

ILLINOIS POLLUTION CONTROL BOARD
July 18, 2007

IN THE MATTER OF:)	
)	
PETITION OF JOHNS MANVILLE)	
FOR AN ADJUSTED STANDARD)	
FROM: 35 Ill. Adm. Code)	No. AS 04-04
811.310, 811.311, 811.318,)	(Adjusted
and 814,)	Standard - Land)
)	
)	

REPORT OF PROCEEDINGS held in the
above-entitled cause before Hearing Officer Bradley
P. Halloran, called by the Illinois Pollution
Control Board, taken before Laura Bernar, CSR, a
notary public within and for the County of Cook and
state of Illinois, at the Lake County Administrative
Building, 18 North County Street, 10th Floor,
Waukegan, Illinois, on the 19th day of July, 2007,
commencing at the hour of 9:00 a.m.

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

SIDLEY AUSTIN
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BY: MR. EDWARD P. KENNEY
Appeared on behalf of Johns Manville;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
9511 West Harrison Street
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BY: MR. PETER E. ORLINSKY
Appeared on behalf of the Illinois
Environmental Protection Agency;

1 HEARING OFFICER HALLORAN: Good
2 morning. My name is Bradley Halloran. I'm a
3 hearing officer with the Illinois Pollution
4 Control Board. I'm also assigned to this
5 case entitled in the matter of Petition of
6 Johns Manville for an adjusted standard from
7 35 Illinois Administrative Code 811.310,
8 811.311, 811.318, and 814. It's docketed
9 with the board as AS 4-4.

10 Today is July 19 it's 9:20. I
11 apologize for my lateness. There are no
12 members of the public here, but if there were
13 they'd be allowed to say their piece. We're
14 going to run this hearing pursuant to Section
15 104 Subpart D and Section 101 Subpart F of
16 the board's procedural provisions. I also
17 want to note for the record that this hearing
18 was properly noticed up. The hearing is
19 intended to develop a record for the Illinois
20 Pollution Control Board. I will not be
21 making the ultimate decision in the case.
22 That's left up to the five members of the
23 board. I'm here to rule on any evidentiary
24 matters and make sure the hearing goes

1 without a hitch. And a brief note, on July
2 9, 2007, I forwarded and filed possible
3 questions from our technical units to the
4 respected parties. And to that end we have
5 Miss Alisa Liu from our technical unit that
6 may or may not be asking questions of the
7 witnesses.

8 With that said, Mr. Kenney,
9 would you like to introduce yourself.

10 MR. KENNEY: Yes. Good morning,
11 Mr. Hearing Officer. My name is Edward
12 Kenney from Sidley Austin in Chicago. I'm
13 here representing Johns Mansville. With me
14 today is William Bow from LFR and he'll be
15 providing some testimony today. In addition
16 I have Denny Quinton, manager of engineering
17 from Johns Manville, and David Petersen, who
18 is one of JM's consultants. For short, I
19 think I'd like to refer to John Mansville as
20 JM. It's fairly typical for the company to
21 be known that way. And what we're here to
22 talk about is a petition for adjusted
23 standard involving the Johns Manville
24 property that's located a short distance from

1 here, just off of Greenwood Avenue, probably
2 less than a mile from here. It's -- the
3 Manville property is approximately 350 acres,
4 and it formerly held a large manufacturing
5 plant that dated back to the early part of
6 the 20th century. The landfill that is the
7 subject to this proceeding is a relatively
8 small part of the entire facility. Johns
9 Manville ceased manufacturing at that site
10 about ten years ago, and the manufacturing
11 buildings, which comprised about 1.9 million
12 square feet under roof, were demolished over
13 a period of years. That project was
14 completed in 2001. This site is somewhat
15 unusual in that it has been subject over the
16 years, for about the last 20 years, more than
17 20 years, to a great deal of oversight under
18 the Federal Superfund Program, and the State
19 has also -- Illinois EPA has also been
20 involved in overseeing various activities at
21 the site over the years. And just to provide
22 a short summary of the remedial activities,
23 they primarily involved consolidation of
24 asbestos-containing waste materials on the

1 eastern part of the site and construction of
2 cover over that material. So the eastern
3 part of the site is -- and Mr. Bow will give
4 us an overview of the site as a picture to
5 show it, is essentially a large asbestos
6 landfill with engineered cover over it. This
7 petition involves a relatively small part of
8 the eastern part of the site, and Mr. Bow
9 will show us where that is and involves
10 essentially two major elements: One is
11 providing for an adjusted standard for gas,
12 landfill gas, monitoring and management
13 requirements of the Board's regulations, and
14 also the other major area is ground water
15 monitoring. That adjusted standard seeks to
16 provide alternative placement for ground
17 water monitoring wells.

18 We have previously submitted
19 written testimony and exhibits to the Board.
20 We had previously discussed that with the
21 Illinois EPA over the year -- Actually, we've
22 been in discussions with Illinois EPA about
23 this adjusted standard petition over the
24 years and submitted written testimony to

1 them. Illinois EPA submitted a
2 recommendation that the adjusted standard be
3 granted. And pursuant to your request, we
4 submitted our written testimony exhibits at
5 the end of June, on June 28 or 29, I believe.
6 For convenience sake, I think, why don't we
7 have Mr. Bow sworn after any statement that
8 Illinois EPA would make, and then we can have
9 him vouch for his testimony.

10 HEARING OFFICER HALLORAN: I agree
11 with Mr. Kenney. Thank you, Mr. Kenney.

12 Mr. Orlinsky?

13 MR. ORLINSKY: I'm Peter Orlinsky,
14 Illinois EPA division of legal counsel. As
15 Mr. Kenney just mentioned, over the course of
16 at least the last two years there have been
17 several back-and-forth meetings and
18 information exchanges between Illinois EPA
19 and technical personnel of Johns Manville.
20 As a result of that information, the agency
21 was able to come to the determination that
22 the -- that this adjusted standard should be
23 granted and that by doing so there would be
24 no adverse effects to the environment. We

1 want to just hear what Mr. Bow has to say
2 today. We may have very a few questions.

3 HEARING OFFICER HALLORAN: Terrific.
4 Miss Court Reporter, swear in Mr. Bow,
5 please.

6 (Witness sworn.)

7 MR. KENNEY: Good morning, Mr. Bow.

8 MR. BOW: Good morning.

9 MR. KENNEY: I'm going to ask you to
10 look at this. This is the written testimony
11 that we had submitted to the Pollution
12 Control Board along with the exhibits. You
13 should have -- I've got some extra copies if
14 anybody needs one.

15 HEARING OFFICER HALLORAN: I believe
16 I have that. Thank you.

17 MR. KENNEY: This is testimony that
18 you prepared in consultation with me and
19 others, correct?

20 MR. BOW: It is.

21 MR. KENNEY: Is this testimony true
22 and correct as you sit here today?

23 MR. BOW: It is.

24 MR. KENNEY: Are the exhibits -- You're

1 familiar with the exhibits that are attached
2 to it as well?

3 MR. BOW: I am.

4 MR. KENNEY: And they are as
5 represented in the testimony?

6 MR. BOW: They are also correct, yes.

7 MR. KENNEY: Mr. Hearing Officer, I
8 would ask that this be, to the extent it's
9 not already, that it be introduced into the
10 Board's administrative record for this
11 proceeding.

12 HEARING OFFICER HALLORAN:
13 Mr. Orlinsky?

14 MR. ORLINSKY: I have no objection.

15 HEARING OFFICER HALLORAN: Want to
16 mark it Exhibit A then.

17 MR. KENNEY: I think that would be
18 fine then. For purposes of the hearing, it
19 has sub exhibits, and we may make reference
20 to some of them, but I think we can make it
21 clear as to what we're talking about.

22 HEARING OFFICER HALLORAN: Okay.
23 We'll mark it group -- Petitioner's Group
24 Exhibit A and that will be admitted into

1 evidence.

2 MR. KENNEY: Thanks very much.

3 Now, Mr. Bow, you've brought
4 some pictures of the site with you today; is
5 that correct?

6 MR. BOW: I have.

7 MR. KENNEY: Why don't we mark this
8 one as -- this would be Exhibit B.

9 HEARING OFFICER HALLORAN: Sure.

10 MR. KENNEY: We'll mark this exhibit
11 B for identification. And we can -- we have
12 some extra copies of this, too, if you want
13 to take a look at it. I think what we'll do,
14 if it's all right, Mr. Hearing officer, to
15 the extent we need to identify particular
16 parts of this, we can maybe make distinctive
17 marks on it so that it'll be clear for the
18 record.

19 HEARING OFFICER HALLORAN: Terrific.

20 MR. KENNEY: Mr. Bow, to the extent we
21 need to identify particular areas, we can
22 make marks on it and we'll just indicate what
23 kind of mark we're making on it.

24 MR. BOW: That's fine.

1 MR. KENNEY: Could you, for the
2 benefit of the Board, sort of describe the
3 site? And if you could hold up the exhibit
4 and show what you're talking about.

5 MR. BOW: Sure. This is a site aerial
6 photograph of the Johns Manville property
7 that was taken on October 5, 2005. The
8 dashed outline with the double dots between
9 them is the property line that encompasses
10 the entire Johns Manville site. You can see
11 in the lower right corner of the photograph
12 is Lake Michigan which is the eastern
13 property line of the Johns Manville property.
14 The western property line is along some
15 railroad tracks that exists essentially along
16 Pershing Road which runs south of the city of
17 Waukegan. The property itself is roughly 350
18 acres in size. The former manufacturing area
19 is shown on the western side of the site
20 which is in sort of the upper left corner of
21 the property. It shows the former building
22 pads of the manufacturing buildings that were
23 removed, as Mr. Kenney stated, in 2001. The
24 eastern portion of the site, roughly 130 to

1 140 acres in size, is a former disposal area
2 that was closed pursuant to a federal consent
3 decree in -- The closure was completed in
4 roughly 1992 through the placement of a
5 two-foot thick engineered soil cover over the
6 entire former disposal area, and that is
7 shown also in a dashed outline in the
8 photograph. Nested within that former
9 disposal area are two units that were closed
10 or are being closed pursuant to this
11 proceeding, an onsite landfill that was used
12 for the disposal of non-asbestos waste by the
13 plant while it was still in operation post
14 1992, and those disposal areas are shown
15 within the overall CERCLA closed disposal
16 area. They're shown as Fill Area 1 and Fill
17 Area 2 on this particular photograph. And,
18 again, I point out that they are nested
19 within the closed CERCLA landfill, and that
20 has some significant relative to the adjusted
21 standard that we're asking for today.

22 The Fill Area 1 is roughly ten
23 acres in size and was also known as the
24 former miscellaneous disposal pit. Fill Area

1 2 is roughly three and a half acres in size,
2 and it was formerly known as the collection
3 basin. There was a body of water that
4 existed to the east on the eastern end of the
5 former CERCLA landfill, the former disposal
6 area, and that was filled in in roughly 1996
7 and is known as Fill Area 2.

8 MR. KENNEY: Now, the -- This large
9 blue area, what is that?

10 MR. BOW: The large blue area is a 35
11 acre former settling basin that was used as
12 part of the plant's waste water treatment
13 system. Water would be used in the
14 manufacturing process in the former
15 manufacturing area. That water was
16 subsequently pumped upwards, and, again, it
17 was -- it is pumped in the disposal area and
18 was pumped into this former lagoon, again, 35
19 acres in size, former settling basin, where
20 various products including asbestos and other
21 entrained debris in the waste water would
22 drop out within the settling basin. That
23 water was then recycled back through the
24 plant as an ongoing waste water treatment

1 system. This particular lagoon, 35 acres in
2 size, is currently being closed pursuant to a
3 first amended consent decree which is also
4 part of the submitted testimony. This was
5 allowed to remain open after the 1992 closure
6 of the land areas so that the plant could
7 continue manufacturing. And when
8 manufacturing ceased during the 1990s, it was
9 no longer needed for manufacturing;
10 therefore, it is now being closed pursuant to
11 a first amended consent decree under a
12 federal and a state consent order.

