

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,)

)

Petitioner,) PCB NO. 2010-103

)

v.)

) DEPOSITION OF

COUNTY BOARD OF DEKALB) JOHN HULSEBERG

COUNTY, ILLINOIS and WASTE)

MANAGEMENT OF ILLINOIS,)

INC.,)

)

Respondents.)

DEPOSITION OF JOHN HULSEBERG, taken at the
DeKalb County Legislative Center, 200 North Main
Street, Sycamore, Illinois, on October 7, 2010,
commencing at 3:16 p.m., before Callie S. Bodmer,
Certified Shorthand Reporter and Notary Public in
and for the State of Illinois, in pursuance to
agreement of the parties in the above-entitled
action.



1 APPEARANCES:

2 ATTORNEY GEORGE MUELLER,
of the firm of Mueller Anderson, P.C.,
3 603 Etna Road,
Ottawa, Illinois, 61350,

4
Counsel for the Petitioner.

5
ATTORNEY AMY ANTONIOLLI,
6 of the firm of Schiff Hardin, LLP,
233 South Wacker Drive, Suite 7200,
7 Chicago, Illinois, 60606,
8 Counsel for the Respondent,
County Board of DeKalb
9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,
of the firm of Pedersen & Houpt,
11 161 North Clark Street, Suite 3100,
Chicago, Illinois, 60601,

12
Counsel for the Respondent,
13 Waste Management of
Illinois, Inc.

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3 Witness: JOHN HULSEBERG

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20 Certificate of Shorthand Reporter. 21

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1 JOHN HULSEBERG,
2 being first duly sworn, was examined and
3 testified as follows:

4 MR. MORAN: Let the record reflect this is
5 the discovery deposition of John Hulseberg taken
6 pursuant to notice and set by agreement of the
7 parties.

8 EXAMINATION

9 BY MR. MORAN:

10 Q. Mr. Hulseberg, my name is Don Moran, I'm an
11 attorney representing Waste Management of
12 Illinois, Inc. who had filed a site location
13 application with the DeKalb County Board on
14 November 30th, 2009. The County Board voted to
15 approve that site location application on May
16 10th of 2010. The Stop The Mega-Dump group
17 appealed that decision to the Illinois Pollution
18 Control Board. That appeal is now pending as
19 Cause No. 10-103, and that appeal is the reason
20 that we're here today.

21 I'm going to be asking you a number of
22 questions relating to that appeal. As part of
23 the deposition I will ask questions and I will
24 try to ask them as clearly as I can, but when I

1 fail I would ask that you request clarification,
2 because it's important that your answers be
3 directly responsive to my questions.

4 A. Okay.

5 Q. Is that fair?

6 A. Yes.

7 Q. You'll also notice the court reporter is
8 transcribing everything that is said, so it is
9 important that all of your responses be verbal,
10 as the court reporter can't take down nonverbal
11 gestures or uh-huhs or huh-uhs.

12 A. I understand.

13 Q. Could you state your full name and spell your
14 last name.

15 A. Sure. John Thomas Frederick Hulseberg,
16 H-U-L-S-E-B-E-R-G.

17 Q. What is your address?

18 A. 462 West Exchange Street, Sycamore.

19 Q. What is your occupation?

20 A. I work at Northern Illinois University in the
21 Physical Plant as the paint shop assistant
22 foreman.

23 Q. When did you begin your service on the County
24 Board?

1 A. Well, I was elected in November of 2006, sworn
2 in I guess January of '07.

3 Q. And you're up for election in November?

4 A. Correct, uh-huh.

5 Q. What district do you serve?

6 A. District 4.

7 Q. What area does District 4 include?

8 A. The City of Sycamore. Do you want the exact
9 parameters, streets?

10 Q. No, I think that's certainly sufficient. Do
11 you serve on any committees on the County Board?

12 A. Yes, I do.

13 Q. Which committees?

14 A. The finance committee, and the planning and
15 zoning committee, as well as the courthouse
16 expansion ad hoc committee.

17 Q. Were you aware that the County and Waste
18 Management of Illinois negotiated a host
19 community agreement in connection with a
20 possible proposed expansion of the existing
21 landfill?

22 A. Yes, I was.

23 Q. How did you become aware of that?

24 A. Uhm, at a board meeting, gosh, in 2008 when we

1 received minutes of a committee that had been
2 formed to discuss those matters.

3 Q. Did you directly participate in the negotiation
4 of that agreement on behalf of the County?

5 A. No, I did not.

6 Q. Did you ultimately vote on whether to approve
7 that agreement?

8 A. Yes, I did.

9 Q. And how did you vote?

10 A. I voted yes.

11 Q. And did the full County Board approve that
12 agreement on March 18th of 2009?

13 A. That is correct, yes.

14 Q. Was it your understanding at that point that
15 there would follow a formal request to approve
16 the expansion of the landfill?

17 A. Could you repeat that?

18 Q. Yes. Was it your understanding at the time the
19 County approved the host community agreement
20 that there would still be a formal request
21 submitted to the County to approve any
22 expansion?

23 A. Yes.

24 Q. So that your vote to approve the host community

1 agreement was not a vote to approve the
2 expansion?

3 A. That is correct.

4 Q. There were two different motions?

5 A. Right, separate.

6 Q. Are you aware that the site location
7 application was, in fact, filed on November 30th
8 of 2009?

9 A. Yes.

10 Q. Between March 18th, 2009 and November 30th of
11 that same year did you receive any
12 communications from any person about either the
13 agreement or the anticipated site location
14 application or expansion of the landfill?

15 A. Yes.

16 Q. What communications did you receive?

17 A. Directly from the County Board staff with
18 regards to a potential landfill tour of a
19 facility that Waste Management owns in -- is it
20 Wilmington, Illinois I believe. I heard from a
21 few constituents wanting further explanation of
22 what was in the community host fee agreement, so
23 I talked about that.

24 Q. To those individuals?

1 A. To those individuals, yes.

2 Q. Do you recall any of the names of those
3 individuals at this point?

4 A. No, no, I can not.

5 Q. Were those phone calls placed to you, or
6 letters, e-mails?

7 A. No, they would be just casual conversations in
8 social or work settings.

9 Q. Any other communications from any persons about
10 the expansion or the agreement during that
11 period?

12 A. None that I remember.

13 Q. Did you take a tour of the Waste Management of
14 Illinois facility in Wilmington?

15 A. Yes, I did.

16 Q. When did you do that?

17 A. On Saturday, November 21st, 2009.

18 Q. Did any other County Board members attend that
19 tour with you?

20 A. Yes, one other.

21 Q. Who?

22 A. Julia Fauci.

23 Q. How did you get down to the facility?

24 A. I believe it was in Mr. Lee Adlemann's rental

1 car -- or it was his rental car.

2 Q. And was it Mr. Adlemann who gave you the tour
3 of that facility?

4 A. Correct.

5 Q. How long was the tour that you received or that
6 you took?

7 A. I believe we were on-site for two to two and a
8 half hours. The facility was closed so we were
9 the only three there, but we spent probably two,
10 two and a half hours.

11 Q. Then you were taken back here to the
12 Legislative Center?

13 A. That is correct.

14 Q. Had you been given any instructions with
15 respect to whom you could talk to or communicate
16 with upon the filing of the site location
17 application?

18 A. Could you clarify? After the filing?

19 Q. Yes. Once the site location application was
20 filed, had you been given any instruction as to
21 any communications you could have with any
22 person regarding the proposed expansion?

