms. Williams

21 Q. Could you state your name and your
22 title at the Agency?

23 A. My name is Roger Callaway, and I am
24 the manager of the wastewater compliance unit.

1 HEARING OFFICER LANGHOFF: Could you
2 spell your name, Mr. Callaway?

3 THE WITNESS: Callaway,
4 C-a-l-l-a-w-a-y.

5 BY MS. WILLIAMS:

6 Q. And how long have you held that
7 position?

8 A. Twenty-one years.

9 Q. What did you do before that?

10 A. I spent seven more years at the
11 Agency where I also worked in compliance.
12 Prior to that, I work for the department of
13 agriculture.

14 Q. Did you attend college before that?

15 A. Yes. I spent seven years at the
16 University of Illinois, and I got my bachelor's
17 and master's in biology fields.

18 Q. Can you tell us what the manager of
19 the wastewater compliance unit entails?

20 A. Basically, I'm in charge of the
21 detecting violations and ensuring that the
22 facility comes back into compliance on a
23 statewide basis.

24 Q. Can you give us some examples of

1 the more specific duties that you have as part
2 of your job?

3 A. I also am in charge of reviewing
4 variance petitions. I have to report to the
5 United States Environmental Protection Agency
6 on compliance and ensure them that we have
7 taken appropriate actions to get people back
8 into compliance.

9 Q. Did you review Streator's petition
10 for a variance?

11 A. Yes, I did.

12 Q. And did you contribute to the
13 Illinois EPA's recommendation, technical
14 recommendation?

15 A. Yes, I did.

16 Q. Prior to this case, have you had
17 cause to be involved with the City of
18 Streator's sewage and treatment plant as part
19 of your duties?

20 A. Yes, I have.

21 Q. Has Streator always been in
22 compliance with its NPDES permit?

23 A. No. Basically, over the last two

24 years, we have sent the City of Streator three

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1 violation notice letters.

2 Q. Can you start with the first
3 violation? Tell us what that was about.

4 A. The first violation notice was for
5 ammonia violations that occurred February,
6 March, April, and May of 2000.

7 Q. How did you become aware of these
8 violations?

9 A. By the review of discharge monitor
10 reports submitted by the City of Streator.

11 Q. How were these violations resolved?

12 A. In that particular case, the city
13 notified us that the violations were caused by
14 two sources; one, high organic loading; second,
15 it was also caused by supernatant from their
16 lime/sludge storage tank interfering with their
17 ammonia nitrifying bacteria.

18 They came back to us and told
19 us they had moved that supernatant line farther
20 up in their influent line and that was
21 resolving the problems. We did accept that
22 particular compliance commitment agreement.

23 Q. When was the next time you had
24 cause to issue the City of Streator a violation

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1 notice?

2 A. Probably the spring of 2001. That
3 was for violations, again, of ammonia, mainly
4 ammonia. There were some other violations that
5 occurred October, November of 2000 and January
6 of 2001.

7 Q. Did you meet with Streator at that
8 time to discuss the ammonia issues?

9 A. Yes, we did. We had a meeting
10 regarding that violation.

11 Q. What did Streator claim was the
12 cause of these ammonia violations?

13 A. They said there was two causes.
14 One was their inability to get sludge out of
15 the system due to wet weather and cold weather,
16 which caused a solids buildup which, again,
17 interfere with the ammonia nitrifying
18 bacteria.

19 The second cause was due to an
20 industry called Carriage House or Red Wing, and
21 in that particular case, it was due to the

22 fluctuations of the organic loading that were
23 occurring over the week versus the weekend.

24 Q. Did you eventually resolve the

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1 these violations?

2 A. Again, we entered into a compliance
3 commitment agreement with Streator where they
4 agreed to certain items. Those particular
5 items were they were going to have Carriage
6 House install an equalization tank by October
7 1, 2001. They were also going to ensure us
8 that sludge would be removed and ensure that at
9 no time would they ever exceed 90 percent of
10 capacity. They also agreed to come into
11 compliance with the NPDES permit by October 1st
12 of 2001.

13 Q. Were there any specifics provided
14 in that agreement for what Carriage House was
15 supposed to do?

16 A. Again, Carriage House was to
17 install equalization tanks.

18 Q. Are you aware if those requirements
19 have been met?

20 A. I would assume they have not in

21 that they did not apply to the EPA for a permit
22 to construct those tanks.

23 Q. Did you eventually have cause to
24 issue Streator another violation notice?

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1 A. Yes, we did. In December, we
2 issued a third violation notice to Streator as
3 well as a developer of a Motel 8. Streator's
4 and Motel 8's were due to a lack of obtaining a
5 permit from the Agency prior to construction of
6 the sanitary sewer line.

7 Q. Do you recall the date that notice
8 was sent?

9 A. I do not.

10 Q. Do you recall whether it was sent
11 before or after Streator filed for this
12 variance?

13 A. As I recall, it was filed after
14 they filed for the variance, but we were aware
15 of it prior to that.

16 Q. Would you like to tell us how you
17 became aware of the construction of the motel?

18 A. Basically, it was a newspaper
19 article that was in the Streator newspaper that

20 showed us a picture of the hotel and the
21 construction in that we could see definite
22 sewer lines had been put into concrete.
23 Therefore, we sent a permit inspector out to
24 investigate to find out if they had been

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1 actually constructed.