13 MR. KENNEY: So what is the physical
14 state of that -- of that feature at this
15 point?

16 MR. BOW: Okay. The -- This
17 particular photograph happened to have been
18 taken on a day where we were actually pulling
19 across a very large geotextile across the
20 entire settling basin, and I'll show you.
21 The geotextile was placed on the western bank
22 of the former settling basin, and on this
23 particular day, October 5, 2005, it was
24 pulled across the water surface in order to

1 provide a substantial base upon which we
2 could place sand and clay cover, because the
3 underlying sludge was quite weak and could
4 not hold up equipment placing sand and clay.
5 So we put a geotextile across, and it was
6 pulled across the basin on this particular
7 day. And on this photograph you can actually
8 see the leading edge at approximately this
9 location. This was 90 percent across the
10 basin as the photograph was taken.
11 Subsequent to this within an hour it was
12 pulled up on to the bank. Presently the
13 water level in that basin was originally
14 approximately 600 to 603 feet above sea
15 level. Lake Michigan current level is
16 approximately 577 feet above sea level. So
17 you have about a 26 foot difference between
18 the water level in the settling basin versus
19 the surrounding ground water in the area.
20 Previously we used to pump -- JM used to pump
21 water up to the settling basin to keep it
22 full because there was asbestos fiber in the
23 bottom, and it needed to be kept wet. With
24 this closure, pumping to the settling basin

1 has ceased and water is -- has been allowed
2 to drain as it has always drained for the
3 past 80 plus years out the bottom; however,
4 it's not being replenished. And as the water
5 then exposes the now sunken geotextile at the
6 bottom, on the bottom surface of the sludge,
7 as that geotextile becomes exposed as the
8 water drains, sand is being placed over the
9 top of it. And so the current photograph
10 would actually show sand, very nearly half
11 way across from the southwest corner of the
12 settling basin toward the northeast as it
13 drains and covers -- sand cover is placed on
14 top.

15 MR. KENNEY: Now, you had mentioned, I
16 think, that there was another body of water
17 that existed to the east of Fill Area No. 2.

18 MR. BOW: Yes. It was actually to the
19 east of the former settling basin. There was
20 an interim basin called the collection basin,
21 and it received water from the settling
22 basin. The collection basin was a
23 rectangular body that was roughly the same
24 north/south dimension as the settling basin.

1 However, it was much narrower in the
2 east/west dimensions. It was only, perhaps,
3 150 feet in width in the east/west direction.
4 That used to contain water, and we did some
5 engineering work several years ago to prevent
6 water from filling the collection basin. And
7 subsequent to that we filled it in with quite
8 a bit of clay. And the -- therefore, there
9 was no standing water in the collection basin
10 any longer.

11 Fill Area No. 2 is comprised of
12 roughly the southern one-third of the former
13 collection basin.

14 MR. KENNEY: Okay. What were the
15 purposes of the settling basin in that
16 portion of the collection basin that formerly
17 had water?

18 MR. BOW: They were both used as part
19 of the waste water treatment system at the JM
20 plant during manufacturing.

21 MR. KENNEY: When the plant was
22 operating in terms of manufacturing?

23 MR. BOW: Correct.

24 MR. KENNEY: And those were allowed by

1 the original consent decree?

2 MR. BOW: Yes.

3 MR. KENNEY: Now, the first amended
4 consent decree which is an exhibit to your
5 testimony, it's Exhibit No. 4. You were
6 involved in the negotiations process for that
7 that resulted in that, correct?

8 MR. BOW: I was.

9 MR. KENNEY: Okay. Now, did the --
10 What's the overriding purpose of that consent
11 decree?

12 MR. BOW: The purpose of the consent
13 decree is to obtain final regulatory closure
14 on the settling basin, the former collection
15 basin, as I had mentioned, the onsite
16 landfill, some smaller waste water ponds
17 located west of the former settling basin,
18 and two long linear bodies of water called
19 the industrial canal and the pumping lagoon
20 that are located roughly along the northern
21 property of the JM property.

22 HEARING OFFICER HALLORAN: Mr. Kenney,
23 I guess just for clarification, that would be
24 No. 4 of Group Exhibit A.

1 MR. KENNEY: That is correct.

2 HEARING OFFICER HALLORAN: I'm trying
3 to make it clear to the board.

4 MR. KENNEY: That's correct. And the
5 Board had asked -- During the course of those
6 negotiations, was the idea of an adjusted
7 standard discussed with the USEPA, the IEPA
8 the Justice Department, and the Illinois
9 Attorney General's Office representatives who
10 were involved in that?

11 MR. BOW: Yes, it was.

12 MR. KENNEY: Is that reflected in the
13 consent decree?

14 MR. BOW: Yes, it is.

15 MR. KENNEY: The idea that the
16 adjusted standard would be necessary?

17 MR. BOW: It is.

18 MR. KENNEY: Do you know where?

19 MR. BOW: I believe it was on Page 24
20 under Subitem C on that page.

21 MR. KENNEY: Again, that's Exhibit 4
22 to Group Exhibit A. Do we need to read that
23 into the record? We can if you'd like.

24 HEARING OFFICER HALLORAN: We don't

1 need to.

2 MR. KENNEY: Okay. There was also
3 somewhat contemporaneously with the
4 negotiation of the amended, first amended
5 consent decree, there were negotiations with
6 the state on a consent order; is that
7 correct?

8 MR. BOW: There were.

9 MR. KENNEY: I don't believe this
10 is -- It's in the -- this document is in the
11 record to the extent we submit it as an
12 exhibit to Mr. Orlinsky's -- to the IEPA's
13 recommendation, we can either submit it as a
14 separate exhibit here or we can just
15 reference that. The Board also asks if that
16 consent order addresses -- because I believe
17 it was in Mr. Campbell's comments, if that
18 consent order also addresses the adjusted
19 standard, and it does. Maybe it would make
20 sense to just introduce this as a separate
21 exhibit and just indicate where it is, if
22 that's okay?

23 HEARING OFFICER HALLORAN: Exhibit C.

24 MR. KENNEY: I'm going to mark a

1 consent order dated January 6, 2005, People
2 of the State of Illinois, ex rel, Lisa
3 Madigan versus Johns Manville, No. -- it's
4 Circuit Court of Lake County No. 01 CH 857
5 and identify that as -- ask Mr. Bow to
6 identify that.

7 MR. BOW: This is the state consent
8 order.

9 MR. KENNEY: And look at Page 13.

10 MR. BOW: Item No. 2 references
11 closure of the miscellaneous disposal pit and
12 a portion of the collection basin where waste
13 was disposed.

14 MR. KENNEY: Does that acknowledge
15 that an adjusted standard might be necessary?

16 MR. BOW: It does. It says that
17 Mansville should either file a petition with
18 the board for an adjusted standard for
19 closure of the landfill.

20 MR. KENNEY: Okay. I'm going to ask
21 that that be introduced -- that that be
22 entered into evidence as Exhibit C.

23 HEARING OFFICER HALLORAN: Any
24 objection?

1 MR. ORLINSKY: No objection.

2 HEARING OFFICER HALLORAN: So
3 admitted.

4 MR. KENNEY: I'll also ask that
5 Exhibit B be entered into evidence.

6 MR. ORLINSKY: No objection.

7 HEARING OFFICER HALLORAN: Admitted.

8 MR. KENNEY: So the adjusted standard
9 proceeding that we're here today, that
10 involves Fill Area No. 1 and Fill Area No. 2,
11 correct?

12 MR. BOW: Correct.

13 MR. KENNEY: Okay. About how big are
14 those two features?

15 MR. BOW: Fill Area 1 is the former
16 miscellaneous disposal pit is approximately
17 ten acres in size and Fill Area 2, the former
18 collection Basin, is roughly three and a half
19 acres in size.

20 MR. KENNEY: How were those landfills
21 operated, during what period?

22 MR. BOW: When the CERCLA action was
23 completed in 1992, the facility filed an
24 initial facility report to provide for the

1 disposal of plant-generated waste that were
2 not asbestos contained within former
3 miscellaneous disposal pit which was located
4 roughly the eastern one half of Fill Area 1.
5 The miscellaneous disposal pit was a pit,
6 because the surrounding area had been built
7 up during the CERCLA landfill work leaving a
8 pit that was subsequently filled in with
9 plant wastes in Fill Area No. 1.

10 MR. KENNEY: Now what kind of plant
11 wastes were those?

12 MR. BOW: Largely two kinds with some
13 additional materials: The two were calcium
14 silicate, which was essentially limestone,
15 crushed lime and sand that was made as part
16 of the insulation material. There was some
17 roofing materials, some granules, and then
18 there was miscellaneous and smaller amounts
19 of paper, cardboard, occasional pieces of
20 wood; but largely calcium silicate and the
21 rolled roofing or roofing granules. No
22 asbestos materials were disposed in the
23 miscellaneous disposal pit or the Fill Area 2
24 in the collection basin.

1 MR. KENNEY: The consent decree
2 prohibited that, didn't it?

3 MR. BOW: That's correct. And as part
4 of that during the 1992 and 1991 CERCLA
5 closure activities, a layer of sand was
6 placed at the direction of the U.S. EPA at
7 the bottom of the former miscellaneous
8 disposal pit as a cover layer over any
9 materials at the bottom that may have
10 contained asbestos.

11 MR. KENNEY: Okay. Now, Johns
12 Manville, through consultants such as
13 yourself, did some work to evaluate and
14 verify what was in that landfill, those Fill
15 Area 1 and Fill Area 2, correct?

16 MR. BOW: That's correct.

17 MR. KENNEY: And did --

18 MR. BOW: The waste materials that
19 were discovered during the investigation that
20 were reported in one of the exhibits to
21 Exhibit A were well -- results from well
22 drilling showing the materials that were
23 disposed in the pit were consistent with what
24 they had said was going to be placed in the

1 pit during the -- in the initial facility
2 report that was filed in 1992.

3 MR. KENNEY: Does that material
4 generate much in terms of landfill gas?

5 MR. BOW: It does not.

6 MR. KENNEY: And was work done to
7 verify how much landfill gas was being
8 generated?

9 MR. BOW: Yes, there was. There was a
10 landfill gas monitoring well that was
11 installed in miscellaneous disposal pit
12 through the waste materials. There was
13 landfill gas drawn from that, and there has
14 been monitoring of landfill gas. It is very
15 low pressure and is not indicative of a
16 typical chemical in a landfill.

17 MR. KENNEY: Does that gas monitoring
18 continue or has it continued since the
19 original work -- when was the original work
20 done?

21 MR. BOW: For the landfill gas
22 monitoring?

23 MR. KENNEY: Yes.

24 MR. BOW: I believe -- Let me find it.

1 April 2003.

2 MR. KENNEY: Okay. And has there been
3 ongoing gas monitoring since then?

4 MR. BOW: Yes. Since that time, the
5 regulations call for monthly monitoring of
6 landfill gas. That is -- That continues to
7 this day. One of the adjusted standards is
8 to call for reduction of frequency of that
9 monitoring, but until that is resolved, we're
10 continuing the monthly monitoring.

11 MR. KENNEY: Okay. What is that
12 monthly monitoring showing?

13 MR. BOW: It is consistent with the
14 original investigation showing very low gas
15 pressures within the landfill itself and have
16 been no detections of landfill gas pursuant
17 to the standard monitoring that is done that
18 would indicate any migration of landfill gas.

19 MR. KENNEY: Okay. What does the
20 adjusted standard provide for?

21 MR. BOW: The adjusted standard
22 provides for two things: One is the -- a
23 reduction in the frequency of landfill gas
24 monitoring from a monthly period of

1 monitoring for a minimum of five years. It
2 provides to go to semiannual monitoring for a
3 total of five years, after which if no
4 detections are noted, monitoring will cease.

5 The second standard provides for
6 the location of the subsurface monitoring
7 devices which would normally be placed at 100
8 feet away from the edge of the waste;
9 however, in this case, because that would
10 place us within some asbestos waste materials
11 along the side slopes of the CERCLA landfill,
12 we have asked that those monitoring locations
13 be allowed to be placed somewhat further out
14 to get away from having drilled through the
15 side slopes of the landfill.

16 MR. KENNEY: Okay. Now, you've
17 mentioned, I believe, a couple of times that
18 there is an asbestos landfill that was
19 constructed pursuant to the superfund consent
20 decree. Could you give the board an idea of
21 where that is.

22 MR. BOW: Sure.

23 MR. KENNEY: Using Exhibit B. If you
24 have another drawing that shows it, that

1 would be okay as well.