23 A. Yes.

24 Q. And what did you receive?

1 A. An e-mail I believe in -- well, a few months
2 after the filing had been submitted by Waste
3 Management for the expansion explaining ex
4 parte.

5 Q. That would have been a memorandum from
6 Mr. Bockman?

7 A. Yes, it was.

8 Q. It was a memorandum instructing you that it
9 would not be appropriate to have communication
10 about the proposed expansion with any person or
11 entity involved in the site location
12 proceedings?

13 A. Correct.

14 Q. Prior to that memo did you have any
15 understanding about who you could or couldn't
16 talk to regarding the proposed expansion or the
17 site location application?

18 A. Yes.

19 Q. What was that understanding?

20 A. There would be no contact with Waste Management
21 after they had filed for their siting.

22 Q. Did you have any communication, written or
23 oral, with any representative or employee of
24 Waste Management of Illinois, Inc. from the

1 approval of the host community agreement on
2 March 18th, 2009 through May 10th, 2010, which
3 was the vote on the application, other than the
4 tour you took with Mr. Adlemann?

5 A. No, I did not.

6 Q. Did you have any oral or written communication
7 about the proposed expansion with any person
8 after November 30th, 2009 until May 10, 2010?

9 A. Yes.

10 Q. Can you describe those communications for us?

11 A. Those would be with, again, constituents of
12 mine, and the nature of the communications would
13 be more about the community host fee agreement
14 and explaining what was within that. I found
15 several of my constituents were unaware of what
16 had happened with the community host fee
17 agreement, so I brought them up to speed on
18 that, and then explained to them the process
19 that we're in now I cannot discuss because there
20 are public hearings. Some people I had spoke
21 with before the public hearings and some after,
22 that I was unable to discuss those items in any
23 great detail, but I felt it was my duty to at
24 least explain to them and educate them as much

1 about the process as possible.

2 Q. What were the nature of those communications,
3 person-to-person communications, phone calls,
4 e-mails, letters?

5 A. All four. I received letters, and e-mails,
6 phone calls, and face-to-face.

7 Q. Approximately how many such communications did
8 you receive?

9 A. Oh, I would say 12 to 15 in total.

10 Q. Did those communications all come from your
11 constituents?

12 A. No, no.

13 Q. Who were those persons who communicated with
14 you who were not your constituents?

15 A. I couldn't tell you by name, but when I would
16 receive a communication and look at the address
17 it's pretty obvious whether or not they were in
18 my district, and those I tended not to speak
19 with or make an effort to speak with.

20 Q. Did you receive any communications from persons
21 who were opposed to the proposed expansion?

22 A. Yes.

23 Q. How many of those did you receive?

24 A. The majority of those 12.

1 Q. How many?

2 A. A dozen.

3 Q. Did you respond to any of those communications?

4 A. Again, the constituents of mine I did, yes.

5 Q. And how would you respond, in what form?

6 A. I would try initially a phone call. I'm not a
7 big fan of e-mail, so initially a phone call.

8 Q. What would you say to them in response to what
9 they had sent you?

10 A. I appreciate them reaching out and letting me
11 know their feelings, and explained the whole
12 situation of where I was at and what I could
13 discuss and what I could not but I would be
14 willing to listen, if they wanted to continue
15 communicating with me that I was available to
16 listen.

17 Q. Did any of them follow up with you after you
18 sent them this communication?

19 A. Yes.

20 Q. How many of them?

21 A. I believe three, maybe four.

22 Q. Did they call you?

23 A. Yes.

24 Q. And did they explain to you the various reasons

1 why they were opposed to the expansion?

2 A. Correct, yes.

3 Q. Did you have any response to any of them other
4 than to acknowledge what they were saying?

5 A. Yeah, just -- I didn't have any response, just
6 that I appreciate them explaining that.

7 Q. Did you attend any of the public hearings?

8 A. Yes, I did.

9 Q. How many sessions did you attend?

10 A. Two, I believe.

11 Q. Did you talk with or have communications with
12 any persons about the expansion during your
13 attendance at the public hearings?

14 A. No, not about the expansion.

15 Q. Have you heard at any time that any County
16 Board member had decided to either approve or
17 deny the site location application before all
18 the evidence was presented?

19 A. I heard of accusations of that, yes.

20 Q. What accusations did you hear?

21 A. That I believe Mr. Oncken and perhaps Julia
22 Fauci had made up their mind early on in the
23 process.

24 Q. And with regard to Mr. Oncken, what

1 specifically did you hear about his prejudgment?

2 A. That he made comments in public that I believe
3 people in opposition of the landfill expansion
4 overheard.

5 Q. And do you know what those statements were?

6 A. No, I don't recall.

7 Q. And you never learned subsequently what those
8 statements allegedly were?

9 A. No, no.

10 Q. And with respect to Ms. Fauci, what did you
11 hear?

12 A. That it was -- she had predetermined her makeup
13 or her mind on the expansion.

14 Q. And from whom did you hear that?

15 A. Non-constituents of mine, people that had
16 reached out to me via e-mail.

17 Q. What did they say about what Ms. Fauci had
18 allegedly said?

19 A. My recollection is they did not quote anything
20 she had said, they had just heard that it was a
21 done deal and predetermined in Ms. Fauci's mind.

22 Q. Did you subsequently hear from any other source
23 what Ms. Fauci allegedly had said?

24 A. No, I did not.

1 Q. Were you ever -- or did you ever hear any
2 information that confirmed any of these
3 statements that Ms. Fauci had allegedly made?

4 A. No.

5 Q. Had you ever heard any information confirming
6 the alleged statements that Mr. Oncken had made?

7 A. No, I did not.

8 Q. Other than these two instances, had you heard
9 any information at any point that the County
10 Board as a whole had considered the site
11 location application and expansion as a done
12 deal?

13 A. No.

14 Q. Now, is it your understanding that in reviewing
15 this site location application you were to
16 consider whatever evidence was presented in the
17 siting hearing or otherwise submitted in writing
18 to the County Board in making your decision on
19 the site location application?

20 A. Yes.

21 Q. And you weren't to consider evidence or
22 information that was not submitted in the site
23 location application presented at the public
24 hearing or contained in a written submission to

1 the County Board?

2 A. That is correct.

3 Q. Did you consider any information that was not
4 presented in the siting application, that was
5 not presented at the siting hearing, or not
6 submitted in writing to the County Board in
7 making your decision on the siting application?

8 A. No, I did not.

9 Q. Did any information or evidence that was not
10 presented in the siting application, not
11 presented at the siting hearing, or not
12 contained in any written submission to the
13 County Board affect or influence your decision
14 on the siting application?

15 A. No, it did not.

16 Q. Did you make your decision on the site location
17 application before April 20th of 2010?

18 A. No.

19 MR. MORAN: Thank you, Mr. Hulseberg, I
20 have no further questions.

21 MR. MUELLER: I don't have any questions.

22 MS. ANTONIOLLI: Neither do I.

23 THE WITNESS: Thanks.

24 MS. ANTONIOLLI: So at this time the court

1 reporter has transcribed your deposition, and
2 you have the option of reviewing your deposition
3 for errors and signing your deposition at that
4 time; or you can simply waive signature and
5 trust that she has transcribed your deposition
6 accurately today.

7 MR. HULSEBERG: Since I have never done
8 this before -- not doubting your accuracy -- I'd
9 like to review it and sign it, if possible.