2 Q. What did your investigation
3 conclude?

4 A. What did that investigate
5 conclude?

6 Q. Or that's the investigation that
7 led to the violation?

8 A. That's correct.

9 Q. Did you have reason to meet with
10 either the City of Streator or the owner of the
11 Motel 8 in regards to that?

12 A. We met with both.

13 Q. Mr. Callaway, today you heard
14 testimony from the city manager and the mayor
15 and in particular the mayor's testimony which
16 indicated -- well, you heard the testimony.

17 Do you have any reason to
18 believe the mayor's testimony was incorrect

19 when he stated that he let all prospective
20 businesses know that the restricted status
21 determination had to be lifted before they
22 could move forward?

23 A. During a meeting with the developer
24 Sam Patel, P-a-t-e-l --

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1 MS. HESSE: Objection, hearsay.

2 HEARING OFFICER LANGHOFF: Any argument,
3 Ms. Williams?

4 MS. WILLIAMS: I would like him to
5 testify to what he's learned in his
6 investigation. I think it certainly is the
7 type of information that a reasonable person
8 would look at and has been allowed --

9 HEARING OFFICER LANGHOFF: I agree.
10 I'm going to overrule your objection.

11 BY THE WITNESS:

12 A. Okay. Again, during a meeting with
13 Sam Patel and the contractor, whose name was
14 Rodney Renner, R-e-n-n-e-r, they both told us
15 that the city did not inform them of restricted
16 status, the City did not inform them of the
17 need of a permit, and, in fact, informed them

18 that it was okay for them to construct, that
19 they would take care of the problems.

20 MS. WILLIAMS: I don't think I have
21 any other questions at this time for Mr. Callaway.

22 HEARING OFFICER LANGHOFF: Thank you.
23 Ms. Hesse.

24 MS. HESSE: Yes, we have some

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1 cross?

2 HEARING OFFICER LANGHOFF: Ms. Harvey
3 again?

4 MS. HESSE: Yes.

5 MS. HARVEY: Can I have a minute?

6 HEARING OFFICER LANGHOFF: Certainly.

7 MS. HARVEY: I need to get some
8 materials together.

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

10 by Ms. Harvey

11 Q. Earlier you testified that there
12 were -- the first violation notice that you
13 sent was in 2000 and over the last two years
14 there were three violation notice letters that
15 you sent; is that right?

16 A. That's correct, over the past two

17 years.

18 Q. Over the past two years.

19 Were there any violation
20 notices prior to those, to your knowledge?

21 A. To my knowledge, no.

22 Q. To your knowledge, has IEPA ever
23 issued a violation notice for BOD effluent,
24 violation of BOD effluent limitations?

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1 A. None to my knowledge, no.

2 Q. If we turn to that first letter,
3 you said that the -- there was a notice of
4 violations of ammonia; is that right?

5 A. Correct.

6 Q. And you determined that from a
7 review of the DMRs?

8 A. That's correct.

9 Q. You also testified that as a result
10 of those -- that violation letter that the City
11 of Streator sent you a compliance commitment --
12 a compliance commitment plan?

13 A. Yes.

14 Q. That leads to a compliance
15 commitment agreement; is that correct?

16 A. That is correct.

17 Q. I think you testified earlier that
18 IEPA accepted that compliance commitment
19 agreement for the City of Streator?

20 A. That's true.

21 Q. Okay. Turning to the second
22 violation, you said that there was a second
23 violation issued due to ammonia violations
24 October, November, and January of 2000?

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1 A. Correct.

2 Q. Was there, again, a compliance
3 commitment agreement submitted by the City of
4 Streator?

5 A. Yes, there was.

6 Q. Was that accepted by the IEPA?

7 A. Yes, it was.

8 Q. Okay. A third notice of violation
9 you said was for a sewer connection; is that
10 right?

11 A. That's true, for the Motel 8.

12 Q. And that there was -- that you
13 became aware of that connection through an
14 investigation?

15 A. Through a newspaper article
16 followed by an investigation.

17 Q. Okay. Were you present -- you also
18 testified that the city -- the motel owner and
19 the city had a conversation. The city -- you
20 testified that the motel owner told you the
21 city did not tell them of the need for a
22 permit?

23 A. That's true.

24 Q. Were you present at the

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1 conversation, that conversation between the
2 city and the motel owner?

3 A. No, I wasn't.

4 Q. Did you witness the connection of
5 the sewer to the mainline sewer for the city?

6 A. No.

7 Q. Okay. Part 309 of the Illinois
8 Environmental Protection Code titled 35 IAC
9 Part 309 governs permits.

10 A. Uh-huh.

11 Q. Section 309.202 governs
12 construction permits.

13 Would those be the type of

14 permits that an owner would need to acquire if
15 they wanted to connect -- to get sewer --
16 connect a sewer to a sewage treatment plant?

17 A. That's correct.

18 Q. Could you read Section 309.202
19 through paragraph a?

20 A. Except for treatment works or
21 wastewater sources which have or will have
22 discharges for which NPDES permits are required
23 and for which NPDES permits have been issued by
24 the Agency, no person shall cause or allow the

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1 construction of any treatment works, sewer, or
2 wastewater sewers or cause or allow the
3 modification of any existing treatment works,
4 sewer, or wastewater sewers without a
5 construction permit instituted by the Agency
6 except -- is that all.

7 Q. Yes. Thank you. Because this
8 starts out with except or treatment works which
9 have or will have discharges for which NPDES
10 permits are required, would this section apply
11 to the City of Streator?