2 MR. BOW: I'll take a look at both.
3 Using Exhibit B, the former CERCLA landfill,
4 again, is located on roughly -- it's
5 distorted from the photograph, but it's
6 roughly the eastern half of the property
7 itself, and it is shown by this dashed
8 outline, and it can be seen essentially as
9 the green vegetated area on the landfill
10 itself. This is the former CERCLA landfill
11 outline as shown by this double dashed line
12 surrounding this area. The settling basin is
13 within that, as we've discussed, and the two
14 units for the onsite landfill being closed
15 pursuant to this proceeding and this adjusted
16 standard are nested within the former CERCLA
17 landfill in both areas, Fill Area 1 and Fill
18 Area 2. To further depict that, I have a
19 cross-section that is a west-to-east
20 cross-section. This cross-section is
21 located -- it may be found within the
22 exhibits --

23 MR. KENNEY: That would be Group
24 Exhibit A.

1 MR. BOW: Group Exhibit A. This
2 cross-section is shown within that.

3 MR. KENNEY: Just for clarification, I
4 believe that is Group Exhibit A, and it's
5 Figure --

6 MR. BOW: Figure 2B.

7 MR. KENNEY: Figure 2B.

8 HEARING OFFICER HALLORAN: Thank you,
9 Mr. Kenney.

10 MR. BOW: This particular
11 cross-section, east/west, is shown through
12 the -- starting at the western edge of the
13 former CERCLA landfill as shown on the aerial
14 photograph, and it runs towards the east and
15 terminates at the edge of Lake Michigan. The
16 cross-section itself shows several units
17 within it. First of all, it's a closed
18 CERCLA landfill shown in the green hatch.
19 The native ground comes up to approximately
20 580 to 585 feet above sea level above which
21 is the former CERCLA landfill which we
22 identified previously as part of the disposal
23 area shown in the green hatch. On top of
24 that particular unit is an engineered cover

1 consisting of six inches of sand overlaid by
2 15 inches of clay overlaid by three inches of
3 topsoil upon which there is a vegetative
4 layer placed upon that. That CERCLA cover
5 extends from the west to the east to the edge
6 of the former miscellaneous disposal pit.
7 The former miscellaneous disposal pit, again,
8 was left open to allow for ongoing disposal
9 of nonasbestos plant waste post 1992.
10 However, within that area you can see there
11 is a sand layer depicted that has been
12 verified through drilling; sand layer
13 depicted at the bottom of the miscellaneous
14 disposal pit and has cover over any asbestos
15 wastes that were going to be located below
16 the former miscellaneous disposal pit. And
17 then at the far eastern edge, the CERCLA
18 cover picks up again outside of the limits of
19 the former miscellaneous disposal pit, and it
20 extends down to the closure area, the edge of
21 the former superfund site.

22 Above the CERCLA landfill and
23 CERCLA cap are miscellaneous disposal pit
24 wastes for on-site landfill waste material,

1 and that's shown in the brown hatching as
2 depicted above the cover on the CERCLA
3 wastes. And above the miscellaneous disposal
4 pit wastes is a clay cover that was used as
5 interim cover on top of the wastes that were
6 placed in the miscellaneous disposal pit.
7 That clay cover varies, currently varies
8 between anywhere, from, say, three feet and
9 upwards of 18 feet in thickness.

10 MR. KENNEY: So at present the Fill
11 Areas 1 and 2 have cover on them?

12 MR. BOW: They do.

13 MR. KENNEY: They're not open waste?

14 MR. BOW: They are not. There are no
15 waste materials at the surface. There is a
16 second cross-section Figure 2D located within
17 Exhibit A.

18 MR. KENNEY: That's Exhibit A, Group
19 Exhibit A, and that's Exhibit 2 to that and
20 it's Figure 2.

21 MR. BOW: This is Figure 2D. This is,
22 again, also a west-to-east cross-section
23 through the miscellaneous -- I'm sorry --
24 through Fill Unit 2 which is the former

1 collection basin. The cross-section extends
2 roughly from the edge of the former settling
3 basin eastward to Lake Michigan. The top of
4 the CERCLA cover is depicted until it gets to
5 the edge of the former collection basin.
6 There are some waste materials consisting
7 virtually entirely of calcium silicate
8 material at the bottom of the former
9 miscellaneous -- I'm sorry -- the bottom of
10 the former collection basin. And on top of
11 that there is another clay cover that varies
12 in anywhere from 5 to 15 feet in thickness.

13 MR. KENNEY: Now, it's not part of
14 this proceeding, but there have been
15 discussions with -- between Johns Manville
16 and IEPA concerning the cover that is on the
17 Fill Area 1 and 2; is that correct?

18 MR. BOW: There have.

19 MR. KENNEY: Do you have an
20 understanding as to what IEPA's position on
21 that -- whether the cover is equivalent to
22 the regulatory requirements?

23 MR. BOW: Well, the existing cover
24 will need to be modified through the

1 placement of some additional materials, sand
2 drainage layer, and some additional cover
3 materials. But we've been in ongoing
4 discussions with the Illinois EPA,
5 specifically Chris Liebman and his group.
6 And they have agreed that the cover that's
7 being proposed for the onsite landfill units
8 is the equivalent of the standard cover in
9 the regulations; therefore, an adjusted
10 standard will not be required.

11 MR. KENNEY: Okay. Now, in terms of
12 the adjusted standard proceeding here today,
13 we're talking about an adjusted standard for
14 gas monitoring and management requirements
15 and for ground water monitoring for Fill
16 Area 1 and 2?

17 MR. BOW: Correct.

18 MR. KENNEY: Could you briefly
19 describe -- First of all, why don't we start
20 with gas management monitoring. Could you
21 point out why that would -- why the
22 regulatory requirements would present
23 problems in terms of location of gas
24 monitoring wells and management systems?

1 MR. BOW: Yes. The standard
2 regulation calls for the placement of
3 subsurface gas monitoring devices roughly 100
4 feet away from the edge of the waste unit.
5 And based on this cross-section 2B that I
6 referred to earlier, that would place the
7 monitoring wells or monitoring devices
8 roughly half way up the side slope of the
9 now-closed CERCLA landfill. So we would be
10 drilling -- We would be placing permanent
11 monitoring wells half way up the side slopes
12 of a closed superfund asbestos landfill. And
13 for a variety of reasons, health and safety,
14 and logistics and costs, we have felt that
15 the placement of monitoring wells half way up
16 the side slopes of the CERCLA landfill was
17 inappropriate and that placement of those
18 monitoring wells immediately at the top of
19 the slope was a much more practical solution.

20 MR. KENNEY: Now is that -- Are you
21 talking about ground water monitoring wells
22 or gas monitoring wells or both?

23 MR. BOW: Both.

24 MR. KENNEY: Okay. So is the problem

1 penetration of the cap or is the problem
2 getting equipment to put the wells in?

3 MR. BOW: It's both. The first issue
4 is that the U.S. EPA and JM would prefer to
5 avoid drilling through the CERCLA cap as much
6 as possible. Secondly -- and that's for
7 health and safety reasons simply during the
8 drilling event; and then, subsequent to that,
9 there is the concern that you could have
10 slope failure, and you would expose a
11 significant portion of the asbestos waste
12 materials underneath the cover should the
13 bringing of heavy equipment and construction
14 of the roads that would be necessary to put
15 these wells half way up the side slope should
16 that cover fail.

17 MR. KENNEY: Obviously with the drill
18 rig, you have to have some sort of equipment
19 to bring in and put it in place?

20 MR. BOW: That's correct.

21 MR. KENNEY: Like a truck or something
22 like that.

23 MR. BOW: Correct.

24 MR. KENNEY: And that can create

1 problems in terms of slope failure.

2 MR. BOW: Yes. So the combination of
3 slope failure and the potential health and
4 safety effects of the drilling and of the
5 potential slope failure led us to conclude it
6 would be more practicable to locate the
7 monitoring point; instead of half way up the
8 side slope, to just move them immediately to
9 the east or the south away from the side
10 slopes to the now closed CERCLA landfill.

11 MR. KENNEY: Okay. And the data that
12 JM has collected concerning gas generation is
13 that there is not much gas being generated by
14 the landfills anyway.

15 MR. BOW: That's correct.

16 MR. KENNEY: Okay. Let's talk about
17 ground water monitoring a little bit. Could
18 you sort of explain what Johns Manville is
19 seeking with respect to the adjusted standard
20 for the ground water monitoring?

21 MR. BOW: Similar to the location of
22 the gas monitoring devices, JM is seeking an
23 adjustment, adjusted standard to the location
24 of the ground water monitoring wells that

1 would normally be placed pursuant to the
2 regulation at a distance of one half of the
3 distance between the edge of the waste and
4 the zone of attenuation. That would, in
5 effect, locate those wells roughly 50 feet
6 away from the edge of the waste within the
7 two units. That 50-foot distance, again,
8 puts that within the CERCLA landfill
9 requiring drilling through the CERCLA cover
10 and along the side slopes of the CERCLA
11 landfill. Therefore, we have proposed
12 placing the monitoring wells and the zone of
13 attenuation extended outward a short
14 distance; that instead of the zone of
15 attenuation being 100 feet away from the
16 waste, it would be placed in various
17 distances roughly 150 to 200 feet away.

18 MR. KENNEY: Now, you're referencing
19 Figure 2A which is part of Exhibit 2 of Group
20 Exhibit A; is that correct?

21 MR. BOW: Correct.

22 MR. KENNEY: Okay. Now, the Pollution
23 Control Board, prior to the hearing, asked
24 the question concerning zone of attenuation

1 and whether the zone of attenuation could be,
2 apparently based on this drawing, which is
3 also the same drawing as Exhibit 8 to the
4 adjusted standard petition. Is that correct?

5 MR. BOW: That's correct.

6 MR. KENNEY: Do you recall the Board's
7 question?

8 MR. BOW: The question regarding that
9 was whether or not the zone of attenuation
10 actually extends in a complete encirclement
11 of the two waste units. And that is, in
12 fact, the case. The concern was that the
13 exhibits, as depicted, only showed the zone
14 of attenuation in the down gradient
15 direction, which is, from a practical
16 perspective, where the ground water
17 monitoring has to be conducted. But the zone
18 of attenuation, in effect, extends, encircles
19 the entire unit at a distance roughly 100
20 feet away from the edge of the waste.
21 However, in the down gradient directions
22 where the monitoring has to take place, it's
23 extended somewhat further to the east and to
24 the south. But to the northern and the

1 eastern -- western sides of the two units, it
2 would not be changed. It would be left at
3 the standard 100 foot distance.

4 MR. KENNEY: I'm going to ask that
5 Exhibit D, which is a drawing, be marked for
6 identification. And I'll ask Mr. Bow to take
7 a look at this. You've seen this, Peter.
8 I'll have Mr. Bow discuss this as well. I'm
9 going to ask you to take a look at Exhibit D
10 and explain what it is.

11 MR. BOW: Exhibit D is a modification
12 to Figure 2A that shows the -- shows the
13 proposed zone attenuation boundary on the
14 south and east sides as had been requested in
15 the adjusted standard petition. However, it
16 includes a dashed line that would depict the
17 zone of attenuation at a 100 foot distance
18 away from the waste edge -- away from the
19 unit -- the boundary of the waste in a
20 traditional fashion, pursuant to the
21 regulations at 100 feet away.

22 MR. KENNEY: Okay. Now, there
23 wouldn't be ground water monitoring wells
24 located to the north or where that --

1 northern part of that line to the north of
2 Fill Area 1 or Fill Area 2; is that correct?

3 MR. BOW: No, there would not.

4 MR. KENNEY: Because --

5 MR. BOW: They are in a cross
6 gradient, not a down gradient direction.
7 There would not be monitoring the ground
8 water quality from these two units because
9 they are not down grading. Those directions,
10 the west side on the north side are not down
11 grading of the units.

12 MR. KENNEY: Now, would the same type
13 of issue -- In the event that the gradient
14 never shifted and there needed to be wells,
15 would the same issues present themselves
16 there?

17 MR. BOW: They would.

18 MR. KENNEY: In terms of slope and
19 drilling through the asbestos landfill?

20 MR. BOW: They would.

21 MR. KENNEY: Because the asbestos
22 landfill extends around Fill Area 1 and Fill
23 Area it, doesn't it?

24 MR. BOW: It does. The asbestos

1 landfill extends a considerable distance to
2 the west and to the north of the two fill
3 areas.

4 MR. KENNEY: Okay. The one exception
5 to that is where the settling basin is,
6 but -- the former settling basin. But that,
7 similarly, you can't drill through that
8 either, can you?

9 MR. BOW: That's being closed pursuant
10 to the first amended consent decree, and the
11 U.S. EPA and JM would view drilling through
12 those units as -- we would like to see that
13 as limited -- just as limited as the existing
14 CERCLA cover.

15 MR. KENNEY: In order prevent --

16 MR. BOW: In order to prevent --

17 MR. KENNEY: -- migration of
18 asbestos-containing material and that sort of
19 thing?

20 MR. BOW: And, again, since these
21 directions are not down gradient of the two
22 units of the miscellaneous disposal pit and
23 the former collection basin ground water
24 monitoring would never be anticipated for

1 those areas.

2 MR. KENNEY: So in answer to the
3 question raised by the board, this document
4 would show the zone of attenuation extended
5 around the landfills. But in terms of
6 location of ground water monitoring wells,
7 they wouldn't be required because -- under
8 the regulations because at present it's not
9 down gradient?

10 MR. BOW: That's correct. There was
11 never any intent to modify the zone of
12 attenuation in those other directions.

13 MR. KENNEY: Okay. I think we've
14 addressed the board's questions about the
15 consent orders. We've addressed the question
16 about the zone of attenuation.