10 MS. ANTONIOLLI: You would be the third
11 person that's chosen to --

12 THE WITNESS: Most have waived it? I'm
13 sorry.

14 MS. ANTONIOLLI: That's okay.

15 (The deposition was concluded at
16 3:34 p.m.)

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1 ERRATA SHEET OF JOHN HULSEBERG

2 I have read the foregoing transcript of my
3 deposition taken on October 7, 2010, and

4 () It is a true and correct
5 transcript of my deposition
6 given on the day and date
7 aforesaid.

8 (Or)

9 () I wish to make the following
10 changes to my deposition:

11 Pg Ln Change

12 Pg Ln Change

13 Pg Ln Change

14 Pg Ln Change

15 Pg Ln Change

16 Pg Ln Change

17 Pg Ln Change

18 Pg Ln Change

19 Pg Ln Change

20 Pg Ln Change

21 Pg Ln Change

22 Pg Ln Change

23 Pg Ln Change

24 Pg Ln Change

DATE:

JOHN HULSEBERG

1 C E R T I F I C A T E

2 I, Callie S. Bodmer, a Certified Shorthand
Reporter in and for the State of Illinois, do hereby
3 certify that, pursuant to the agreement herein
contained, there came before me on the 7th day of
4 October 2010, at 3:16 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
5 Illinois, the following-named person, to-wit: JOHN
HULSEBERG, who was duly sworn to testify to the
6 truth and nothing but the truth of his knowledge
concerning the matters in controversy in this cause;
7 that he was thereupon examined on his oath and his
examination reduced to writing under my supervision;
8 that the deposition is a true record of the
testimony given by the witness, and that the reading
9 and signing of the deposition by said witness were
not expressly waived.

10

 I further certify that I am neither
11 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
12 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
13 employed by the parties hereto or financially
interested in the action.

14

 In witness whereof I have hereunto set my
15 hand this 12th day of October 2010.

16

17

18

 Callie S. Bodmer
19 Certified Shorthand Reporter
Registered Professional Reporter
20 IL License No. 084-004489
P.O. Box 381
21 Dixon, Illinois 61021

22

23

24

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,)

)

Petitioner,) PCB NO. 2010-103

)

v.)

) DEPOSITION OF

COUNTY BOARD OF DEKALB) JEFF METZGER

COUNTY, ILLINOIS and WASTE)

MANAGEMENT OF ILLINOIS,)

INC.,)

)

Respondents.)

DEPOSITION OF JEFF METZGER, taken at the
DeKalb County Legislative Center, 200 North Main
Street, Sycamore, Illinois, on October 7, 2010,
commencing at 5:08 p.m., before Callie S. Bodmer,
Certified Shorthand Reporter and Notary Public in
and for the State of Illinois, in pursuance to
agreement of the parties in the above-entitled
action.



1 APPEARANCES:

2

3 ATTORNEY AMY ANTONIOLLI,
4 of the firm of Schiff Hardin, LLP,
5 233 South Wacker Drive, Suite 7200,
6 Chicago, Illinois, 60606,
7 Counsel for the Respondent,
8 County Board of DeKalb
9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,
11 of the firm of Pedersen & Houpt,
12 161 North Clark Street, Suite 3100,
13 Chicago, Illinois, 60601,
14
15 Counsel for the Respondent,
16 Waste Management of
17 Illinois, Inc.

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3 Witness: JEFF METZGER

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20 Certificate of Shorthand Reporter. . . . 19

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24

1 JEFF METZGER,

2 being first duly sworn, was examined and

3 testified as follows:

4 MR. MORAN: Let the record reflect this is

5 the discovery deposition of Jeff Metzger, Jr.

6 (sic) taken pursuant to notice and by agreement

7 of the parties.

8 EXAMINATION

9 BY MR. MORAN:

10 Q. Mr. Metzger, my name is Don Moran, I'm the
11 attorney for Waste Management of Illinois, Inc.,
12 who had filed a site location application to
13 expand the existing DeKalb County Landfill. The
14 County Board voted on that site location
15 application on May 10th, 2010, and approved that
16 application. Stop The Mega-Dump, a citizens'
17 group, appealed that decision. That appeal is
18 pending before the Illinois Pollution Control
19 Board and is the reason that we are here today
20 in this deposition. The number of that appeal
21 is 10-103.

22 I'm going to be asking you a number of
23 questions that relate to that appeal. I will
24 try to make my questions as clear as I can, but

1 when I fail or when any question is unclear to
2 you I would ask that you request clarification,
3 because it's important that your answers be
4 responsive to the questions I'm asking. Does
5 that sound fair?

6 A. Yes.

7 Q. In addition, you'll note the court reporter is
8 transcribing everything that's said, but in
9 order to transcribe it we must speak verbally.

10 A. Right.

11 Q. Any nonverbal gestures or uh-huhs or other
12 vague or unclear statements can't be taken down,
13 so you just need to respond verbally --

14 A. I understand.

15 Q. -- in each instance.

16 Mr. Metzger, could you tell us your full
17 name and spell your last name.

18 A. Sure. Jeffrey Lee Metzger, and I'm the senior.
19 Last name is M-E-T-Z-G-E-R.

20 Q. What is your address?

21 A. 15640 South Memory Lane, Sandwich, Illinois,
22 60548.

23 Q. So we have a Donnybrook Street, we have Easy
24 Street, and now we have Memory Lane.

1 A. Yes.

2 Q. This a memorable series of addresses.

3 A. No pun intended.

4 Q. Right. What is your occupation?

5 A. Director of IT services at Elgin Community
6 College.

7 Q. What is your highest level of education?

8 A. Two years in college.

9 Q. When did you begin your service on the DeKalb
10 County Board?

11 A. I should have checked the date on that. I
12 believe it was November or December 2005. I
13 would have to check that, I would hate to give
14 the wrong information, but I'm coming up on five
15 years I'm quite certain.

16 Q. Were you appointed to the position?

17 A. Yes.

18 Q. Have you subsequently been elected?

19 A. Yes.

20 Q. And when was that election?

21 A. These are dates I should have checked. I -- I
22 don't know what the date was.

23 Q. Are you coming up for election in November?

24 A. No, I'm not.

1 Q. The next time you would be up for election
2 would be in 2012?

3 A. Yes, correct.

4 Q. What district do you serve?

5 A. District 12.

6 Q. What geographic area does District 12
7 encompass?

8 A. The Sandwich area, southern end of the county.

9 Q. Do you serve on any committee?

10 A. Yes, I serve on -- I chair the health and human
11 services committee, I also serve on economic
12 development committee, and within the County I
13 also serve as the County Board member for the
14 E-911 Board.

15 Q. As a County Board member what are your duties
16 and responsibilities?

17 A. Do the best we can to judge and collect
18 information and make proper decisions on issues
19 within the county.

20 Q. And do those --

21 A. Including financial.

22 Q. Does it include evaluating and determining a
23 budget for the County?

24 A. Exactly, and that's what we're doing right now.

1 Q. Also making various policy decisions of various
2 sorts?

3 A. Yes.

4 Q. And also performing certain legislative
5 functions, such as passing ordinances,
6 resolutions?

7 A. Yes.

8 Q. When did you become aware that Waste Management
9 of Illinois, Inc. had filed a site location
10 application to expand the existing landfill?

11 A. That would have been I believe early 2009. I
12 don't recall the month. I think it was the
13 spring of 2009. Does that sound right?

14 Q. Well, would this have been the application or
15 the negotiations about a host community
16 agreement?

17 A. Dates are going to be fuzzy.

18 Q. Well, the site location application was filed
19 on November 30th, 2009.

20 A. Okay.

21 Q. So when you referred to when you first learned
22 about a possible expansion, would that have been
23 in connection with negotiations for a host
24 community agreement?