12 A. We're in an argument right now that

13 we are negotiating among --

14 HEARING OFFICER LANGHOFF: Sorry,
15 Mr. Callaway. The court reporter can't hear
16 you.

17 THE WITNESS: Oh, I'm sorry.

18 HEARING OFFICER LANGHOFF: Would you
19 speak up a little?

20 BY THE WITNESS:

21 A. You are talking about something
22 right now that's in an ongoing enforcement case
23 between the city and the EPA, and right now
24 they have submitted to us a letter, again,

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1 trying to get a compliance commitment agreement
2 out of the Agency in regards to this.

3 The Agency has not yet
4 responded to that letter. Thus, I don't feel
5 comfortable in answering any questions right
6 now because that will be specifically our
7 answer to the letter. I don't know. We need
8 to go back and review the letter and make a
9 determination if that thing is going to go, and
10 that quote is in your letter too.

11 BY MS. HARVEY:

12 Q. Actually, I just asked you to read
13 from regulations.

14 HEARING OFFICER LANGHOFF: Well, Ms. Harvey,
15 you did ask him a question about the interpretation
16 of the regulation.

17 MS. HARVEY: Yes.

18 THE WITNESS: I don't feel
19 comfortable --

20 HEARING OFFICER LANGHOFF: His answer
21 was I don't know after an explanation, and you
22 can ask Mr. Callaway another question.

23 MS. HARVEY: Okay.

24 BY MS. HARVEY:

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1 Q. Does the City of Streator have an
2 NPDES permit?

3 A. Yes, they do.

4 Q. Okay. Was 303.202 construction
5 permits the regulation that you cited in the
6 violation notice letter that you sent to the
7 City of Streator, the third one that you talked
8 about earlier today?

9 A. I would have to see it. I don't
10 know.

11 MS. HARVEY: Can I have a copy of
12 the violation notice?

13 BY MS. HARVEY:

14 Q. Does this refresh your recollection
15 of the violation notice that was sent to the
16 city regarding the sewer connection?

17 A. Yes, it does.

18 Q. Could you identify the violation
19 that you noted that the city violated?

20 A. Violation is failure to obtain an
21 Illinois EPA construction permit prior to
22 construction.

23 Q. Is there a regulation and a statute
24 cited?

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1 A. Yes. We cited both Section 12(c)
2 of the Act as well as 35 Illinois
3 Administrative Code 309.202(a).

4 Q. Is that the same regulation that
5 you just read from?

6 A. Yes, it is.

7 Q. Thank you.

8 MS. HARVEY: May I have a moment?

9 HEARING OFFICER LANGHOFF: Sure.

10 MS. HARVEY: I'm finished.

11 HEARING OFFICER LANGHOFF: Thank
12 you. Ms. Williams, redirect?

13 R E D I R E C T E X A M I N A T I O N
14 by Ms. Williams

15 Q. It might be useful just to clarify
16 real quickly for everyone about we referred to
17 the term violation notice.

18 Could you maybe explain a
19 little bit for everyone the enforcement, just
20 real briefly, the enforcement process under
21 Section 31 of the Act?

22 A. Okay. Pursuant to Section 31 of
23 the Act, the Agency must issue a violation
24 notice when we become aware of a violation

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1 within 180 days of that aware date. In this
2 particular case, we did issue a violation
3 notice because we were aware of the violations,
4 and following the violation notice, the city
5 then has the opportunity to respond back to us
6 in writing in attempting to resolve the
7 violations in terms of a compliance commitment
8 agreement.

9 If we can get that resolved,
10 then we have an agreement between both the
11 Agency and the city. If we do not get that
12 resolved, then the Agency has the opportunity
13 going the next step, which would be a notice of
14 intent to pursue legal action. At that
15 particular time, we'd probably meet with the
16 city and try to negotiate a settlement or an
17 agreement to try to resolve this. If, again,
18 we couldn't get an agreement, in all
19 likelihood, the Agency would go to the attorney
20 general's office and file a formal complaint.

21 Q. And since you've been in your
22 position as manager of the wastewater
23 compliance section, has this always been the
24 process?

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1 A. It's been the process since August
2 of 1996.

3 Q. Prior to that time, did the Agency
4 issue violation notices?

5 A. No, we did not. We issued what was
6 called compliance inquiry letters followed by
7 pre-enforcement conference letters.

8 MS. WILLIAMS: Thank you. That's
9 all I have.

10 HEARING OFFICER LANGHOFF: Any
11 recross, Ms. Harvey?

12

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

14 by Ms. Harvey

15 Q. If Streator constructed a motel,
16 the City of Streator constructed a motel, would
17 that motel be a source of discharge?

18 A. Again, I think you're asking me for
19 an interpretation. I'm not a regulatory
20 attorney. I don't feel comfortable in
21 answering this.

22 Q. If any entity constructed a motel,
23 would that motel -- one that would connect to a
24 treatment plant, would that motel be a source?

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1 A. Would that motel be a source? I
2 would say probably yes.