17 MS. LIU: Actually, I do have some
18 remaining questions. Is it all right --

19 MR. KENNEY: We can do it now or --

20 HEARING OFFICER HALLORAN: Let's do it
21 now since we're on the topic. Want to go
22 ahead, Miss Liu.

23 MS. LIU: Since the consent order was
24 the first thing you addressed, I believe the

1 question related to whether or not there had
2 been any development since those consent
3 orders came out that might have changed the
4 directives at all? There was some indication
5 in a public comment that perhaps there were
6 future developments that might impact today's
7 adjusted standard. I was wondering if you
8 could provide any insight on that.

9 MR. KENNEY: Not to my knowledge.
10 What is occurring under the consent orders,
11 the Illinois consent order, the penalty has
12 been paid. It was -- The consent order arose
13 from an enforcement proceeding. Penalties
14 have been paid. I think there's been some
15 stipulated penalties for some sort of ongoing
16 MPDS type issues that have been paid. And
17 the only other issue essentially associated
18 with that was there was a reference to the
19 adjusted standard which is what we're here
20 for. And there really haven't been any other
21 development that I'm aware of with respect to
22 that.

23 In terms of the federal
24 consent decree, the federal consent decree

1 provides for some extended remedial
2 activities, settling basin is being done
3 pursuant to that. There's some additional
4 work that's being done pursuant to that. At
5 some point in time, the two bodies of water,
6 two of the bodies of water to the north of
7 the site -- Why don't you identify those,
8 Mr. Bow.

9 MR. BOW: The industrial canal located
10 along the northern boundary and the pumping
11 lagoon, which is an extension, westward
12 extension of the canal.

13 MR. KENNEY: Those will need to be
14 addressed, but they really don't relate to
15 this proceeding at all. So there really have
16 not been any development associated with
17 either the state consent order or the federal
18 consent decree that I'm aware of that would
19 affect this, what the adjusted standard
20 proceeding.

21 MS. LIU: Thank you for that update.
22 The other question I had was pertaining to
23 the zone of attenuation, and I appreciate you
24 clarifying where you intended it to be. But

1 I believe the question related more to the
2 wording of the adjusted standard as proposed.
3 When I read it, I thought perhaps it might
4 exclude the identification of the zone of
5 attenuation on the western and northern side.
6 And I was wondering, not being a lawyer, if
7 there was an alternate way you could word
8 that so that there wasn't confusion.

9 MR. KENNEY: Yes. There was a
10 reference in the adjusted standard language
11 that refers to Exhibit 8 which was Exhibit 8
12 to the petition which is the same as figure
13 2A. We could do an alternative figure, or we
14 could -- I was looking at the language, and
15 I'm not sure I can figure out a better way of
16 doing that, but we're certainly not adverse
17 to that if the Board feels it needs to be
18 clarified. We can even do an alternative
19 exhibit more along the lines of the one that
20 Mr. Bow was just discussing. I suppose we
21 could do alternative language, too, but I'm
22 really not sure exactly how to do it. The
23 location -- yeah. Basically the language
24 that we had suggested talks about installing

1 ground water monitoring wells at the location
2 specified on the attached Figure 8. Figure 8
3 really was intended to identify where the
4 ground water monitoring wells were going to
5 be installed and had the zone of attenuation
6 placed on that for sort of additional
7 information. We could either amend Figure 8,
8 2A to clarify that, you know, the zone of
9 attenuation surrounds the two fill areas.
10 It'll still show the monitoring wells in the
11 same locations if that's -- if that's what
12 the Board feels would be necessary.

13 I guess the other thing we could
14 do is submit something that -- basically a
15 revised figure that just shows where the
16 monitoring wells would be and not indicate
17 the other language.

18 MR. BOW: I believe that the Illinois
19 EPA felt it important that we distinguish
20 that the zone of attenuation would be moved
21 as a result of this adjusted standard. So
22 the act of moving the ground water monitoring
23 wells outward to the slope also necessitated
24 an adjustment to the zone of attenuation

1 adjusted standard to that.

2 MR. KENNEY: Okay.

3 MR. BOW: The language references
4 Figure 8 as the location of the zone of
5 attenuation as adjusted. We could -- easiest
6 to modify Figure 8 in order to show the zone
7 of attenuation in much the same way that we
8 have shown Group Exhibit -- on Group
9 Exhibit D where we would show the zone of
10 attenuation at the 100 foot distance on the
11 sides, the west and the north sides, and
12 leave the modified zone of attenuation on the
13 east and south sides as are already on the
14 figure. Since the language references
15 Figure 8 in the original adjusted standard, a
16 modification of Figure 8, I believe, would
17 just address the issue without trying to
18 figure out how to write it down in words
19 depending upon this corner and that corner,
20 et cetera, et cetera, if that would be
21 acceptable.

22 MS. LIU: I think that would be a good
23 way to go.

24 MR. KENNEY: And that's fine. Now,

1 could we do this or do you want to do --
2 submit another revised Figure 8?

3 MR. BOW: I'm fine with this
4 handwritten sketch as Group Exhibit D because
5 the -- that's essentially what it's going to
6 look like on the revised Figure 8. The
7 question would be whether the Board would be
8 concerned that the hand sketch isn't exactly
9 reflective of 100 foot distance on the north
10 and west sides in the sense that it's going
11 to wobble a little bit between 90 and 110 as
12 my pen moved around it. We could, on a much
13 more detail level, submit a figure that was
14 exactly 100 feet. I think it's a distinction
15 without a difference, but if the Board would
16 prefer that we come up with an exacting
17 drawing, I don't have any problem doing that.
18 I just don't have it with me today. In other
19 words, you know, this is --

20 HEARING OFFICER HALLORAN: Off the
21 record.

22 (Short break taken.)

23 HEARING OFFICER HALLORAN: We can go
24 back on the record, I think. We took a short

1 break. We're now back. It's approximately
2 10:31. Mr. Kenney?

3 MR. KENNEY: I think there was some
4 discussion when we were off the record how
5 best to address this Exhibit 8 to the
6 petition issue and to kind of clarify that.
7 I think the conclusion was that we can submit
8 a revised Exhibit 8 that shows the zones of
9 attenuation around Fill Area 1 and 2, and we
10 can do that within the next day or so. So
11 that would be our proposal in terms of
12 clarification of the record.

13 HEARING OFFICER HALLORAN: Yeah.
14 That's fine with me. Or I'm trying to -- I'm
15 thinking out loud here. Do you wish to
16 submit that into evidence?

17 MR. KENNEY: We can submit -- Why
18 don't we have -- and I would ask that
19 Exhibit D be entered into evidence. That's
20 the figure that Mr. Bow had identified and
21 was addressing. We can also submit a
22 revised -- and that should be part of the
23 administrative record as well, but I'm not
24 sure how best to do that.

1 HEARING OFFICER HALLORAN:

2 Mr. Orlinsky, I guess first off, do you have
3 any objection to Exhibit D being admitted
4 into evidence?

5 MR. ORLINSKY: No.

6 HEARING OFFICER HALLORAN: Exhibit D
7 is admitted into evidence.

8 Now, the query is do you want to,
9 I guess, at our behest, submit a revised
10 Exhibit A?

11 MR. KENNEY: Just so the record is
12 clear, this drawing was submitted as
13 Exhibit A to the original -- to the amended
14 adjusted standard petition. And it's also
15 included in Group Exhibit A as Figure 2A; is
16 that correct?

17 MR. BOW: Correct.

18 MR. KENNEY: So it's sort of in two
19 places. What we would be submitting would be
20 sort of a modification of Exhibit D, which
21 was just entered just a little bit more
22 precisely drawn to show the zone of
23 attenuation around Fill Area 1 and Fill
24 Area 2, just be more precise by CAD; is that

1 correct?

2 MR. BOW: It is. The Exhibit D is a
3 hand sketch of what a more accurately
4 depicted revised Figure 8 would be. But it
5 will -- largely it will be exactly reflective
6 of what is on Exhibit D already.

7 HEARING OFFICER HALLORAN: Okay.
8 Thanks for the clarification, and I think the
9 record will reflect that. However, I feel a
10 little uncomfortable accepting it if you were
11 going to offer it into evidence. What will
12 happen, the Board will take that into
13 consideration, you'll just submit the revised
14 Exhibit 8 and Group Exhibit A.

15 MR. KENNEY: That's fine.

16 HEARING OFFICER HALLORAN: And any
17 objection, Mr. Orlinsky, just for the record?

18 MR. ORLINSKY: No. I wouldn't object.

19 MR. KENNEY: That's fine. We have no
20 problem with that. This is really for the
21 Board's clarification in any event. So we
22 have no problem doing it that way.

23 HEARING OFFICER HALLORAN: Terrific.
24 We can move on.

1 MR. KENNEY: One other question that
2 the board had raised was concerning
3 Exhibit 11 of Group Exhibit A which is --
4 it's an onsite landfill ground water aviche
5 (ph.) quality report, and there was a
6 reference to a submittal to the Pollution
7 Control Board in that report. It actually
8 should be -- the submittal was to the
9 Illinois EPA; is that correct?

10 MR. BOW: It was a submittal from the
11 Illinois EPA.

12 MR. KENNEY: I'm sorry.

13 MR. BOW: Dated September 14, 2005.
14 There was a question from the Illinois EPA,
15 and we inaccurately stated it was a question
16 from Illinois Pollution Control Board. So
17 the sentence in Exhibit 11 that has been
18 referred to in the question that the Board
19 had, it should have stated from the IPCB. It
20 should have stated from the IEPA dated
21 September 14. So we're clarifying that it
22 should have been from the IEPA, not from the
23 Pollution Control Board.

24 MR. KENNEY: So that should clarify

1 the record on that score.

2 Now, the -- I believe you had
3 testified that the types of wastes that were
4 in the landfill were similar to, more similar
5 to inert type wastes than they were to
6 chemical and putrescible type wastes. Is
7 that accurate?

8 MR. BOW: I did not -- I can make that
9 characterization that they are more similar
10 to inert type wastes. We hadn't discussed
11 that specific point, but the presence of
12 calcium silicate and the roofing material
13 would be much more similar to an inert type
14 waste, although technically it's being
15 considered chemical and putrescible based
16 upon the limited amount of landfill gas
17 generation and the aviche (ph.) quality. It
18 is much more similar to an inert waste than
19 it is a chemical and putrescible waste.

20 HEARING OFFICER HALLORAN: Mr. Bow,
21 could you speak up, please.

22 MR. BOW: In a traditional sense.

23 MR. KENNEY: So is it your opinion
24 that the adjusted standards that have been

1 proposed by Johns Manville would be
2 protective -- equally protective of the
3 environment as in compliance with the
4 regulatory requirements?

5 MR. BOW: It is my opinion. That is
6 correct.

7 MR. KENNEY: That is true of both
8 landfill gas monitoring proposed adjusted
9 standard, and gas -- and the ground water
10 monitoring?

11 MR. BOW: It is true of both.

12 MR. KENNEY: Well, I have no further
13 questions for Mr. Bow, unless -- I know
14 Mr. Orlinsky has some. And if the Board has
15 any additional questions, we'd certainly --

16 HEARING OFFICER HALLORAN:
17 Mr. Orlinsky?

18 MR. ORLINSKY: I have a few, and to
19 some extent I think you may have just hit on
20 the question. But Sandra Bron, that's
21 B-R-O-N, who is our project manager with
22 Johns Manville was not able to make it. But
23 she had sent me just a couple of questions
24 and she wanted to clarify based on the

1 written testimony that was submitted to the
2 board. And these go to what you were just
3 talking about, about the distinction between
4 inert wastes and chemical and putrescible
5 wastes. So let me just read them verbatim
6 and see.

7 On Page 10 you say that waste
8 material generated at the plant in 1992 for
9 disposal on the onsite landfill included
10 sludge from the presettling lagoons,
11 parentheses, inert solids from
12 manufacturing, parentheses. How do you know
13 the sludge from the presettling lagoons was
14 inert solids?

15 MR. BOW: The sludge from the
16 presettling lagoons came out of the thermal
17 12 manufacturing process. Thermal 12 or T12
18 insulation was primarily and largely
19 consisted of lime and silica sand quartz.
20 Those materials are inert. It did not
21 contain organic materials that you would
22 typically consider to be a chemical and
23 putrescible waste. Therefore, the
24 description as largely inert is accurate in

1 that it was lime material and sand.

2 MR. ORLINSKY: And Ms. Bron's second
3 question: On Page 11 you say the initial
4 facility report on Page 9 has a reference to
5 the waste being inert. For the record, in
6 your discussions and communications with
7 Illinois EPA, is it your understanding that
8 Illinois EPA agreed with the reference to the
9 waste being inert?

10 MR. BOW: They did not agree that it
11 was inert.

12 MR. ORLINSKY: Now, and this is just
13 my question now. If, in fact, there was some
14 chemical and putrescible waste mixed in with
15 the inert waste, would that have any bearing
16 one way or another on this adjusted standard?