1 A. Yes.

2 Q. Did you participate directly in the negotiation
3 of that agreement with --

4 A. No.

5 Q. -- Waste Management of Illinois?

6 A. I did not.

7 Q. Did you vote on whether to approve that
8 agreement?

9 A. Yes.

10 Q. And how did you vote?

11 A. Yes.

12 Q. And that vote took place on March 18th of 2009?

13 A. Yes.

14 Q. What was your understanding as to the role you
15 were to play in reviewing the site location
16 application that was filed on November 30th of
17 2009?

18 A. As I recall there were nine criteria, and
19 whether or not the nine criteria were met and
20 our decision was based on the criteria.

21 Q. And also based on whatever evidence or other
22 written submissions --

23 A. Yes.

24 Q. -- were presented to the County Board, either

1 at the public hearing or during any part of the
2 process?

3 A. Absolutely.

4 Q. And would it be fair to say that your role in
5 reviewing the site location application was
6 different than the duties and responsibilities
7 you had ordinarily as a County Board member?

8 A. Yes.

9 Q. And they were different because in this
10 instance you were required to make a decision
11 based on evidence presented as opposed to making
12 a decision based upon the views of your
13 constituents or based upon other --

14 A. Yes.

15 Q. -- considerations?

16 A. More of a judge position I believe.

17 Q. The role here would be more of a judge --

18 A. Correct.

19 Q. -- than as a legislator?

20 A. Exactly.

21 Q. Were you instructed that you were not to have
22 any communication with any interested party to
23 the site location process once the site location
24 application was filed?

1 A. Yes.

2 Q. And that limitation included any communication
3 with the applicant, Waste Management of
4 Illinois, Inc.?

5 A. Yes.

6 Q. And also any person interested in the proposed
7 expansion; that is, any resident, citizen, or
8 other person who may have objected to the
9 expansion?

10 A. Yes.

11 Q. Did you attend any of the public hearings that
12 were set on the site location application?

13 A. No.

14 Q. Did you attend a tour of any Waste Management
15 of Illinois facility?

16 A. No.

17 Q. Did you receive any written or oral
18 communication from any employee or agent of
19 Waste Management of Illinois, Inc. between
20 November 30th, 2009 and May 10, 2010?

21 A. No.

22 Q. Did you receive any written or oral
23 communication from any other person regarding
24 the proposed expansion between November 30th of

1 2009 and May 10, 2010?

2 A. I don't believe so. If there would have been
3 anything I would have deleted it.

4 Q. But as you're sitting here you don't recall?

5 A. No, I do not.

6 Q. Was the site location application filed on
7 November 30th, 2009 made available to you for
8 your review?

9 A. Yes.

10 Q. And that site location application consisted of
11 nine three-ring binders?

12 A. Yes.

13 Q. Did you at any point hear any information that
14 any County Board member had decided to either
15 vote in favor or against the site location
16 application before all the evidence was
17 presented?

18 A. No, I did not.

19 Q. Did you at any point hear any information that
20 any County Board member had prejudged the site
21 location application?

22 A. No.

23 Q. Did you hear any information or hear any story
24 that the entire County Board had considered the

1 expansion of the site -- the expansion of the
2 existing landfill a done deal?

3 A. No, with the exception of an article in the
4 Chronicle.

5 Q. What article in the Chronicle are you referring
6 to?

7 A. It was after one of the hearings -- public
8 hearings there was a hearsay and it was printed
9 in the newspaper, that was the only time I had
10 heard anything like that.

11 Q. And what was reported as having been said?

12 A. Someone overheard one of the County Board
13 members stating something but the County Board
14 member denied stating it.

15 Q. Do you remember who the County Board member
16 was?

17 A. I think it was Riley Oncken, I believe.

18 Q. Do you recall what the statement he allegedly
19 made was?

20 A. Not verbatim.

21 Q. Do you remember generally what it was?

22 A. I believe it was something along the lines that
23 someone overheard him that they didn't
24 understand -- that he didn't understand why they

1 were doing this because it was a done deal or
2 something along those lines. I read it in the
3 newspaper and dismissed it, so it's hard to
4 remember.

5 Q. And you dismissed it for what reason?

6 A. I didn't believe it.

7 Q. And what was the basis for your not believing
8 it?

9 A. Knowing Riley, he's on a committee with me, and
10 I don't believe that he would have said
11 something like that.

12 Q. When you voted to approve the host community
13 agreement, was it your understanding that by
14 that approval you were also approving a proposed
15 expansion of the landfill?

16 A. Yes.

17 Q. Let's step back for a moment. The vote on the
18 host agreement was in March of 2009.

19 A. So that was the first one just as the annual
20 renewal?

21 Q. No, no, the host community agreement you
22 indicated you voted to approve in March of 2009,
23 correct?

24 A. Okay, uh-huh.

1 Q. At that point was it your understanding that
2 there would have to be a formal request made of
3 the County for approval --

4 A. Oh, yes.

5 Q. -- of the proposed expansion?

6 A. Yes.

7 Q. So by voting to approve the host community
8 agreement, you did not believe you were at that
9 time --

10 A. Oh --

11 Q. -- also agreeing to approve --

12 A. -- absolutely not.

13 Q. -- the proposed expansion?

14 A. I'm sorry, I misunderstood.

15 Q. So there were two separate --

16 A. Correct.

17 Q. -- responsibilities?

18 A. Yes.

19 Q. By approving the host agreement you were not
20 also by that action approving the expansion,
21 correct?

22 A. No.

23 Q. You knew there would be a --

24 A. Yes.

1 Q. -- subsequent request that would have to be
2 acted upon?

3 A. Correct.

4 Q. And, in fact, that was the site location
5 application filed on November 30th, 2009?

6 A. Yes.

7 Q. Did you consider any evidence or information
8 that was not contained in the site location
9 application --

10 A. No.

11 Q. -- that was --

12 A. I'm sorry.

13 Q. Let me just ask it again. Did you consider any
14 evidence or information not contained in the
15 site location application, not submitted or
16 presented at the public hearing, or not
17 submitted in writing to the County in making
18 your decision on the site location application?

19 A. Absolutely not.

20 Q. Did any information that was not contained in
21 the site location application, that was not
22 presented at the public hearing, or that was not
23 submitted in writing to the County affect or
24 influence your decision on the site location

1 application?

2 A. No.

3 Q. Did you make your decision on the site location

4 application before April 20th of 2010,

5 recognizing that the County Board vote was on

6 May 10th of 2010?

7 A. Can you rephrase that again?

8 Q. Yes. Did you make your decision on the site

9 location application prior to April 20th of

10 2010?

11 A. No.

12 Q. And what was your vote on the site location

13 application?

14 A. Yes.

15 MR. MORAN: Thank you, Mr. Metzger.

16 THE WITNESS: That's it?

17 MR. MORAN: I have no further questions.

18 THE WITNESS: Oh, okay.

19 MR. MORAN: Unless Amy has something?

20 MS. ANTONIOLLI: I have no further

21 questions for you.

22 At this time the court reporter has

23 transcribed your deposition today, and at this

24 time you can choose to either review the

1 transcript for errors and sign it at that time
2 when it's ready; or you can waive your signature
3 and trust that she's accurately transcribed your
4 deposition today.