3 MS. HARVEY: Okay. Thank you.

4 MS. WILLIAMS: One follow up.

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

6 by Ms. Williams

7 Q. Did the City of Streator construct
8 this motel?

9 A. Did the city construct it? No.

10 MS. WILLIAMS: Thank you.

11 HEARING OFFICER LANGHOFF: Ms. Williams?

12 MS. WILLIAMS: Nothing.

13 HEARING OFFICER LANGHOFF: Anything from
14 the Board's technical unit?

15 MS. LIU: Good afternoon, Mr. Callaway.

16 THE WITNESS: Good afternoon.

17 MS. LIU: What would be the outcome
18 if the Agency were to file a formal complaint
19 due to this violation?

20 THE WITNESS: If we filed a formal
21 complaint with the attorney general's office?

22 MS. LIU: (Nodding head.)

23 THE WITNESS: The outcome could be
24 several things, possibly a settlement

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1 agreement. If the City is not willing to
2 settle, I would assume we would be in some kind
3 of -- in front of some kind of court or a judge
4 journal and he would make a final
5 determination.

6 MS. LIU: What would a settlement
7 agreement involve? Would it be a fine or would
8 be some sort of agreement as to what they could
9 do to improve things?

10 THE WITNESS: I would think in this
11 particular situation it would definitely
12 involve a penalty, okay, if it went that far.
13 Beyond that, I don't know.

14 MS. LIU: Would you or the
15 wastewater compliance unit be the one who would
16 be reviewing the city's report to rerate the
17 plant?

18 THE WITNESS: No.

19 MS. LIU: Do you know who of your
20 colleagues here today would be doing that?

21 THE WITNESS: Yes. That would be
22 the permitting section, both gentlemen that you
23 still have here.

24 MS. LIU: Okay. Thank you very

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1 much.

2 HEARING OFFICER LANGHOFF: Is that
3 all? Okay. Thank you, Mr. Callaway.

4 THE WITNESS: Thank you.

5 HEARING OFFICER LANGHOFF: Off the
6 record.

7 (Discussion had
8 off the record.)

9 MS. WILLIAMS: I'd like to call
10 Gary Bingenheimer to the stand.

11 (Witness sworn.)

12 WHEREUPON:

13 G A R Y B I N G E N H E I M E R,
14 called as a witness herein, having been first
15 duly sworn, deposeth and saith as follows:

16 D I R E C T E X A M I N A T I O N
17 by Ms. Williams

18 Q. Could you state your name and title
19 at the Agency?

20 A. My name is Gary Bingenheimer,
21 B-i-n-g-e-n-h-e-i-m-e-r. I'm a permit
22 engineer.

23 Q. How long have you held that
24 position?

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1 A. I've held that position for five
2 years. Prior to that, I was in the bureau of
3 air in their compliance section for one year.

4 Q. And before that?

5 A. Prior to that, I was with the
6 Association of Illinois Electrical Cooperatives
7 for five years in their engineering
8 department. Prior to that, I received my
9 bachelor of science degree from SIU, Southern
10 Illinois University in Carbondale in electrical
11 engineering.

12 Q. Could you describe a little bit
13 about what a permit engineer's duties are in
14 the bureau of water?

15 A. We review permit applications that
16 deal with wastewater treatment and conveyance,
17 construction permits for sanitary sewers. We
18 also deal with NPDES permits dealing with
19 discharges by the wastewater treatment plants.
20 We review engineering reports, basis of the
21 design, and documents that back up the request
22 for the issuance of those permits.

23 Q. Did you review Streator's petition
24 for a variance as well?

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1 A. Yes.

2 Q. And did you contribute to the

3 Illinois EPA's technical recommendations?

4 A. Yes.

5 Q. Are you familiar with the City of
6 Streator's NPDES permit?

7 A. Yes, I am.

8 Q. Did you write the current permit?

9 A. I was responsible for the renewal
10 of that permit, which was issued in March of
11 2000.

12 Q. Does that document address the
13 organic loading to the treatment plant?

14 A. No. The NPDES permit does not
15 stipulate the organic loading to the treatment
16 plant. That is done in the construction
17 permit. The NPDES permit stipulates the
18 effluent standards which the treatment plant
19 must meet.

20 Q. Do NPDES permits ever limit organic
21 loading into a treatment plant?

22 A. No. That's -- again, that's done
23 by the issuance of the construction permit
24 which deals with the design capacity, the

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1 permitted design capacity, of the treatment

2 plant. The hydraulic rating of the plant is in
3 the NPDES permit only as to show the vehicle
4 for which the effluent limits are calculated.

5 Q. To your knowledge, has Streator
6 been in compliance with the effluent limits in
7 its NPDES permits?

8 A. I'm aware that there have been
9 numerous violations of their NPDES permit over
10 at least the last two years.

11 Q. Do you still have a copy of the
12 recommendation in front of you?

13 A. I don't -- No, I do not.

14 (Document tendered.)

15 BY MS. WILLIAMS:

16 Q. I'd like you to turn your attention
17 to Exhibit D.

18 A. D as in dog.

19 Q. D as in dog.

20 Can you tell us what this is?

21 A. That is a summary of some of the
22 information contained on Streator's monthly
23 discharge monitoring report that I compiled
24 from those DMRs.

1 Q. So you created this document?

2 A. Yes, I did.

3 Q. Can you explain what it indicates
4 with regards to Streator's compliance status?

5 A. On the right-hand side of the page,
6 the last three columns there, are their
7 reported effluent numbers from July of '99
8 through July of 2001. Those are the monthly
9 average numbers that were reported for effluent
10 BOD ammonia and suspended solids and in the
11 areas that are shaded in gray were the
12 violations of those monthly average numbers.