17 MR. BOW: Yes.

18 MR. ORLINSKY: It shouldn't have --

19 MR. BOW: It could because the ground
20 water monitoring requirements as a whole,
21 should they have been inert waste, would have
22 been largely different. Because it is
23 chemical and putrescible by definition in a
24 strict sense, we are looking at the ongoing

1 ground water monitoring that we're currently
2 addressing. So I believe there would be a
3 substantial difference had it been determined
4 to be fully inert. But the presence of
5 cardboard and wood caused it to be considered
6 as a chemical and putrescible waste even
7 though it was largely inert.

8 MR. ORLINSKY: Thank you. I have
9 nothing further.

10 HEARING OFFICER HALLORAN: Thank you.
11 Miss Liu?

12 MS. LIU: Nothing else for me. Thank
13 you.

14 HEARING OFFICER HALLORAN: Terrific.
15 We can go off the record.

16 (Off the record.)

17 HEARING OFFICER HALLORAN: We can go
18 back on the record. We're back on the
19 record. We were just talking about
20 post-hearing briefing schedules. The parties
21 have rested, our technical personnel,
22 Miss Liu, has no further questions. We've
23 agreed on a post-hearing briefing schedule as
24 follows: Mr. Kenney, JM's brief is due --

1 opening brief is due August the 31st, 2007.
2 The IEPA, Mr. Orlinsky's brief, is due
3 September 12, 2007, and JM's reply, if any,
4 is due September 19, 2007. I'll set public
5 comment for August 17.

6 All right. If there's no
7 further questions, this concludes the
8 hearing, and I appreciate your
9 professionalism. And I apologize, again, for
10 my lateness. I thought the quality of
11 evidence was very enlightening and very good.
12 Thank you so much.

13 (Which were all the
14 proceedings had.)

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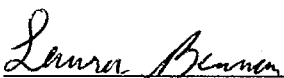
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I, LAURA BERNAR, being a Certified
Shorthand Reporter doing business in the City of
Chicago, Illinois, County of Cook, certify that I
reported in shorthand the proceedings had at the
foregoing hearing of the above-entitled cause. And
I certify that the foregoing is a true and correct
transcript of all my shorthand notes so taken as
aforesaid and contains all the proceedings had at
the said meeting of the above-entitled cause.



LAURA BERNAR, CSR
CSR NO. 084-003592

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about 4:22 5:10	adjusted 1:4,5	44:10 45:19	areas 10:21	27:23 28:3
5:11,16 6:22	3:6 4:22 6:11	already 9:9	12:14 14:6	back 5:5 13:23
9:21 11:4	6:15,23 7:2,22	47:13 51:6	28:17 31:11	48:24 49:1
15:17 22:13	12:20 19:6,16	alternate 45:7	41:3 42:1 46:9	57:18,18
33:13 34:21	20:18 21:15,18	alternative 6:16	arose 43:12	back-and-forth
36:16 42:14,16	22:8 26:7,20	45:13,18,21	around 40:22	7:17
45:24 55:3,3	26:21 28:15	although 53:14	42:5 48:12	bank 14:21
57:19	33:9,12,13	always 16:2	49:9 50:23	15:12
above 15:14,16	36:19,23 38:4	amend 46:7	asbestos 6:5	base 15:1
29:20,20 30:22	39:15 43:7,19	amended 14:3	13:20 15:22	based 34:5 38:2
31:2,3	44:19 45:2,10	14:11 18:3	23:2,22 24:10	53:15 54:24
above-entitled	46:21 47:1,5	20:4,4 41:10	27:10,18 30:14	basically 45:23
1:9 59:8,12	47:15 50:14	50:13	34:12 35:11	46:14
acceptable 47:21	53:24 54:8	amount 53:16	40:19,21,24	basin 13:3,11,19
accepting 51:10	56:16	amounts 23:18	asbestos-conta...	13:22 14:20,22
accurate 53:7	adjustment	another 16:16	5:24 41:18	15:6,10,13,18
55:24	36:23 46:24	27:24 32:11	asked 19:5 27:12	15:21,24 16:12
accurately 51:3	Adm 1:5	48:2 56:16	37:23	16:19,20,20,22
acknowledge	administrative	answer 42:2	asking 4:6 12:21	16:22,24 17:6
21:14	1:13 3:7 9:10	anticipated	asks 20:15	17:9,13,15,16
acre 13:11	49:23	41:24	assigned 3:4	18:14,15,17
acres 5:3 11:18	admitted 9:24	anybody 8:14	associated 43:17	21:12 22:18
12:1,23 13:1	22:3,7 50:3,7	anyway 36:14	44:16	23:24 28:12
13:19 14:1	adverse 7:24	anywhere 31:8	attached 9:1	32:1,3,5,10
22:17,19	45:16	32:12	46:2	41:5,6,23 44:2
across 14:19,19	aerial 11:5 29:13	apologize 3:11	attenuation 37:4	bearing 56:15
14:24 15:5,6,9	affect 44:19	58:9	37:13,15,24	becomes 16:7
16:11	aforesaid 59:11	apparently 38:2	38:1,9,14,18	before 1:9,11
act 46:22	after 7:7 14:5	Appeared 2:4,8	39:13,17 42:4	behalf 2:4,8
action 22:22	27:3	appreciate 44:23	42:12,16 44:23	behest 50:9
activities 5:20,22	again 12:18	58:8	45:5 46:5,9,20	being 12:10 14:2
24:5 44:2	13:16,18 19:21	approximately	46:24 47:5,7	14:10 16:4,8
actually 6:21	28:4 30:7,18	5:3 15:8,14,16	47:10,12 49:9	25:7 28:14
14:18 15:7	31:22 37:7	22:16 29:19	50:23	33:7 36:13
16:10,18 38:10	41:20 58:9	49:1	Attorney 19:9	37:15 41:9
42:17 52:7	agency 2:5,8	April 26:1	August 58:1,5	44:2,4 45:6
addition 4:15	7:20	area 6:14 11:18	Austin 2:2 4:12	50:3 53:14
additional 23:13	ago 5:10 17:5	12:1,6,9,16,16	Avenue 5:1	56:5,9 59:4
33:1,2 44:3	agree 7:10 56:10	12:17,22,24	aviche 52:4	believe 7:5 8:15
46:6 54:15	agreed 33:6 56:8	13:6,7,9,10,15	53:17	19:19 20:9,16
address 47:17	57:23	13:17 15:19	avoid 35:5	25:24 27:17
49:5	ahead 42:22	16:17 17:11	aware 43:21	29:4 42:24
addressed 42:14	Alisa 4:5	22:10,10,15,17	44:18	45:1 46:18
42:15,24 44:14	allow 30:8	23:4,6,9,23	away 27:8,14	47:16 53:2
addresses 20:16	allowed 3:13	24:15,15 28:9	34:4 36:9 37:6	57:2
20:18	14:5 16:1	28:12,17,18	37:15,17 38:20	below 30:15
addressing	17:24 27:13	29:23 30:10,20	39:18,18,21	benefit 11:2
	along 8:12 11:14	32:17 33:16	a.m 1:16	
	11:15 18:20	40:2,2,22,23		

Bernar 1:11 59:4,16	22:22 23:12 24:3,16,18 25:5,9,21,24 26:4,13,21 27:22 28:2 29:1,6,10 31:12,14,21 32:18,23 33:17 34:1,23 35:3 35:20,23 36:2 36:15,21 37:21 38:5,8 39:6,8 39:11 40:3,5 40:17,20,24 41:9,16,20 42:10 44:8,9 45:20 46:18 47:3 48:3 49:20 50:17 51:2 52:10,13 53:8,20,22 54:5,11,13 55:15 56:10,17 56:19	23:20 32:7 53:12 call 26:5,8 called 1:10 16:20 18:18 calls 34:2 came 43:3 55:16 Campbell's 20:17 canal 18:19 44:9 44:12 cap 30:23 35:1,5 cardboard 23:19 57:5 case 3:5,21 27:9 38:12 cause 1:9 59:8 59:12 caused 57:5 cease 27:4 ceased 5:9 14:8 16:1 century 5:6 CERCLA 12:15 12:19 13:5 22:22 23:7 24:4 27:11 28:3,10,16 29:13,18,21 30:4,17,22,23 31:2 32:4 34:9 34:16 35:5 36:10 37:8,9 37:10 41:14 certainly 45:16 54:15 Certified 59:4 certify 59:6,9 cetera 47:20,20 CH 21:4 changed 39:2 43:3 characterization 53:9 chemical 25:16 53:6,15,19 55:4,22 56:14 56:23 57:6 Chicago 2:3 4:12 59:6	Chris 33:5 Circuit 21:4 city 11:16 59:5 clarification 18:23 29:3 49:12 51:8,21 clarified 45:18 clarify 46:8 49:6 52:24 54:24 clarifying 44:24 52:21 clay 15:2,4 17:8 30:2 31:4,7 32:11 clear 9:21 10:17 19:3 50:12 closed 12:2,9,10 12:15,19 14:2 14:10 28:14 29:17 34:12 36:10 41:9 closure 12:3 14:5 15:24 18:13 21:11,19 24:5 30:20 Code 1:5 3:7 collected 36:12 collection 13:2 16:20,22 17:6 17:9,13,16 18:14 21:12 22:18 23:24 32:1,5,10 41:23 combination 36:2 come 7:21 48:16 comes 29:19 commencing 1:16 comment 43:5 58:5 comments 20:17 communications 56:6 company 4:20 complete 38:10 completed 5:14 12:3 22:23 compliance 54:3	comprised 5:11 17:11 concern 35:9 38:12 concerned 48:8 concerning 32:16 36:12 37:24 52:2 conclude 36:5 concludes 58:7 conclusion 49:7 conducted 38:17 confusion 45:8 consent 12:2 14:3,11,12 18:1,4,10,12 19:13 20:5,6 20:16,18 21:1 21:7 24:1 27:19 41:10 42:15,23 43:2 43:10,11,12,24 43:24 44:17,18 consider 55:22 considerable 41:1 consideration 51:13 considered 53:15 57:5 consisted 55:19 consistent 24:23 26:13 consisting 30:1 32:6 consolidation 5:23 constructed 27:19 construction 6:1 35:13 consultants 4:18 24:12 consultation 8:18 contain 17:4 55:21 contained 23:2 24:10 contains 59:11
-------------------------------	---	---	--	---

C

C 2:1 19:20
20:23 21:22
CAD 50:24
calcium 23:13

contemporane... 20:3	create 35:24	32:4 38:13	31:6 41:22	58:4
continue 14:7	cross 40:5	51:4	55:9	during 14:8
25:18	cross-section	Des 2:6	disposed 21:13	17:20 19:5
continued 25:18	28:19,20,20	describe 11:2	23:22 24:23	22:21 23:7
continues 26:6	29:2,11,16	33:19	distance 4:24	24:4,19 25:1
continuing	31:16,22 32:1	description	37:2,3,7,14	35:7
26:10	34:5	55:24	38:19 39:3,17	
Control 1:1,11	crushed 23:15	detail 48:13	41:1 47:10	<hr/> E <hr/>
3:4,20 8:12	CSR 1:11 59:16	detections 26:16	48:9	E 2:1,1,7
37:23 52:7,16	59:16	27:4	distances 37:17	earlier 34:6
52:23	current 15:15	determination	distinction 48:14	early 5:5
convenience 7:6	16:9	7:21	55:3	easiest 47:5
Cook 1:12 59:2	currently 14:2	determined 57:3	distinctive 10:16	east 13:4 16:17
59:6	31:7 57:1	develop 3:19	distinguish	16:19 29:14
copies 8:13	<hr/> D <hr/>	development	46:19	30:5 36:9
10:12	D 3:15 39:5,9,11	43:2,21 44:16	distorted 28:5	38:23 39:14
corner 11:11,20	47:9 48:4	developments	division 7:14	47:13
16:11 47:19,19	49:19 50:3,6	43:6	docketed 3:8	eastern 6:1,2,8
correct 8:19,22	50:20 51:2,6	devices 27:7	document 20:10	11:12,24 13:4
9:6 10:5 17:23	dashed 11:8 12:7	34:3,7 36:22	42:3	23:4 28:6
18:7 19:1,4	28:7,11 39:16	difference 15:17	doing 7:23 45:16	30:17 39:1
20:7 22:11,12	data 36:11	48:15 57:3	48:17 51:22	eastward 32:3
24:3,15,16	dated 5:5 21:1	different 56:22	59:5	east/west 17:2,3
32:17 33:17	52:13,20	dimension 16:24	done 25:6,20	29:11
35:20,23 36:15	David 4:17	dimensions 17:2	26:17 44:2,4	edge 15:8 27:8
37:20,21 38:4	day 1:15 14:18	direction 17:3	dots 11:8	29:12,15 30:5
38:5 40:2	14:23 15:7	24:6 38:15	double 11:8	30:17,20 32:2
42:10 50:16,17	26:7 49:10	40:6	28:11	32:5 34:4 37:3
51:1 52:9 54:6	deal 5:17	directions 38:21	down 30:20	37:6 38:20
59:9	DEARBORN	40:9 41:21	38:14,21 40:6	39:18
costs 34:14	2:2	42:12	40:9,10 41:21	Edward 2:4 4:11
counsel 7:14	debris 13:21	directives 43:4	42:9 47:18	effect 37:5 38:18
County 1:12,13	decision 3:21	discovered 24:19	drain 16:2	effects 7:24 36:4
1:14 21:4 59:2	decree 12:3 14:3	discuss 39:8	drainage 33:2	either 20:13
59:6	14:11 18:1,4	discussed 6:20	drained 16:2	21:17 41:8
couple 27:17	18:11,13 19:13	19:7 28:13	drains 16:8,13	44:17 46:7
54:23	20:5 24:1	53:10	drawing 27:24	elements 6:10
course 7:15 19:5	27:20 41:10	discussing 45:20	38:2,3 39:5	encirclement
Court 8:4 21:4	43:24,24 44:18	discussion 49:4	48:17 50:12	38:10
cover 6:2,6 12:5	definition 56:23	discussions 6:22	drawn 25:13	encircles 38:18
15:2 16:13	demolished 5:12	32:15 33:4	50:22	encompasses
24:8 29:24	Denny 4:16	56:6	drill 35:17 41:7	11:9
30:4,14,18	Department	disposal 12:1,6,9	drilled 27:14	end 4:4 7:5 13:4
31:2,4,5,7,11	19:8	12:12,14,15,24	drilling 24:22	enforcement
32:4,11,16,21	depending 47:19	13:5,17 21:11	30:12 34:10	43:13
32:23 33:2,6,8	depict 28:18	22:16 23:1,3,5	35:5,8 36:4	engineered 6:6
35:12,16 37:9	39:16	23:23 24:8	37:9 40:19	12:5 29:24
41:14	depicted 30:11	25:11 29:22	41:11	engineering 4:16
covers 16:13	30:13 31:2	30:6,7,8,14,16	drop 13:22	17:5
		30:19,23 31:3	due 57:24 58:1,2	enlightening