5 THE WITNESS: What is normal? I'm not
6 sure if it is best to sign it or not. I usually
7 read everything I sign but --

8 MS. ANTONIOLLI: I think all but two or
9 three have waived signature.

10 THE WITNESS: Okay. I'll waive it then.

11 MS. ANTONIOLLI: Okay.

12 THE WITNESS: If there was something
13 controversial or an issue that we couldn't
14 resolve I'd probably want to reread it, but I
15 don't think there's anything at this point.

16 MS. ANTONIOLLI: Okay. Your signature is
17 waived then.

18 THE WITNESS: Okay.

19 (The deposition was concluded at
20 5:22 p.m.)

21

22

23

24

1 CERTIFICATE

2
3 I, Callie S. Bodmer, a Certified Shorthand
4 Reporter in and for the State of Illinois, do hereby
5 certify that, pursuant to the agreement herein
6 contained, there came before me on the 7th day of
7 October 2010 at 5:08 p.m. at the DeKalb County
8 Legislative Center, 200 North Main Street, Sycamore,
9 Illinois, the following-named person, to-wit: JEFF
10 METZGER, who was duly sworn to testify to the truth
11 and nothing but the truth of his knowledge
12 concerning the matters in controversy in this cause;
13 that he was thereupon examined on his oath and his
14 examination reduced to writing under my supervision;
15 that the deposition is a true record of the
16 testimony given by the witness, and that the reading
17 and signing of the deposition by said witness were
18 expressly waived.

19
20 I further certify that I am neither
21 attorney or counsel for, nor related to or employed
22 by, any of the parties to the action in which this
23 deposition is taken, and further, that I am not a
24 relative or employee of an attorney or counsel
employed by the parties hereto or financially
interested in the action.

In witness whereof I have hereunto set my
hand this 12th day of October 2010.

21 Callie S. Bodmer
22 Certified Shorthand Reporter
23 Registered Professional Reporter
24 IL License No. 084-004489
P.O. Box 381
Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,)

)

Petitioner,) PCB NO. 2010-103

)

v.)

) DEPOSITION OF

COUNTY BOARD OF DEKALB) CALVIN CLAY

COUNTY, ILLINOIS and WASTE) CAMPBELL

MANAGEMENT OF ILLINOIS,)

INC.,)

)

Respondents.)

DEPOSITION OF CALVIN CLAY CAMPBELL, taken
at the DeKalb County Legislative Center, 200 North
Main Street, Sycamore, Illinois, on October 26,
2010, commencing at 3:35 p.m., before Callie S.
Bodmer, Certified Shorthand Reporter and Notary
Public in and for the State of Illinois, in
pursuance to agreement of the parties in the
above-entitled action.



1 APPEARANCES:

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4

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5

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9 County, Illinois.

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12

Counsel for the Respondent,
13 Waste Management of
Illinois, Inc.

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10 EXHIBITS

11 Exhibit Marked

12 Campbell Exhibit No. 1 5

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20 Certificate of Shorthand Reporter. 65

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24

1 CLAY CAMPBELL,
2 being first duly sworn, was examined and
3 testified as follows:

4 MR. MORAN: Let the record reflect this is
5 the discovery deposition of Clay Campbell taken
6 pursuant to subpoena, scheduled for today at 3
7 p.m. It's a deposition taken in the appeal
8 pending before the Illinois Pollution Control
9 Board of Stop The Mega-Dump versus County Board
10 of DeKalb County, Illinois and Waste Management
11 of Illinois, Inc., PCB No. 10-103.

12 EXAMINATION

13 BY MR. MORAN:

14 Q. Mr. Campbell, my name is Don Moran, I represent
15 Waste Management of Illinois, Inc., and as you
16 have heard I will be asking you a number of
17 questions regarding the appeal that's been filed
18 by Stop The Mega-Dump in connection with the
19 County's approval of the site location
20 application filed by Waste Management of
21 Illinois which approval occurred on May 10th of
22 2010.

23 Before we begin, could you just state your
24 full name and spell it for the court reporter.

1 A. My full name is Calvin, C-A-L-V-I-N, Clay,
2 C-L-A-Y, last name is Campbell, C-A-M-P-B-E-L-L.

3 Q. Mr. Campbell, what is your address?

4 A. I live at 921 Berkshire Court,
5 B-E-R-K-S-H-I-R-E, in Sycamore, 60178.

6 (Campbell Exhibit No. 1 marked
7 for identification.)

8 Q. Let me show you what we will mark as Campbell
9 Deposition Exhibit No. 1, and I'll ask if you
10 recognize that exhibit?

11 A. I do.

12 Q. Is it the subpoena that was served upon you on
13 October 9th of 2010 --

14 A. Yes, sir.

15 Q. -- commanding your appearance here today?

16 A. Yes, sir.

17 Q. What is your business or occupation,
18 Mr. Campbell?

19 A. I'm a lawyer.

20 Q. Are you in private practice at the moment?

21 A. I'm in private practice here in Sycamore. I
22 have basically a sole practice.

23 Q. And you are also running for public office?

24 A. I am, I'm the Republican candidate for DeKalb

1 County State's Attorney.

2 Q. Are you familiar with an organization called
3 Stop The Mega-Dump?

4 A. I am.

5 Q. How are you familiar with that organization?

6 A. I think -- I was thinking about this the other
7 day. I think that I became familiar with them
8 shortly before the hearing out at Kish College.
9 I don't remember if somebody told me about it or
10 if in campaigning somebody brought it up when I
11 was in Cortland, some kind of scuttlebutt like
12 that is how I heard about it. I wasn't like
13 formally invited or anything. So I was trying
14 to remember the first time I met Dan Kenney and
15 Mac McIntyre, and I think it very well might
16 have been like the first day out at Kish or
17 shortly before that. So just in being around in
18 the community and following the politics, I
19 think that's how I heard about it.

20 Q. And the public hearings on the site location
21 application commenced March 1st, 2010?

22 A. That's my recollection.

23 Q. And at that point had you already prevailed in
24 the primary for the State's Attorney's position?

1 A. I had. That was on -- I think the primary this
2 year was early, it was on February 2nd I
3 believe.

4 Q. So when you first met Mr. McIntyre and
5 Mr. Kenney in connection with their efforts for
6 Stop The Mega-Dump you knew you were going to be
7 running for the State's Attorney position on the
8 Republican ticket?

9 A. I mean, I -- the only thing I'm not sure about
10 is I might have known -- I have been in the
11 community a long time, I might have known
12 Mr. McIntyre peripherally before this, he runs
13 the DeKalb County Online, and I think -- I had
14 run for office before, I might have had some
15 dealings. But I think it's accurate to say
16 around that time that I became acquainted with
17 them I think it's fair to say I probably was
18 already the Republican nominee.

19 Q. Were you aware that in early 2009 DeKalb County
20 and Waste Management of Illinois, Inc. were
21 negotiating a host community agreement for a
22 proposed expansion of the existing landfill?

23 A. I don't think I was specifically aware of it in
24 terms of it kind of wasn't on my radar. I kind

1 of have a lot -- had a lot going on at that
2 time. I might have noticed it in the newspaper,
3 but I didn't really have any kind of nuts and
4 bolts knowledge about the process or, to be
5 honest with you, a host agreement, I have never
6 really, you know, heard that term before. So a
7 lot of the stuff was arcane to me, but I think I
8 knew -- I think I knew generally that there was
9 a dump situation that was kind of bubbling but I
10 didn't know to the extent that it was.