13 Q. Somewhere does your document
14 indicate violations of daily maximum
15 limitations as well?

16 A. The sentences at the bottom of that
17 page spell out the several violations of the
18 daily max ammonia limits which occurred. There
19 is different limitations during the summer
20 period and the winter period. So the
21 different -- the different violations are noted
22 there.

23 Q. According to this document, when
24 was the most recent violation by Streator of

1 its NPDES permit?

2 A. According to this document, it was
3 April of 2001.

4 Q. Do you have reason to believe that
5 might not be the most current information?

6 A. Yes. I don't have the daily
7 maximum numbers on here, but there was a
8 violation of their daily maximum in July 2001,
9 which is on their DMR which I did not indicate
10 on this page.

11 Q. Did you participate in the Agency's
12 determination to place Streater on restricted
13 status?

14 A. Yes, I did.

15 Q. Can you describe a little bit about
16 how that determination was made?

17 A. When we analyze a facility for
18 restricted status, we take a look at the last
19 12 months of data that they provide on their
20 discharge monitoring reports. Restricted
21 status -- a facility is eligible for restricted
22 status if their hydraulic loading to the plant
23 over the last 12 months, if the average of the
24 three loads of those flows is over 100 percent

1 of their permitted design hydraulic capacity,
2 they can be placed on restricted status.

3 If the average of the last 12
4 months of their organic loading is over the
5 permitted design capacity of that plant, they
6 can be placed on restricted status as well, and
7 I did an analysis. The first analysis that was
8 done was for data from October of '98 through
9 September of '99, which led to us sending out a
10 pending restricted status letter to Streator.

11 Q. Following sending out the pending
12 restricted status letter, did you then have
13 discussions with Streator about --

14 A. Yes. It's normal procedure to
15 offer a meeting to the facility. A meeting was
16 held to discuss the problem and possible
17 solutions. Between the time of that initial
18 letter that we sent to the city and the final
19 restricted status letter, we held three
20 meetings with the city. They responded twice
21 in writing to us.

22 We also held a conference call
23 with the city. We sent them another pending
24 restricted status letter at one point and then

1 we finally issued a restricted status letter in
2 September of 2000.

3 Q. Do you recall who was present from
4 the city at those discussions?

5 A. Numerous different people
6 throughout the meetings. I can go through them
7 all and tell you if you'd like, but the mayor,
8 I believe, was present at all the meetings.
9 Mr. Nicholson, the current city manager, was
10 only present at the last meeting, and he was
11 also there are for the conference call.

12 There were two subsequent city
13 managers at the first two meetings. Also, Greg
14 Gaarbs, the treatment plant operator was
15 present, I believe, at at least two of the
16 meetings and the conference call, and Dick
17 Fish, who worked with the public works
18 department, was present at at least the first
19 two meeting. He's no longer with the City of
20 Streator.

21 Q. Can you explain a little bit about
22 what concerns on the City's behalf were
23 discussed at those meetings?

24 A. Well, they obviously did not --

1 restricted status -- when you're placed on
2 restricted status, the Agency will not issue
3 construction permits to connect any additional
4 sewers, and that was one of their main concerns
5 obviously.

6 We discussed with them a
7 possible development that had been on the
8 drawing board for quite sometime and things
9 that were in the consent decree that were
10 ordered by the court and there were three areas
11 that were agreed to by both parties to include
12 in their restricted status letter that we would
13 agree to go ahead and issue construction
14 permits for once the city was placed on
15 restricted status.

16 Q. Do you recall the Kimberkell
17 Estates being discussed in any of those
18 meetings?

19 A. No. I went through my notes as
20 we've been discussing this and I don't find any
21 mention and I don't have any recollection of
22 Kimberkell Estates being discussed.

23 Q. Do you recall Rinker? Was that the
24 name? There was another name provided by the

1 city manager.

2 A. I don't recall that name either.

3 Q. Were you responsible also for
4 accepting a plan to remove Streater from
5 restricted status?

6 A. We approved a preliminary
7 engineering report which basically outlined
8 construction projects and modifications to the
9 plant which when implemented would increase the
10 permitted design organic capacity of the plant
11 up to a level of 8100 pounds BOD a day which
12 would allow them to be removed from restricted
13 status once all the modifications in that
14 report were implemented.

15 I believe we had several
16 discussions back and forth, and we sent them a
17 letter approving that report which outlined
18 exactly the steps which needed to be taken.

19 Q. Is that letter Exhibit E in the
20 recommendations?

21 A. Yes, approval of basis of design.

22 Q. Can you describe the major
23 components of the basis of design that you

24 approved?

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1 A. The major component was the
2 vertical loop reactor, the VLR, which would
3 assist the treatment plant in handling the
4 organic capacity that they had been seeing.
5 They also needed to increase their sludge
6 storage and processing capability.

7 We agreed to -- I don't know
8 if it was stated specifically in here. The two
9 meter belt filter press was specified and then
10 the capacity of that belt filter press.

11 Q. Is there other components of that
12 beyond the two major technical pieces of
13 equipment?

14 A. Well, it's a requirement to have
15 150 days of sludge storage on site, which in
16 their report they were shy of that storage
17 capability. So we outlined in the letter that
18 they were going to have to landfill, and we
19 stipulated in here that they would have at
20 least one week's worth of sludge storage beyond
21 what was there so that they could -- if the
22 belt filter press ever needed to be taken out

23 of service for repairs, they would have a
24 little bit of a cushion to get it fixed while

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1 they were getting back to landfilling their
2 sludge, the necessary.