58:11	19:21,22 20:12	36:1,3,5	fine 9:18 10:24	fully 57:4
entered 21:22	20:14,21,23	fairly 4:20	47:24 48:3	further 27:13
22:5 49:19	21:22 22:5	familiar 9:1	49:14 51:15,19	28:18 38:23
50:21	24:21 27:23	far 30:17	first 14:3,11	54:12 57:9,22
entire 5:8 11:10	28:3,24 29:1,4	fashion 39:20	18:3 20:4	58:7
12:6 14:20	31:17,18,19,19	feature 14:14	29:17 33:19	future 43:6
38:19	37:19,20 38:3	features 22:14	35:3 41:10	
entirely 32:7	39:5,9,11	federal 5:18 12:2	42:24 50:2	G
entitled 3:5	45:11,11,19	14:12 43:23,24	five 3:22 27:1,3	gas 6:11,12 25:4
entrained 13:21	47:8,9 48:4	44:17	Floor 1:14	25:7,10,13,14
environment	49:5,8,19 50:3	feel 51:9	follows 57:24	25:17,21 26:3
7:24 54:3	50:6,10,13,15	feels 45:17 46:12	foot 15:17 39:3	26:6,14,16,18
Environmental	50:20 51:2,6	feet 5:12 15:14	39:17 47:10	26:23 33:14,20
2:5,8	51:14,14 52:3	15:16 17:3	48:9	33:23 34:3,22
EPA 5:19 6:21	52:3,17	27:8 29:20	foregoing 59:8,9	36:12,13,22
6:22 7:1,8,14	exhibits 6:19 7:4	31:8,9 32:12	former 11:18,21	53:16 54:8,9
7:18 24:6 33:4	8:12,24 9:1,19	34:4 37:5,15	12:1,6,8,24	General's 19:9
35:4 41:11	24:20 28:22	37:17 38:20	13:5,5,11,14	generate 25:4
46:19 52:9,11	38:13	39:21 48:14	13:18,19 14:22	generated 25:8
52:14 56:7,8	existed 13:4	felt 34:14 46:19	16:19 17:12	36:13 55:8
equally 54:2	16:17	few 8:2 54:18	18:14,17 22:15	generation 36:12
equipment 15:4	existing 32:23	fiber 15:22	22:17 23:2	53:17
35:2,13,18	41:13	figure 29:5,6,7	24:7 28:3,10	geotextile 14:19
equivalent 32:21	exists 11:15	31:16,20,21	28:16 29:13,21	14:21 15:5
33:8	explain 36:18	37:19 39:12	30:6,7,16,19	16:5,7
essentially 6:5	39:10	45:12,13,15	30:21 31:24	gets 32:4
6:10 11:15	expose 35:10	46:2,2,7,15	32:2,5,8,10	getting 35:2
23:14 28:8	exposed 16:7	47:4,6,14,15	41:6,23	give 6:3 27:20
43:17 48:5	exposes 16:5	47:16,18 48:2	formerly 5:4	go 27:2 42:21
et 47:20,20	extended 37:13	48:6,13 49:20	13:2 17:16	47:23 48:23
evaluate 24:13	38:23 42:4	50:15 51:4	forwarded 4:2	55:2 57:15,17
even 45:18 57:6	44:1	file 21:17	found 28:21	goes 3:24
event 35:8 40:13	extends 30:5,20	filed 4:2 22:23	frequency 26:8	going 3:14 8:9
51:21	32:1 38:10,18	25:2	26:23	20:24 21:20
evidence 10:1	40:22 41:1	fill 12:16,16,22	from 1:5 3:6 4:3	24:24 30:15
21:22 22:5	extension 44:11	12:24 13:7	4:5,12,14,17	39:4,9 46:4
49:16,19 50:4	44:12	16:17 17:11	4:24 5:2 16:11	48:5,10 51:11
50:7 51:11	extent 9:8 10:15	22:10,10,15,17	16:21 17:6	good 3:1 4:10
58:11	10:20 20:11	23:4,9,23	24:21 25:13	8:7,8 47:22
evidentiary 3:23	54:19	24:14,15 28:17	26:24 27:8,14	58:11
ex 21:2	extra 8:13 10:12	28:17 31:10,24	28:5 30:5 31:8	gradient 38:14
exacting 48:16		32:17 33:15	32:2,12 34:4	38:21 40:6,6
exactly 45:22	F	40:2,2,22,22	36:9 37:6,15	40:13 41:21
48:8,14 51:5	F 3:15	41:2 46:9 49:9	38:15,20 39:18	42:9
exception 41:4	facility 5:8 22:23	50:23,23	39:18 40:8	grading 40:9,11
exchanges 7:18	22:24 25:1	filled 13:6 17:7	43:13 52:10,14	granted 7:3,23
exclude 45:4	56:4	23:8	52:16,19,20,22	granules 23:17
exhibit 9:16,24	fact 38:12 56:13	filling 17:6	52:22 55:10,11	23:21
10:8,10 11:3	fail 35:16	final 18:13	55:13,15	great 5:17
18:4,5,24	failure 35:10	find 25:24	full 15:22	green 28:9 29:18

Greenwood 5:1 ground 6:14,16 15:19 29:19 33:15 34:21 36:17,20,24 38:16 39:23 40:7 41:23 42:6 46:1,4,22 52:4 54:9 56:19 57:1 group 9:23,23 18:24 19:22 28:23 29:1,4 31:18 33:5 37:19 47:8,8 48:4 50:15 51:14 52:3 guess 18:23 46:13 50:2,9	hearing 1:9 3:1 3:3,14,17,18 3:24 4:11 7:10 8:3,15 9:7,12 9:15,18,22 10:9,14,19 18:22 19:2,24 20:23 21:23 22:2,7 29:8 37:23 42:20 48:20,23 49:13 50:1,6 51:7,16 51:23 53:20 54:16 57:10,14 57:17 58:8 59:8 heavy 35:13 held 1:8 5:4 he'll 4:14 him 7:9 hit 54:19 hitch 4:1 hold 11:3 15:4 hour 1:16 15:11	immediately 34:18 36:8 impact 43:6 important 46:19 inaccurately 52:15 inappropriate 34:17 inches 30:1,2,2 included 50:15 55:9 includes 39:16 including 13:20 indicate 10:22 20:21 26:18 46:16 indication 43:4 indicative 25:15 industrial 18:19 44:9 inert 53:5,10,13 53:18 55:4,14 55:20,24 56:5 56:9,11,15,21 57:4,7 information 7:18,20 46:7 initial 22:24 25:1 56:3 insert 55:11 insight 43:8 installed 25:11 46:5 installing 45:24 instead 36:7 37:14 insulation 23:16 55:18 intended 3:19 44:24 46:3 intent 42:11 interim 16:20 31:5 introduce 4:9 20:20 introduced 9:9 21:21 investigation 24:19 26:14 involved 5:20,23	18:6 19:10 involves 6:7,9 22:10 involving 4:23 IPCB 52:19 issue 35:3 40:13 43:17 47:17 49:6 issues 40:15 43:16 Item 21:10 it'll 10:17 46:10	9:7,17 10:2,7 10:10,20 11:1 11:23 13:8 14:13 16:15 17:14,21,24 18:3,9,22 19:1 19:4,12,15,18 19:21 20:2,9 20:24 21:9,14 21:20 22:4,8 22:13,20 23:10 24:1,11,17 25:3,6,17,23 26:2,11,19 27:16,23 28:23 29:3,7,9 31:10 31:13,18 32:13 32:19 33:11,18 34:20,24 35:17 35:21,24 36:11 36:16 37:18,22 38:6 39:4,22 40:4,12,18,21 41:4,15,17 42:2,13,19 43:9 44:13 45:9 47:2,24 49:2,3,17 50:11,18 51:15 51:19 52:1,12 52:24 53:23 54:7,12 57:24 kept 15:23 kind 10:23 23:10 49:6 kinds 23:12 know 19:18 46:8 48:19 54:13 55:12 knowledge 43:9 known 4:21 12:23 13:2,7
H half 13:1 16:10 22:18 23:4 28:6 34:8,11 34:15 35:15 36:7 37:2 Halloran 1:10 3:1,2 7:10 8:3 8:15 9:12,15 9:22 10:9,19 18:22 19:2,24 20:23 21:23 22:2,7 29:8 42:20 48:20,23 49:13 50:1,6 51:7,16,23 53:20 54:16 57:10,14,17 hand 48:8 51:3 handwritten 48:4 happen 51:12 happened 14:17 Harrison 2:6 hatch 29:18,23 hatching 31:1 having 27:14 health 34:13 35:7 36:3 hear 8:1	I idea 19:6,15 27:20 identification 10:11 39:6 45:4 identified 29:22 49:20 identify 10:15,21 21:5,6 44:7 46:3 IEPA 19:7 32:16 52:20,22 58:2 IEPA's 20:12 32:20 Ill 1:5 Illinois 1:1,10,13 1:15 2:3,5,6,8 3:3,7,19 5:19 6:21,22 7:1,8 7:14,18 19:8 21:2 33:4 43:11 46:18 52:9,11,14,16 56:7,8 59:1,6	J January 21:1 JM 4:20 15:20 17:19 18:21 35:4 36:12,22 41:11 JM's 4:18 57:24 58:3 John 4:19 Johns 1:4 2:4 3:6 4:13,17,23 5:8 7:19 11:6 11:10,13 21:3 24:11 32:15 36:18 54:1,22 July 1:1,15 3:10 4:1 June 7:5,5 just 5:1,21 7:15 8:1 10:22 18:23 20:14,20 20:21 29:3 36:8 41:13 45:20 46:15 47:17 48:18 50:11,21,21,24 51:13,17 54:19 54:23 55:2,5 56:12 57:19 Justice 19:8	K keep 15:21 Kenney 2:4 4:8 4:10,12 7:11 7:11,15 8:7,9 8:17,21,24 9:4	L lagoon 13:18 14:1 18:19 44:11 lagoons 55:10,13 55:16 Lake 1:13 11:12