11 Q. Did you first become ware of the existence of
12 the host community agreement during the public
13 hearings?

14 A. It would have had to have been during or
15 shortly before, and that would have either been
16 through conversations of people at the mega-dump
17 or I might have -- you know, I might have talked
18 to somebody in Cortland about it, but it would
19 have been around that same time I think that's
20 how I learned about it, yeah.

21 Q. Did you also learn that the site location
22 application had been filed on November 30th of
23 2009 during the public hearings?

24 A. I think, again, the same answer, I think either

1 I learned it then -- I really was, and you
2 probably could see in my performance there, I
3 was really educating myself on this as we were
4 going along. I might have heard about that
5 before, but I had never seen it or I had never
6 really explored it or -- it was really mostly
7 through the hearing.

8 Q. Did you ever attempt to either obtain a copy of
9 the site location application or be able to
10 review the site location application from the
11 County?

12 A. I did not.

13 Q. Do you have any information as to whether any
14 other person sought access to the site location
15 application either for purposes of reviewing it
16 or obtaining a copy of the application?

17 A. I think, you know, to be -- to try to recollect
18 that, I think during the public hearing I
19 remember -- and I'm not sure which individual it
20 was, but I remember there being some complaints
21 about somebody having gone over to the clerk's
22 office and try to obtain some sort of
23 documentation, I think there was some discussion
24 about whether that should be available on disk

1 or whether -- the copying fees and all that, but
2 I don't specifically remember who that was, and
3 I think it came up kind of in the context of
4 trying to argue that we're having difficulty
5 getting that information. But I wasn't a part
6 of telling somebody to go and get it, nor did I
7 ever myself try to go and get it.

8 Q. What information had you heard that any persons
9 were having difficulty or trouble getting
10 information on the site location application or
11 getting the site location application?

12 A. I think it was just that specific instance, and
13 I hate to say a name, it might have been Mark
14 Chavrot (phonetic) or one of the five or six
15 very active people that were really active in
16 the Stop The Mega-Dump it seems to me made an
17 issue of it during that public hearing or talked
18 about it shortly before, but that's the only --
19 I can't honestly say as I sit here that I feel
20 that there was any sort of -- that I have any
21 personal knowledge of there being any sort of
22 attempt to obstruct citizens from getting that.
23 I do know that there was others that felt that,
24 you know, that was the tenor of the group, but I

1 don't have any personal knowledge of that.

2 Q. And you have no information that anyone at the
3 County denied access to any person to either
4 review or obtain a copy of the site location
5 application?

6 A. That would be correct.

7 Q. Are you a member of Stop The Mega-Dump?

8 A. That's a good question when you ask that. I
9 don't know what membership means. I have -- I
10 made a donation to them once, it was probably
11 after the hearings occurred at Kish. I remember
12 them saying that they had a lawyer, this is the
13 first time I met the gentleman here today. But
14 I remember them -- going to a kind of an
15 informational thing over -- it had to be in
16 Cortland, and I remember there being a
17 discussion about hiring a lawyer and I think I
18 made a donation or 200, \$250, one of the two.

19 But I don't know about like the
20 membership, I don't know what that means. I
21 don't -- I wasn't party to like the
22 organizational development of it. I kind of
23 came in from the side I think because of the
24 politics. And then when they, you know, were

1 going to hire a lawyer I actually had people ask
2 me, to be honest with you, and I told them I
3 don't know anything about this stuff and if you
4 want to, you know, get some expertise, you know,
5 you're going to have to find somebody that knows
6 more about this.

7 Q. Have you heard any information from any source
8 to the effect that the DeKalb County Board had
9 decided in advance of the hearing to approve the
10 site location application?

11 A. The -- the only -- I mean, like in terms of --
12 I don't have any personal knowledge, but there
13 was one point during the hearing where somebody
14 had come up to me and said that Mr. Oncken had
15 made a comment, and I don't think that it was
16 like the deal was already done but it was
17 something to the effect of why is Mr. Campbell
18 here, everybody wants this, and, you know, these
19 people that are here protesting have nothing
20 better to do, so it was -- I'm paraphrasing it
21 because I did not hear it, but I heard some
22 scuttlebutt then.

23 And then my -- my opinion on -- to answer
24 your question, I don't have any -- I don't have

1 any personal knowledge that they actually had
2 decided it before the formal hearing.

3 Q. My question was did you ever hear any
4 information or hear any stories from other
5 persons to the effect that the DeKalb County
6 Board had already decided to approve the
7 application?

8 A. Just to the extent that it -- and it strikes me
9 as odd today as I sit here that the main
10 discussions that I participated in in regards to
11 that issue were the fact that the County had
12 actually voted on an ordinance I think it was in
13 February of 2010 to pay for -- or for the
14 issuance of bonds to pay for the expansion of
15 the courthouse and the expansion of the jail.
16 And I don't have the ordinance in front of me,
17 but I remember reading it and in that it makes a
18 specific reference to proceeds from the dump
19 expansion. So, you know, I put two and two
20 together myself and it struck me as odd that the
21 County Board would have already taken steps to
22 spend the money before the decision had actually
23 been made. That's probably the single biggest
24 issue that bothers me about this.

1 And I think if you look at my argument
2 there, you know, when we had public comment
3 there at the end of it, the tenor of my argument
4 was, you know, I'm a trial lawyer, I do criminal
5 cases, and it just struck me as odd if the
6 County Board was really going to put themselves
7 out as a jury and they were the factfinders and
8 to a certain extent they were supposed to be
9 sequestered and not communicate during that
10 process it struck me as odd that they would try
11 to perpetuate the notion of impartiality when it
12 seemed to me that they had already decided how
13 they were going to spend the money.

14 Q. When you appear -- you did appear at the public
15 hearings?

16 A. Yes, sir.

17 Q. And as someone who appeared at the hearings
18 were you participating in your individual
19 capacity?

20 A. That's correct.

21 Q. You were not appearing at the hearings and
22 representing any entity or organization?

23 A. That's correct. In fact, I make it very clear
24 to everybody that I was there as a citizen, as

1 a -- you could make the argument obviously that
2 I'm a politician running for office, this is a
3 hot button issue in the community, but to be
4 honest with you I was actually there as a
5 concerned citizen. It struck me as a huge
6 project that, you know, I have a house probably
7 -- you know, I live in south Sycamore so I'm
8 probably three, four miles away from the dump,
9 so it just struck me as something that I might,
10 you know, pay attention to a little bit.

11 Q. Do you know Riley Oncken?

12 A. I do.

13 Q. How long have you known Mr. Oncken?

14 A. I have known Riley since -- I have got to think
15 -- since he was in law school. I used to work
16 at a firm here in town, Gallagher and Brady, and
17 Riley came in as a law clerk I'm going to guess
18 around 2000 or 2001, so I think I have known him
19 for about eight years.

20 Q. Has Mr. Oncken ever worked for you?

21 A. No.

22 Q. Has he ever worked in connection with any
23 political campaign that you have been involved
24 in?

1 A. I think that when I ran before Riley walked in
2 parades a couple times for me. He's probably
3 made a donation if I went through, it would have
4 been nominal, like \$50 or something. But I
5 think he's both assisted me, contributed to my
6 campaign, and he's an active member of the
7 DeKalb County Republican party, as I am. So we
8 have not only been professional colleagues as
9 lawyers but also political -- I won't say allies
10 because we have had disagreements, but we have
11 participated in things together.