3 Q. And was there also an air
4 requirement?

5 A. Yes. Due to the tremendous organic
6 loading that they had seen prior to being
7 placed on restricted status, we -- since the
8 ability to supply air is so vital to the
9 treatment process, we stipulated that they
10 would be able to provide enough air to account
11 10,000 pounds of BOD per day, which they had
12 seen on numerous occasions.

13 Q. Gary, would you approved this
14 report if the vertical loop reactor and this
15 basis of design had not been -- if the vertical
16 loop reactor had not been included?

17 A. No. That's what allowed them to --
18 allowed us to rerate the plant up to 8100
19 pounds per day. Their current oxidation ditch
20 could not handle that amount without the
21 additional capacity of the vertical loop

22 reactor.

23 Q. And if this plan is implemented,
24 what would be the result for Streator?

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1 A. If they would proceed to implement
2 everything in this basis of design, they would
3 be able to be taken off restricted status.

4 Q. Are you aware of whether Streator
5 has begun implementing parts of this plan?

6 A. They currently have a permit
7 application submitted to us for the two meter
8 belt filter press, and we're in the process of
9 hopefully issuing that permit soon. I'm not
10 aware of any progress towards implementing any
11 other part of it.

12 Q. Can you take a look for me at
13 Exhibit G of the Agency's recommendation?

14 A. Okay.

15 Q. Do you know what this is, this
16 exhibit?

17 A. These are three drafts. Each one
18 represents a month's worth of organic effluent
19 from Red Wing this. This is what would have
20 been Red Wing Corporation's contribution to the

21 Streator collection of the sanitary sewer
22 collection system which would have been seen at
23 the plant.

24 Q. Are you aware of who prepared these

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1 charts?

2 A. The data for these was provided to
3 me by Chuck Corley of our field office.

4 Q. Did he do the chart from the data?

5 A. I created the chart.

6 Q. You created the chart.

7 Do you know where the data was
8 obtained from?

9 A. Chuck was provided the data by Greg
10 Gaarbs, the treatment plant operator of
11 Streator.

12 Q. You tell us by reviewing this chart
13 what the high and the low figures are in pounds
14 per day, approximately?

15 A. The highest one out of these three
16 months was -- it was over 24,000 pounds per
17 day. The lowest number was probably zero,
18 which it was, in fact, zero. I don't
19 believe -- the normal operations, from what I

20 understand, at Red Wing were to cease on the
21 weekend. They didn't contribute on the
22 weekends. Although, I guess they're trying to
23 remedy that.

24 Q. These figures, though, this data

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1 was collected since Red Wing has begun?

2 A. I'm not sure of Red Wing's --
3 what's going on there. I couldn't say one way
4 or the other for sure.

5 MS. WILLIAMS: Thank you. I don't
6 have any other questions for this witness.

7 HEARING OFFICER LANGHOFF: Cross?

8 MS. HESSE: Yes.

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

10 by Ms. Hesse

11 Q. Mr. Bingenheimer, you earlier you
12 mentioned that you were aware of violations of
13 the permit limits from the Streater sewage
14 treatment plants effluent limits?

15 A. Yes.

16 Q. Were there any violations of the
17 CBOD limit?

18 A. No.

19 Q. In your discussions with the City
20 of Streator with respect to restricted status,
21 do you recall discussing a subdivision by the
22 name of MacNamee?

23 A. MacNamee?

24 Q. MacNamee.

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1 A. No. I can check my notes, but the
2 name doesn't --

3 Q. Do you recall --

4 A. MacIntosh, yes.

5 Q. Do you recall discussing areas that
6 were not yet named?

7 A. Yes.

8 Q. Could it be possible that this
9 Kimberkell Estates could have been one of those
10 named areas?

11 A. Based on the maps which were
12 submitted in a letter from Streator during the
13 negotiation which outlined the areas and then
14 the permit application which I reviewed, it did
15 not appear to be the same two areas.

16 Q. But you can't be positive; is that
17 correct?

18 A. Ninety-nine percent positive.
19 Q. But there's a one percent --
20 A. A one percent chance.
21 Q. You mentioned a letter that was
22 sent to the City of Streator approving the
23 report that was prepared by U.S. Filter and
24 Raymond Beling?

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1 A. Say that again. I'm sorry.
2 Q. There was a letter that was sent to
3 the City of Streator, the approval of basis of
4 design letter?
5 A. Yes.
6 Q. When was that sent?
7 A. Approximately, March of 2001. The
8 copy that I have was not dated.
9 Q. Mine wasn't either.
10 So this letter was basically
11 sent to the City of Streator, let's see, March
12 would have been, what, about seven months ago?
13 A. Uh-huh.
14 Q. Is it your understanding that
15 Streator has already applied to construct a
16 portion of this that was approved?

17 A. Yes.

18 Q. And then submitted permits --
19 permit applications to yourself?

20 A. A permit application was submitted
21 for the two meter belt filter press.

22 Q. Typically, when you approve for a
23 municipality a basis of design, how long does
24 it typically take until the municipality begins

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1 letting contracts, approving bonds, and
2 submitting applications for permits?

3 A. It could be -- it could be
4 immediately. It could be years. From the time
5 we approve it, it could be immediately. It
6 could be years. It depends on if they're ready
7 to go to bid, and it depends on if that project
8 ever sees the light of day.