15:15 21:4 29:15 32:3 land 1:6 14:6 landfill 5:6 6:6 6:12 12:11,19 13:5 18:16 21:19 23:7 24:14 25:4,7 25:10,13,14,16 25:21 26:6,15 26:16,18,23 27:11,15,18 28:3,9,10,14 28:17 29:13,18 29:21 30:22,24 33:7 34:9,12 34:16 36:10 37:8,11 40:19 40:22 41:1 52:4 53:4,16 54:8 55:9 landfills 22:20 36:14 42:5 language 45:10 45:14,21,23 46:17 47:3,14 large 5:4 6:5 13:8,10 14:19 largely 23:12,20 51:5 55:18,24 56:22 57:7 last 5:16 7:16 lateness 3:11 58:10 Laura 1:11 59:4 59:16 lawyer 45:6 layer 24:5,8 30:4 30:11,12 33:2 leading 15:8 least 7:16 leave 47:12 leaving 23:7 led 36:5 left 3:22 11:20 30:8 39:2 legal 7:14 less 5:2 let 25:24 55:5 Let's 36:16	42:20 level 15:13,15,15 15:16,18 29:20 48:13 LFR 4:14 Liebman 33:5 like 4:9,19 19:23 35:21,22 41:12 48:6 lime 23:15 56:1 limestone 23:14 limited 41:13,13 53:16 limits 30:18 line 11:9,13,14 28:11 39:16 40:1 linear 18:18 lines 45:19 Lisa 21:2 little 36:17 48:11 50:21 51:10 Liu 4:5 42:17,22 42:23 44:21 47:22 57:11,12 57:22 locate 36:6 37:5 located 4:24 18:17,20 23:3 28:4,21 30:15 31:16 39:24 44:9 location 15:9 27:6 33:23 36:21,23 42:6 45:23 46:1 47:4 locations 27:12 46:11 logistics 34:14 long 18:18 longer 14:9 17:10 look 8:10 10:13 21:9 28:2 39:7 39:9 48:6 looking 45:14 56:24 loud 49:15 low 25:15 26:14	lower 11:11 lyme 55:19 <hr/> M <hr/> made 23:15 Madigan 21:3 major 6:10,14 make 3:24 7:8 9:19,20 10:16 10:22 19:3 20:19 53:8 54:22 making 3:21 10:23 management 6:12 33:14,20 33:24 manager 4:16 54:21 Mansville 4:13 4:19 21:17 manufacturing 5:4,9,10 11:18 11:22 13:14,15 14:7,8,9 17:20 17:22 55:12,17 Manville 1:4 2:4 3:6 4:17,23 5:3 5:9 7:19 11:6 11:10,13 21:3 24:12 32:15 36:18 54:1,22 mark 9:16,23 10:7,10,23 20:24 marked 39:5 marks 10:17,22 material 6:2 23:16 25:3 30:24 32:8 41:18 53:12 55:8 56:1 materials 5:24 23:13,17,22 24:9,18,22 25:12 27:10 31:15 32:6 33:1,3 35:12 55:20,21 matter 1:3 3:5	matters 3:24 may 4:6,6 8:2 9:19 24:9 28:21 54:19 maybe 10:16 20:19 meeting 59:12 meetings 7:17 members 3:12 3:22 mentioned 7:15 16:15 18:15 27:17 Michigan 11:12 15:15 29:15 32:3 might 21:15 43:3 43:6 45:3 migration 26:18 41:17 mile 5:2 million 5:11 minimum 27:1 miscellaneous 12:24 21:11 22:16 23:3,5 23:18,23 24:7 25:11 30:6,7 30:13,16,19,23 31:3,6,23 32:9 41:22 Miss 4:5 8:4 42:22 57:11,22 mixed 56:14 modification 39:11 47:16 50:20 modified 32:24 47:12 modify 42:11 47:6 monitoring 6:12 6:15,17 25:10 25:14,17,22 26:3,5,9,10,12 26:17,24 27:1 27:2,4,6,12 33:14,15,20,24 34:3,7,7,11,15 34:18,21,22	36:7,17,20,22 36:24 37:12 38:17,22 39:23 40:7 41:24 42:6 46:1,4,10 46:16,22 54:8 54:10 56:20 57:1 monthly 26:5,10 26:12,24 more 5:16 34:19 36:6 45:1,19 48:13 50:21,24 51:3 53:4,9,13 53:18 morning 3:2 4:10 8:7,8 move 36:8 51:24 moved 46:20 48:12 moving 46:22 MPDS 43:16 much 10:2 17:1 25:4,7 34:19 35:5 36:13 47:7 48:12 53:13,18 58:12 <hr/> N <hr/> N 2:1 name 3:2 4:11 narrower 17:1 native 29:19 nearly 16:10 necessary 19:16 21:15 35:14 46:12 necessitated 46:23 need 10:15,21 19:22 20:1 32:24 44:13 needed 14:9 15:23 40:14 needs 8:14 45:17 negotiation 20:4 negotiations 18:6 19:6 20:5 nested 12:8,18 28:16
--	--	---	---	---

never 40:14 41:24 42:11	29:8 42:20 48:20,23 49:13	original 18:1 25:19,19 26:14	6:7,8 13:12 14:4 17:18	pictures 10:4
next 49:10	50:1,6 51:7,16	47:15 50:13	23:15 24:3	piece 3:13
nonasbestos 30:9	51:23 53:20	originally 15:13	29:22 32:13	pieces 23:19
non-asbestos 12:12	54:16 57:10,14	Orlinsky 2:7	37:19 40:1	pit 12:24 21:11
normally 27:7	57:17	7:12,13,13	49:22	22:16 23:3,5,5
37:1	okay 9:22 14:16	9:13,14 22:1,6	particular 10:15	23:8,23 24:8
north 1:14 39:24	17:14 18:9	50:2,5 51:17	10:21 12:17	24:23 25:1,11
40:1,10 41:2	20:2,22 21:20	51:18 54:14,17	14:1,17,23	30:6,7,14,16
44:6 47:11	22:13 24:11	54:18 56:2,12	15:6 29:10,24	30:19,23 31:4
48:9	26:2,11,19	56:18 57:8	parties 4:4 57:20	31:6 41:22
northeast 16:12	27:16 28:1	Orlinsky's 20:12	parts 10:16	place 15:2 27:10
northern 18:20	33:11 34:24	58:2	past 16:3	34:6 35:19
38:24 40:1	36:11,16 37:22	other 6:14 13:20	pen 48:12	38:22
44:10 45:5	39:22 41:4	42:12 43:17,20	penalties 43:13	placed 14:21
north/south 16:24	42:13 47:2	44:22 46:13,17	43:15	16:8,13 24:6
notary 1:12	51:7	48:18 52:1	penalty 43:11	24:24 27:7,13
note 3:17 4:1	one 2:2 4:18	others 8:19	penetration 35:1	30:4 31:6 37:1
noted 27:4	6:10 8:14 10:8	out 12:18 13:22	People 21:1	37:16 46:6
notes 59:10	23:4 24:20	16:3 27:13	percent 15:9	placement 6:16
nothing 57:9,12	26:7,22 37:2	33:21 43:3	perhaps 17:2	12:4 33:1 34:2
noticed 3:18	41:4 45:19	45:15 47:18	43:5 45:3	34:15,17
now-closed 34:9	52:1 56:16	49:15 55:16	period 5:13	places 50:19
<hr/>				
O				
object 51:18	one-third 17:12	outline 11:8 12:7	22:21 26:24	placing 15:4
objection 9:14	ongoing 13:24	28:8,11	permanent	34:10 37:12
21:24 22:1,6	26:3 30:8 33:3	outside 30:18	34:10	Plaines 2:6
50:3 51:17	43:15 56:24	outward 37:13	Pershing 11:16	plant 5:5 12:13
obtain 18:13	only 17:2 38:13	46:23	personnel 7:19	13:24 14:6
Obviously 35:17	43:17	over 5:12,15,21	57:21	17:20,21 23:9
occasional 23:19	onsite 12:11	6:2,6,21,23	perspective	23:10 30:9
occurring 43:10	18:15 28:14	7:15 12:5 16:8	38:16	55:8
October 11:7	33:7 52:4 55:9	24:8 30:14	pertaining 44:22	plant's 13:12
14:23	on-site 30:24	overall 12:15	Peter 2:7 7:13	plant-generated
off 5:1 48:20	open 14:5 30:8	overlaid 30:1,2	39:7	23:1
49:4 50:2	31:13	overriding 18:10	Petersen 4:17	please 8:5 53:21
57:15,16	opening 58:1	overseeing 5:20	petition 1:4 3:5	plus 16:3
offer 51:11	operated 22:21	oversight 5:17	4:22 6:7,23	point 12:18
Office 19:9	operating 17:22	overview 6:4	21:17 38:4	14:15 33:21
officer 1:9 3:1,3	operation 12:13	<hr/>		
4:11 7:10 8:3	opinion 53:23	P		
8:15 9:7,12,15	54:5	P 1:10 2:1,1,4	Petitioner's 9:23	36:7 44:5
9:22 10:9,14	order 14:12,24	pads 11:22	ph 52:5 53:17	53:11
10:19 18:22	20:6,16,18	page 19:19,20	photograph 11:6	Pollution 1:1,10
19:2,24 20:23	21:1,8 41:15	21:9 55:7 56:3	11:11 12:8,17	3:3,20 8:11
21:23 22:2,7	41:16 42:23	56:4	14:17 15:7,10	37:22 52:6,16
	43:11,12 44:17	paid 43:12,14,16	16:9 28:5	52:23
	47:6	paper 23:19	29:14	ponds 18:16
	orders 42:15	parentheses	physical 14:13	portion 11:24
	43:3,10	55:11,12	picks 30:18	17:16 21:12
	organic 55:21	part 5:5,8 6:1,3	picture 6:4	35:11
				position 32:20
				possible 4:2 35:6
				post 12:13 30:9

post-hearing 57:20,23 potential 36:3,5 practicable 36:6 practical 34:19 38:15 precise 50:24 precisely 50:22 prefer 35:4 48:16 prepared 8:18 presence 53:11 57:4 present 31:10 33:22 40:15 42:8 Presently 15:12 presettling 55:10 55:13,16 pressure 25:15 pressures 26:15 prevent 17:5 41:15,16 previously 6:18 6:20 15:20 29:22 primarily 5:23 55:18 prior 37:23 probably 5:1 problem 34:24 35:1 48:17 51:20,22 problems 33:23 36:1 procedural 3:16 proceeding 5:7 9:11 12:11 22:9 28:15 32:14 33:12 43:13 44:15,20 proceedings 1:8 58:14 59:7,11 process 13:14 18:6 55:17 products 13:20 professionalism 58:9 Program 5:18 prohibited 24:2	project 5:13 54:21 properly 3:18 property 4:24 5:3 11:6,9,13 11:13,14,17,21 18:21,21 28:6 proposal 49:11 proposed 33:7 37:11 39:13 45:2 54:1,8 Protection 2:5,8 protective 54:2,2 provide 5:21 6:16 15:1 22:24 26:20 43:8 provides 26:22 27:2,5 44:1 providing 4:15 6:11 provisions 3:16 public 1:12 3:12 43:5 58:4 pulled 14:24 15:6,12 pulling 14:18 pump 15:20,20 pumped 13:16 13:17,18 pumping 15:24 18:19 44:10 purpose 18:10 18:12 purposes 9:18 17:15 pursuant 3:14 7:3 12:2,10 14:2,10 26:16 27:19 28:15 37:1 39:20 41:9 44:3,4 put 15:5 35:2,14 35:19 putrescible 53:6 53:15,19 55:4 55:23 56:14,23 57:6 puts 37:8	<hr/> Q quality 40:8 52:5 53:17 58:10 quartz 55:19 query 50:8 question 37:24 38:7,8 42:3,15 43:1 44:22 45:1 48:7 52:1 52:14,15,18 54:20 56:3,13 questions 4:3,6 8:2 42:14,18 54:13,15,23 57:22 58:7 Quinton 4:16 quite 15:3 17:7 <hr/> R R 2:1 railroad 11:15 raised 42:3 52:2 read 19:22 45:3 55:5 really 43:20 44:14,15 45:22 46:3 51:20 reasons 34:13 35:7 recall 38:6 received 16:21 recommendati... 7:2 20:13 record 3:17,19 9:10 10:18 19:23 20:11 48:21,24 49:4 49:12,23 50:11 51:9,17 53:1 56:5 57:15,16 57:18,19 rectangular 16:23 recycled 13:23 reduction 26:8 26:23 refer 4:19 reference 9:19 20:15 43:18 45:10 52:6	56:4,8 references 21:10 47:3,14 referencing 37:18 referred 34:6 52:18 refers 45:11 reflect 51:9 reflected 19:12 reflective 48:9 51:5 regarding 38:8 regulation 34:2 37:2 regulations 6:13 26:5 33:9 39:21 42:8 regulatory 18:13 32:22 33:22 54:4 rel 21:2 relate 44:14 related 43:1 45:1 relative 12:20 relatively 5:7 6:7 remain 14:5 remaining 42:18 remedial 5:22 44:1 removed 11:23 replenished 16:4 reply 58:3 report 1:8 22:24 25:2 52:5,7 56:4 reported 24:20 59:7 Reporter 8:4 59:5 representatives 19:9 represented 9:5 representing 4:13 request 7:3 requested 39:14 required 33:10 42:7 requirements	6:13 32:22 33:14,22 54:4 56:20 requiring 37:9 resolved 26:9 respect 36:19 43:21 respected 4:4 rested 57:21 result 7:20 46:21 resulted 18:7 results 24:21 revised 46:15 48:2,6 49:8,22 50:9 51:4,13 rig 35:18 right 10:14 11:11 42:18 58:6 Road 11:16 roads 35:14 rolled 23:21 roof 5:12 roofing 23:17,21 23:21 53:12 roughly 11:17 11:24 12:4,22 13:1,6 16:23 17:12 18:20 22:18 23:4 28:4,6 32:2 34:3,8 37:5,17 38:19 rule 3:23 run 3:14 runs 11:16 29:14 <hr/> S S 2:1 safety 34:13 35:7 36:4 sake 7:6 same 16:23 38:3 40:12,15 45:12 46:11 47:7 sand 15:2,4 16:8 16:10,13 23:15 24:5 30:1,11 30:12 33:1 55:19 56:1
--	--	---	---	--