12 Q. Is he still associated with the law firm that
13 you worked at when he initially worked as a law
14 clerk?

15 A. No, I left there in I'm going to guess late
16 2003, and either before I left or after I left
17 when Riley became an attorney he went and worked
18 I think directly for at the time it was Shawn
19 Smith, I think at the time it was just him as a
20 sole practitioner, and that employment there
21 continues to this day. I think Riley was just
22 made a partner about two weeks ago, so I think
23 it's now Smith, Wykes and Oncken. So not only
24 do I not work at that firm anymore, nor does he.

1 Q. And you mentioned about the fact that during
2 the public hearing he was alleged to have made a
3 statement dismissive of you and perhaps other
4 objectors?

5 A. Correct.

6 Q. Is it accurate to say that you didn't hear his
7 statement?

8 A. That's correct.

9 Q. You heard someone repeat the statement that he
10 had made?

11 A. It sounded literally almost right after he said
12 it someone walked up to me and said did you hear
13 what Riley just said, and I think they just came
14 up to me because it was a friend of mine that
15 allegedly heard it, but it pertained to me, it
16 was derogatory, but I did not hear it.

17 Q. Who was the person who told you about that?

18 A. Paulette Tolene, P-A-U-L-E-T-T-E, and I think
19 her last name is T-O-L-E-N-E.

20 Q. How long have you known Ms. Tolene?

21 A. I'm going to guess probably about five years.

22 She also was a student member of the College
23 Republicans at NIU, so again I met her through
24 the Republican party.

1 Q. What is her business or occupation today?

2 A. I don't think she's employed now. She just had
3 a baby about four or five months -- probably
4 about four months ago so she's just a
5 stay-at-home mom now.

6 Q. Does she work in connection with Republican
7 efforts here in DeKalb County?

8 A. Used to be very active, and then I think in the
9 last couple of years she met a guy and they got
10 married and then she had a baby, so. But if you
11 asked, you know, most kind of old-time
12 Republicans around here they would know of her
13 because she was one of those, you know, real
14 worker bee type of students that got to know a
15 lot of people. Ms. Tolene knows Mr. Oncken very
16 well.

17 Q. So Ms. Tolene had attended that public hearing
18 in which Mr. Oncken allegedly made his comment?

19 A. Yes, sir.

20 Q. And she then came to you, and what did she tell
21 you?

22 A. She said, paraphrasing, something like did you
23 hear what Riley said, I said I didn't hear it,
24 and she said he said something to the effect of

1 is Clay here to tank his campaign, everybody
2 wants this and doesn't -- don't these people
3 have anything better to do. It strikes me it
4 was those three lines, paraphrasing. I very,
5 you know, distinctly remember the knock against
6 me.

7 Q. Did you have any response to Ms. Tolene when
8 she said this to you?

9 A. I said if Riley actually said it write it down,
10 and I think she wrote it down because I remember
11 having it in my possession actually her writing
12 it down.

13 Q. She handwrote it down --

14 A. Correct.

15 Q. -- and then handed it to you --

16 A. Correct.

17 Q. -- during the hearing?

18 A. Correct.

19 Q. Did you then approach Mr. Oncken and ask if he
20 had made that statement?

21 A. I don't think I did actually. I think I stuck
22 that in my -- you remember how that was there.
23 I don't think I gave it much thought. I think I
24 stuck it in my -- you know, my folder of

1 documents and it sat there.

2 Q. Other than that date, had you seen Ms. Tolene
3 at any other public hearings?

4 A. In regards to this or --

5 Q. Yes, I'm sorry, in regards to the proposed
6 expansion.

7 A. I think that Paulette probably -- she must have
8 attended three or four of them, I don't know
9 whether the whole time, but I remember her being
10 at a few of them.

11 Q. Did you have any subsequent conversations with
12 her about what she had heard Mr. Oncken say?

13 A. I have to say that I probably did just because,
14 you know, it's just her knowing Riley and the
15 politics and stuff. I don't distinctly remember
16 a specific conversation. I do remember that one
17 that day but I don't remember any others
18 distinctly.

19 Q. Have you ever had a discussion with Mr. Oncken
20 about the alleged statements he made that were
21 heard by Ms. Tolene?

22 A. I don't think so, and I think because I, number
23 one, didn't hear it, but, number two, I was
24 aware of the -- as I understood at the time, you

1 know, through Mr. Bockman's statements and I
2 think the Hearing Officer's statements to the
3 effect that this was truly supposed to be
4 treated as a jury and they weren't to be -- so I
5 kind of understood that they weren't to be
6 approached and discussed about this. Obviously
7 I had a lot of questions, but I respected the --
8 I don't think I talked to any of them while it
9 was going on.

10 Q. Did you at any point learn any additional
11 information or facts that supported the
12 contention that Mr. Oncken made these statements
13 during the public hearing?

14 A. I only know of Paulette specifically saying
15 that to me. It seems to me that there was some
16 other people that were referenced, I don't
17 recall.

18 Q. Where does Ms. Tolene live?

19 A. She lives -- I can take you there, I'm not sure
20 of the street. She lives in DeKalb.

21 Q. Do you know what street she lives on?

22 A. I don't. It's right off of Hillcrest and
23 Fourth Street.

24 Q. Do you know if she's currently employed?

1 A. I haven't talked to her since she had her baby.

2 I have got to say probably not.

3 Q. She's not working on your campaign?

4 A. Oh, no, no, no, no, although she did help me in

5 the primary, she was an active person, but I

6 haven't -- in fact, I probably kind of think

7 that around the -- I think she was pregnant

8 during the hearing so I think I kind of

9 recollect a time being where we would know she

10 would be so far along that she was going to be a

11 mother and focus on that.

12 Q. Did you become aware at some point that the

13 County Board members were precluded from having

14 any communication with any party to the siting

15 proceeding outside the context of the siting

16 hearing or the siting process?

17 A. I think that I became aware of that during the

18 public hearings at Kishwaukee College. It seems

19 to me, and I don't have a specific recollection,

20 but what triggered the dissemination of that

21 information, that idea that they're not supposed

22 to talk to anybody was I recall an e-mail that

23 Ray Bockman had sent around to the County Board

24 members. I didn't obviously get the e-mail, but

1 I seem to recall somebody showing it to me or
2 somebody saying look what Mr. Bockman, you know,
3 did. It struck me as odd for a couple of
4 reasons. Number one, it seemed to me like it
5 was legal advice, and I didn't understand
6 Mr. Bockman -- that to be his capacity; but
7 number two, it seemed kind of forcefully
8 written. I kind of remember thinking to myself
9 that it was almost like reprimanding children,
10 and I think that's the tenor of the people at
11 the time, the kind of discussion that was going
12 on was that this was -- that people were fairly
13 chagrined that all of the sudden he was taking
14 this strong stance and kind of admonishing
15 everybody not to speak.

16 Q. And was it your understanding that his
17 admonishment related to only communications that
18 might occur outside the public hearing or
19 outside the siting process?

20 A. It was my understanding, and it still is to
21 this day, that the County Board members that
22 were part of the decision making process -- was
23 there six of them or -- that they were not to
24 have any communication with anybody else in

1 regards to the hearing except to the extent that
2 what they were going to see and hear in the
3 hearing itself. So it struck me as it being
4 like a jury.

5 Q. So that any resident or any citizen of the
6 County could have communicated with the County
7 Board about the proposed expansion at the public
8 hearing or by submitting written public comment
9 to the County Board, was that your
10 understanding?