9 Q. Would you say that Streator has
10 acted quickly with respect to getting the belt
11 filter press and addressing some of the
12 Illinois EPA's concerns with its effluent?

13 A. I would say that once they receive
14 their permit, they appear to be ready to go
15 with the belt filter press.

16 Q. But before they can be ready to go,
17 they have to let bids to construct it, correct?

18 A. I believe so.

19 Q. They have to construct it, correct?

20 A. Correct.

21 Q. And they need a permit from the
22 Illinois EPA, correct?

23 A. Correct.

24 Q. And all at that takes a bit of

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1 time, doesn't it?

2 A. Yes.

3 Q. Okay. You mentioned earlier that
4 you had participated in the preparation of the
5 Agency's recommendation, correct?

6 A. For?

7 Q. For Streator's request for a
8 variance.

9 A. Oh, yes, yes.

10 Q. And isn't it true in that report
11 that there is an indication in there that based
12 on the belt filter press alone that IEPA would
13 consider rerating the plant at 6700 pounds per
14 day?

15 A. It's possible that we would
16 consider rerating the plant. The 6700 number I
17 would not agree or commit to at this time. The
18 actual number would be based on operational
19 data that the city would have to submit that
20 was for a time period when they did not violate
21 their NPDES permit.

22 Q. But it's your impression based on
23 the information you've seen that it might be
24 possible to rerate the City of Streator at that

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1 level?

2 A. Again, if the NPDES permit were not
3 violated and they submitted data to us that
4 showed that the plant was operating at that
5 6700 number, it's possible that it could be
6 rerated.

7 Q. Going back to try to clarify
8 something, from the time that Illinois EPA
9 approves the basis of design, even for those
10 municipalities that are moving on an expedited
11 basis, how quickly does it typically take until
12 they've been able to complete a construction
13 project such as that as Streator submitted to

14 IEPA?

15 A. I can go off what Larry Good
16 testified to early. I think he mentioned once
17 approval is granted, anywhere from a year to a
18 year and a half, but I don't know if we're
19 talking apples and apples. I'm not sure --

20 Q. I'm not asking you to restate what
21 Larry said. I'm just asking if you have
22 personal knowledge.

23 A. I don't have much experience with
24 the bidding process and the actual designing of

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1 it and what all goes into things that may or
2 may not affect how long that takes.

3 MS. HESSE: No further questions.
4 Thank you.

5 HEARING OFFICER LANGHOFF: Anything
6 further, Ms. Williams?

7 MS. WILLIAMS: Just one question, I
8 think.

9 R E D I R E C T E X A M I N A T I O N
10 by Ms. Williams

11 Q. With regard to the projects
12 exempted from restricted status, if a project

13 was named at that time, was the name included
14 in your letter?

15 A. If it was named in discussions we
16 had with the city or there was a letter that
17 the city sent us describing the areas, then it
18 was included in our letter back to the city.

19 Q. And it was unnamed or -- well, let
20 me rephrase that.

21 With regard to the unnamed
22 projects you stated, I believe, did you compare
23 what you received from the Kimberkell Estates
24 to the unnamed projects?

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1 A. Yes. The unnamed projects, there
2 were two maps provide to us by the city which
3 showed areas which didn't have names per se as
4 far as being a subdivision or even a local name
5 that it would be called. I went by the streets
6 that were on those maps and nowhere were those
7 streets similar or near what was on the
8 Kimberkell Estates streets.

9 Q. And was anything else submitted
10 with that application to help you identify it
11 as an exempted project?

12 A. No.

13 Q. Are you aware if the city had had
14 begun to implement the project approved in your
15 letter would there be any relief available to
16 new users desiring to connect to Streator's
17 plant in the interim between their beginning
18 and completion of that project?

19 A. We could issue them a construction
20 permit which would allow them to proceed with
21 construction to save them time, but until the
22 restricted status was lifted, I believe we
23 couldn't issue an own and operate permit.

24 Q. So is it true that because Streator

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1 has chosen to implement only part of that plan
2 we're unable to issue construction only permits
3 to new --

4 A. Yes.

5 Q. -- users?

6 A. At this time, we haven't been given
7 anything that would show that they're going to
8 modify the plan to a level that would allow it
9 to be taken off of restricted status.

10 MS. WILLIAMS: Thank you. That's

11 all I have.

12 HEARING OFFICER LANGHOFF: Ms. Hesse.

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

14 by Ms. Hesse

15 Q. Mr. Bingenheimer, do you know how
16 many homes are located in Kimberkell Estates at
17 this time?

18 A. From discussions today, I was told
19 there was one home and 50 or 51 acres that are
20 going to be developed.

21 Q. Is it typically Illinois EPA's
22 practice to require a construction permit for a
23 single home?

24 A. No.

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1 MS. HESSE: That's all I have.

2 HEARING OFFICER LANGHOFF: Anything
3 further?

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

5 by Ms. Williams

6 Q. Can you explain what type of
7 construction permit was submitted to you from
8 Kimberkell Estates?

9 A. The permit app at that came in for

10 Kimberkell Estates was for an extension of a
11 public line which would was intended to serve
12 ten single family homes. That's the
13 application form that was submitted.