Sandra 54:20	26:12,14	37:10	33:12,13 34:1	sunken 16:5
says 21:16	shown 11:19	sludge 15:3 16:6	36:19,23 38:4	superfund 5:18
schedule 57:23	12:7,14,16	55:10,13,15	39:3,15 43:7	27:19 30:21
schedules 57:20	28:7,11 29:2	small 5:8 6:7	43:19 44:19	34:12
score 53:1	29:11,13,18,23	smaller 18:16	45:2,10 46:21	suppose 45:20
sea 15:14,16	31:1 47:8	23:18	47:1,15 50:14	sure 3:24 10:9
29:20	shows 11:21	soil 12:5	54:9 56:16	11:5 27:22
second 27:5	27:24 29:16	solids 55:11,14	standards 26:7	45:15,22 49:24
31:16 56:2	39:12,12 46:15	solution 34:19	53:24	surface 14:24
Secondly 35:6	49:8	some 4:15 8:13	standing 17:9	16:6 31:15
Section 3:14,15	side 11:19 27:11	9:20 10:4,12	start 33:19	surrounding
see 11:10 15:8	27:15 34:8,11	11:14 12:20	starting 29:12	15:19 23:6
30:10 41:12	34:16 35:15	17:4 18:16	state 1:13 5:18	28:12
55:6	36:8,9 37:10	23:12,16,17	14:12,14 20:6	surrounds 46:9
seeking 36:19,22	40:10,10 45:5	24:13 27:10	21:2,7 44:17	swear 8:4
seeks 6:15	sides 39:1,14	32:6 33:1,2	59:1	sworn 7:7 8:6
seen 28:8 39:7	47:11,11,13	35:18 42:17	stated 11:23	system 13:13
semiannual 27:2	48:10	43:4,14,15	52:15,19,20	14:1 17:19
sense 20:20	Sidley 2:2 4:12	44:1,3,5 49:3	statement 7:7	systems 33:24
48:10 53:22	significant 12:20	54:14,19 56:13	still 12:13 46:10	
56:24	35:11	something 35:21	stipulated 43:15	T
sent 54:23	silica 55:19	46:14	Street 1:14 2:6	take 10:13 28:2
sentence 52:17	silicate 23:14,20	somewhat 5:14	strict 56:24	38:22 39:6,9
separate 20:14	32:7 53:12	20:3 27:13	sub 9:19	51:12
20:20	similar 36:21	38:23	Subitem 19:20	taken 1:11 11:7
September	53:4,4,9,13,18	sorry 31:23 32:9	subject 5:7,15	14:18 15:10
52:13,21 58:3	similarly 41:7	52:12	submit 20:11,13	48:22 59:10
58:4	simply 35:7	sort 11:2,20	46:14 48:2,13	talk 4:22 36:16
set 58:4	since 25:18 26:3	35:18 36:18	49:7,16,17,21	talking 9:21 11:4
settling 13:11,19	26:4 41:20	41:18 43:15	50:9 51:13	33:13 34:21
13:22 14:20,22	42:21,23 43:2	46:6 50:18,20	submittal 52:6,8	55:3 57:19
15:18,21,24	47:14	south 2:2 11:16	52:10	talks 45:24
16:12,19,21,24	sit 8:22	36:9 38:24	submitted 6:18	technical 4:3,5
17:15 18:14,17	site 5:9,14,21 6:1	39:14 47:13	6:24 7:1,4 8:11	7:19 57:21
28:12 32:2	6:3,4,8 10:4	southern 17:12	14:4 50:12	technically
41:5,6 44:2	11:3,5,10,19	southwest 16:11	55:1	53:14
several 7:17 17:5	11:24 30:21	speak 53:21	submitting	ten 5:10 12:22
29:16	44:7	specific 53:11	50:19	22:17
shifted 40:14	six 30:1	specifically 33:5	Subpart 3:15,15	terminates 29:15
short 4:18,24	size 11:18 12:1	specified 46:2	subsequent	terms 17:22 25:4
5:22 37:13	12:23 13:1,19	square 5:12	15:11 17:7	33:11,23 36:1
48:22,24	14:2 22:17,19	SS 59:1	35:8	40:18 42:5
shorthand 59:5	sketch 48:4,8	standard 1:4,6	subsequently	43:23 49:11
59:7,10	51:3	3:6 4:23 6:11	13:16 23:8	Terrific 8:3
show 6:5,9 11:4	slope 34:8,19	6:15,23 7:2,22	substantial 15:1	10:19 51:23
14:20 16:10	35:10,15 36:1	12:21 19:7,16	57:3	57:14
42:4 46:10	36:3,5,8 40:18	20:19 21:15,18	subsurface 27:6	testified 53:3
47:6,9 50:22	46:23	22:8 26:17,20	34:3	testimony 4:15
showed 38:13	slopes 27:11,15	26:21 27:5	suggested 45:24	6:19,24 7:4,9
showing 24:22	34:11,16 36:10	28:16 33:8,10	summary 5:22	8:10,17,21 9:5

14:4 18:5 55:1 Thank 7:11 8:16 29:8 44:21 57:8,10,12 58:12 Thanks 10:2 51:8 their 3:13 themselves 40:15 thermal 55:16 55:17 they'd 3:13 thick 12:5 thickness 31:9 32:12 thing 41:19 42:24 46:13 things 26:22 think 4:19 7:6 9:17,20 10:13 16:16 42:13 43:14 47:22 48:14,24 49:3 49:7 51:8 54:19 thinking 49:15 though 57:7 thought 45:3 58:10 three 13:1 22:18 30:2 31:8 through 12:4 13:23 24:12 25:12 27:14 29:11 30:12 31:23,24 32:24 35:5 37:9 40:19 41:7,11 time 26:4 44:5 times 27:17 today 3:10 4:14 4:15 8:2,22 10:4 12:21 22:9 33:12 48:18 today's 43:6 top 16:9,14 29:23 31:5 32:3,10 34:18	topic 42:21 topsoil 30:3 total 27:3 toward 16:12 towards 29:14 tracks 11:15 traditional 39:20 53:22 transcript 59:10 treatment 13:12 13:24 17:19 truck 35:21 true 8:21 54:7,11 59:9 trying 19:2 47:17 49:14 two 6:10 7:16 12:9 18:18 22:14 23:12,13 26:22 28:13 37:7 38:11 39:1 40:8 41:2 41:21 44:5,6 46:9 50:18 two-foot 12:5 type 40:12 43:16 53:5,6,10,13 types 53:3 typical 4:20 25:16 typically 55:22 T12 55:17	33:7 37:7 38:11 39:1 40:8,11 41:12 41:22 unless 54:13 until 26:9 32:4 unusual 5:15 update 44:21 upper 11:20 upwards 13:16 31:9 used 12:11 13:11 13:13 15:20,20 17:4,18 31:4 USEPA 19:7 Using 27:23 28:3 U.S 24:6 35:4 41:11	21:12 23:1 24:18 25:12 27:8,10 30:9 30:24 31:13,15 32:6 34:4 35:11 37:3,6 37:16 38:11,20 39:18,19 53:14 53:18,19 55:7 55:23 56:5,9 56:14,15,21 57:6 wastes 23:9,11 30:15,24 31:3 31:4,5 53:3,5,6 53:10 55:4,5 water 6:14,17 13:3,12,13,15 13:21,23,24 14:24 15:13,18 15:19,21 16:1 16:4,8,16,21 17:4,6,9,17,19 18:16,18 33:15 34:21 36:17,20 36:24 38:16 39:23 40:8 41:23 42:6 44:5,6 46:1,4 46:22 52:4 54:9 56:20 57:1 Waukegan 1:15 11:17 way 4:21 16:11 34:8,11,15 35:15 36:7 45:7,15 47:7 47:23 51:22 56:16 weak 15:3 well 9:2 24:21,21 25:10 28:1 32:23 39:8 49:23 54:12 wells 6:17 33:24 34:7,11,15,18 34:21,22 35:2 35:15 36:24 37:5,12 39:23	40:14 42:6 46:1,4,10,16 46:23 were 3:12 5:12 11:22 12:9 14:18 17:14,18 17:24 18:5 19:10 20:5,8 22:20 23:1,11 23:13,22 24:19 24:20,21,22,23 30:15 31:5 43:5 46:4 49:4 51:10 53:3,4,5 55:2 57:19 58:13 west 2:6 18:17 30:5 40:10 41:2 47:11 48:10 western 11:14 11:19 14:21 29:12 39:1 45:5 westward 44:11 west-to-east 28:19 31:22 wet 15:23 we'll 9:23 10:10 10:13,22 we're 3:13 4:21 9:21 10:23 12:21 22:9 26:9 33:13 42:21 43:19 45:16 49:1 52:21 57:1,18 we've 6:21 28:13 33:3 42:13,15 57:22 while 12:13 whole 56:20 width 17:3 William 4:14 wish 49:15 Witness 8:6 witnesses 4:7 wobble 48:11 wondering 43:7 45:6
---	---	--	--	---

wood 23:20 57:5	100 27:7 34:3	58:1,3,4	9:00 1:16
word 45:7	37:15 38:19	24 19:19	9:20 3:10
wording 45:2	39:3,17,21	26 15:17	90 15:9 48:11
words 47:18	47:10 48:9,14	28 7:5	9511 2:6
48:19	101 3:15	29 7:5	
work 17:5 23:7	104 3:15		
24:13 25:6,19	11 52:3,17 56:3	<hr/> 3 <hr/>	
25:19 44:4	110 48:11	31st 58:1	
wouldn't 39:23	12 55:17,17 58:3	312)853-2062	
42:7 51:18	13 21:9	2:3	
write 47:18	130 11:24	35 1:5 3:7 13:10	
written 6:19,24	14 52:13,21	13:18 14:1	
7:4 8:10 55:1	140 12:1	350 5:3 11:17	
	15 30:2 32:12		
<hr/> Y <hr/>	150 17:3 37:17	<hr/> 4 <hr/>	
yeah 45:23 49:13	17 58:5	4 18:5,24 19:21	
year 6:21	18 1:1,14 31:9	4-4 3:9	
years 5:10,13,16	19 3:10 58:4	<hr/> 5 <hr/>	
5:16,17,21	19th 1:15	5 11:7 14:23	
6:24 7:16 16:3	1990s 14:8	32:12	
17:5 27:1,3	1991 24:4	50 37:5	
	1992 12:4,14	50-foot 37:7	
<hr/> Z <hr/>	14:5 22:23	577 15:16	
zone 37:4,12,14	24:4 25:2 30:9	580 29:20	
37:24 38:1,9	55:8	585 29:20	
38:13,17 39:13	1996 13:6		
39:17 42:4,11		<hr/> 6 <hr/>	
42:16 44:23	<hr/> 2 <hr/>	6 21:1	
45:4 46:5,8,20	2 12:17 13:1,7	600 15:14	
46:24 47:4,6,9	16:17 17:11	60016 2:6	
47:12 50:22	21:10 22:10,17	603 15:14	
zones 49:8	23:23 24:15	60603 2:3	
	28:18 31:11,19		
<hr/> 0 <hr/>	31:20,24 32:17	<hr/> 8 <hr/>	
01 21:4	33:16 37:19	8 38:3 45:11,11	
04-04 1:5	40:2 49:9	46:2,2,7 47:4,6	
084-003592	50:24	47:15,16 48:2	
59:16	2A 37:19 39:12	48:6 49:5,8	
	45:13 46:8	51:4,14	
<hr/> 1 <hr/>	50:15	80 16:3	
1 12:16,22 22:10	2B 29:6,7 34:5	811.310 1:5 3:7	
22:15 23:4,9	2D 31:16,21	811.311 1:5 3:8	
24:15 28:17	20 5:16,17	811.318 1:5 3:8	
31:11 32:17	20th 5:6	814 1:6 3:8	
33:16 40:2,22	200 37:17	847)294-4077	
49:9 50:23	2001 5:14 11:23	2:7	
1.9 5:11	2003 26:1	857 21:4	
10 55:7	2005 11:7 14:23		
10th 1:14	21:1 52:13	<hr/> 9 <hr/>	
10:31 49:2	2007 1:1,15 4:2	9 4:2 56:4	