14 Q. If the extension of the public line
15 was to serve a single home, would that require
16 a permit?

17 A. Yes.

18 MS. WILLIAMS: Thank you.

19 HEARING OFFICER LANGHOFF: Ms. Hesse.

20 MS. HESSE: Nothing further.

21 HEARING OFFICER LANGHOFF: Anything from
22 the Board's technical unit?

23 MS. LIU: Good afternoon, Mr. Bingenheimer.

24 THE WITNESS: Good afternoon.

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1 MS. LIU: In your letter approving
2 the basis of design, how did you come up with
3 the figure 8100 pounds of BOD per day as the
4 design capacity?

5 THE WITNESS: The 8100 number was
6 suggested by the engineer. It was also, I
7 believe, agreed to in discussions with our
8 staff as that would be a level higher than what

9 they had seen which led them to be placed on
10 restricted status.

11 MS. LIU: When you refer to the
12 engineer, which engineering firm are you
13 referring to?

14 THE WITNESS: That particular
15 report was submitted by a Raymond Beling &
16 Associates.

17 MS. LIU: Would you be the one who
18 would be reviewing the report to rerate the
19 plant?

20 THE WITNESS:

21 MS. LIU: In the city's response to
22 the Agency's recommendation, on page four at
23 the bottom, and we had mentioned it earlier, it
24 says at that IEPA has indicated it would not

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1 rerate the facility until April 2003.

2 Do you happen to know where
3 they got that information?

4 THE WITNESS: I can't speak for
5 them, but I believe they meant April 2002. At
6 that time one time, there were discussions that
7 were held that said that we would need 12

8 months' worth of data, actual operational data
9 from the plant for a time period where there
10 were no violations of their NPDES permit.

11 At that time, the last
12 violation that we were aware of was April of
13 2001. I think that's where the April of
14 2000 -- and I believe it should have been '02
15 date came from.

16 MS. LIU: I know that they've only
17 just recently submitted their report to have
18 the plant rerated.

19 Could you perhaps give an
20 estimate of how long it might take to review
21 that and come back with --

22 THE WITNESS: I'm always getting
23 asked that by my boss. I couldn't hazard a
24 guess. It's possible that it could be

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1 completely reviewed in the next month or two.
2 I haven't had a chance to give it much of a
3 look yet.

4 MS. LIU: You mentioned that you
5 wouldn't really consider rerating it until you
6 have 12 months of good data that shows that it

7 hadn't exceeded their permit limits.

8 Is that an Agency policy?

9 THE WITNESS: It's kind of a
10 guideline, and the reason for the 12 months is
11 we want to see them go through a full cycle of
12 seasons, and the other reason is there are
13 different ammonia limits for the winter and
14 the summer periods. So we like to see
15 compliance for both of those seasons to see
16 that the plant can handle that on a consistent
17 basis.

18 MR. RAO: Mr. Bingenheimer, you
19 mentioned that you look at the 12 months of
20 data to see whether the plan is in compliance.

21 Will you be looking at just
22 BOD5 or also will you be looking at whether the
23 plant is complying with ammonia standards --

24 HEARING OFFICER LANGHOFF: I'm sorry,

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1 Anand. The court reporter didn't hear you.

2 MR. RAO: I just want to know
3 whether when you prepare the data whether you
4 will be looking at BOD5 or, you know, ammonia
5 also during that 12-month period?

6 THE WITNESS: We look at the whole
7 ball of wax. We want to see that, again, we're
8 comparing apples to apples, and that data
9 that's submitted to request in this cause, an
10 organic rerate of the plant, isn't deficient in
11 some other area, whether you increase the
12 organic capacity of the plant, we want to make
13 sure that the sludge handling -- can handle
14 that, the entire plant from one end to the
15 other basically.

16 MR. RAO: Since we are talking a
17 lot bout rerating the plant, just for the
18 record, you know, would it be possible for you
19 to explain what the procedure is. I was
20 wondering if somebody is going to explain
21 that. Thank you.

22 HEARING OFFICER LANGHOFF: Anything
23 further?

24 MS. LIU: I just had one last

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1 question, and I'm not sure if you'd be able to
2 address it or not.

3 Are you aware of any
4 groundwater problems in the area that might be

5 due to septic system discharges?

6 THE WITNESS: I'm not aware of any,
7 no.

8 MS. LIU: Thank you.

9 HEARING OFFICER LANGHOFF: Thank
10 you, Mr. Bingenheimer. Let's go off the record
11 for a second.

12 (Discussion had
13 off the record.)

14 HEARING OFFICER LANGHOFF: We're
15 going to recess. It's 4:13 in the afternoon.
16 We'll be back tomorrow morning at 9:00
17 o'clock. Thank you.

18 (Whereupon, these were all
19 the proceedings held in the
20 above-entitled matter.)
21
22
23
24

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)

3

4 I, GEANNA M. IAQUINTA, CSR, do
5 hereby state that I am a court reporter doing
6 business in the City of Chicago, County of
7 Cook, and State of Illinois; that I reported by
8 means of machine shorthand the proceedings held
9 in the foregoing cause, and that the foregoing
10 is a true and correct transcript of my
11 shorthand notes so taken as aforesaid.

12

13

14 _____
15 GEANNA M. IAQUINTA, CSR
16 Notary Public, Cook County, IL
17 Illinois License No. 084-004096

16

17 SUBSCRIBED AND SWORN TO
18 before me this _____ day
19 of _____, A.D., 2001.

19

Notary Public

20

21

22

23

24