11 A. That was my understanding. I -- I don't have
12 a -- you know, again, my brain's not that great.
13 It seems to me around that same time not only
14 did Mr. Bockman's advice go out, but that
15 citizens were contacting their board members and
16 they were asking them questions about this and
17 the general response was we can't talk to you
18 because we have been told that we can't discuss
19 this outside of the hearing.

20 Q. Did you have any information to the effect that
21 the reason for Mr. Bockman sending out the
22 e-mail was because a number of constituents
23 were, in fact, communicating with County Board
24 members outside the public hearing process?

1 A. I think that would be a fair statement. It
2 struck me as a -- and again, I'd have to see it
3 and refresh my recollection. It struck me as a
4 reactionary e-mail, a cautionary e-mail, an
5 admonishment to the County Board members, and it
6 seemed to be in response to efforts being made
7 by citizens to contact their County Board
8 members and ask them about it.

9 Q. And you said that you thought you were shown
10 this e-mail by someone, do you remember who that
11 was?

12 A. I have got to think it was one of the -- either
13 Mr. Kenney, Mr. McIntyre, maybe Ms. Mott. It
14 was one of the people that were involved in the
15 mega-dump group.

16 Q. Did you come to get any information as to how
17 either or any of them would have obtained a copy
18 of this e-mail?

19 A. I can't say for sure, but I think that one of
20 the County Board members was bothered by it. I
21 mean, I don't -- I mean, I got the impression
22 here that not only were citizens angry about,
23 you know, this impediment to communicating with
24 their County Board members but that some County

1 Board members were upset that, you know, that
2 Mr. Bockman had been so heavy-handed with them.
3 That's the recollection of the tenor at that
4 time.

5 Q. So the information you had was that there was
6 probably a County Board member who released this
7 e-mail to either members of Stop The Mega-Dump,
8 or the Daily Chronicle, or someone else?

9 A. That would be correct, because I think that the
10 e-mail that I saw it seems to me that had the --
11 I mean, this was an e-mail specifically sent
12 from Mr. Bockman to the County Board members so
13 I think everybody was cc'd on that, so I seem to
14 remember thinking, you know, this is going to
15 all the County Board members and they're being
16 told not to talk to their constituents.

17 Q. Did you have any information as to who that
18 board member or board members were who leaked
19 this to the press?

20 A. I wouldn't guess at that.

21 Q. And you didn't hear any stories or any
22 information from anyone alleging who that may
23 have been?

24 A. I'm trying to go back through the board

1 members. As this process was going on it was
2 very evident that some of the board members were
3 comfortable with the process, some of the board
4 members in my opinion had already decided what
5 they were going to do, some of the board members
6 were kind of chagrined at how they were being
7 treated. I really wish I could tell you, but I
8 really can't specifically say.

9 Q. You said your impression was that some of the
10 County Board members were chagrined at the way
11 they were being treated, what do you mean by
12 that and who are you referring to?

13 A. It -- it -- -- I mean, this is a small
14 community, so you have certain County Board
15 members that have been chosen, you know
16 whatever -- I don't know how they were chosen to
17 be a part of this hearing, but the County Board
18 members and an awful lot more members than just
19 those people who participated in the hearing.
20 I -- I'm not sure if -- you know, which one of
21 them came to the -- because you would have some
22 County Board members that weren't decision
23 making entities in the hearing come to the
24 hearings and kind of listen to them. I don't

1 know if it was like Kevin Chambliss or, you
2 know, there was a couple people that would show
3 up. It always struck me as odd that -- it
4 seemed to me like they ought to all be there but
5 I'm trying to -- I definitely recall there being
6 an atmosphere where this just wasn't a bunch of
7 ruble rousers, you know citizens that are just
8 complaining. I distinctly remember not being
9 alone in my feeling that there was some sort
10 of -- that the communication atmosphere was not
11 very good. But again, to specifically, you
12 know, point to specific County Board members, I
13 don't think I can do that because I don't to --
14 number one, I don't want to guess, but number
15 two, it's a -- my recollection is that it was an
16 atmosphere that was not conducive to that sort
17 of interaction.

18 Q. Now, when you say they were chagrined by the
19 process, you mean your impression was that they
20 were either unfairly or unreasonably limited in
21 what they could do, they were not instructed or
22 told how they should act during the process?
23 I'm trying to --

24 A. I can't tell whether it was the way Mr. Bockman

1 handled it. I don't know if you know
2 Mr. Bockman very well but he's a brusque -- I
3 mean, I could use a lot of adjectives but I'm
4 going to be polite. He's a very, very, very
5 direct person. I don't know whether the feeling
6 I was getting was that they were angry at how he
7 had approached -- I mean, here he sends out this
8 e-mail saying nobody can talk and then that's
9 it. I don't know if it was how they were being
10 treated by him or whether it was the actual
11 limitation that was being imposed on them, as I
12 understood it, by the law, so I can't really
13 tell you that.

14 Q. And you can't really identify any specific
15 board members who it was your impression that
16 they were somehow chagrined at how this played
17 out?

18 A. I think that if I could come up with -- I
19 remember sitting with Roger Steimel quite a bit,
20 and he's a former County Board member. And, you
21 know, I'm sure me and Roger had conversations
22 about this. And I think Roger, as a former
23 County Board member, you know, the source of it
24 could be Roger. Can I say for sure? But I

1 remember him being extremely chagrined at how
2 in his opinion it seemed that the County Board
3 had gone from -- you know, maybe he was
4 recollecting when he was on the board and maybe
5 they were more active or it appeared like that,
6 and it seemed to me that he was getting the
7 impression that this was -- that Ray Bockman was
8 more or less running the show right now, not the
9 County Board.

10 Q. You also mentioned that your impression was
11 that certain board members had already made up
12 their minds in terms of how they were going to
13 vote on the application. This would have been
14 as of the public hearings?

15 A. Sure, sure, absolutely.

16 Q. And what board members are you referring to?

17 A. I'm still astonished at Ruth Anne Tobias's
18 really lack of participation, arrogant attitude.
19 I mean, personally I got quite a few looks from
20 her like, you know, why are you here. So she's
21 one that I never for a second thought had an
22 open mind during this process. She certainly
23 didn't act like a public official that -- you
24 know, in my opinion if you're a public official

1 you have a certain obligation to treat citizens
2 with respect; I never got that impression from
3 her at all.

4 I thought Pat Vary was another one that I
5 think at one point she was in Florida or she
6 wasn't there. I remember thinking to myself,
7 you know, this is a major, major decision and
8 attendance at this thing seems to me to be
9 mandatory. And I got the same impression from
10 Pat Vary that I got from Ruth Anne Tobias.

11 You just had Ms. Fauci in here, I don't
12 remember -- you know, again, this is awhile
13 back, but I always get the impression that she
14 was not interested in input on this issue.

15 I thought Mr. Stoddard and Mr. Anderson
16 were your most open-minded participants, asked
17 questions, seemed to be engaged, and didn't
18 treat -- they were called objectors, didn't
19 treat people with derision, and that's certainly
20 how I think Ms. Vary and Ms. Tobias did.

21 Q. Did you have any impressions that any other
22 County Board members had basically made up their
23 minds to vote either yes or no regarding the
24 application before all the evidence was in?

1 A. Well, let me give you an example. You know, I
2 know Mr. Oncken personally, it's been an ongoing
3 discussion at the courthouse for quite some time
4 about whether to spend \$15 million to expand the
5 courthouse. I'm sure that we have had
6 conversations, myself and Mr. Oncken, about that
7 issue. And I'm sure that prior to -- probably
8 sometime last year I'm sure that Mr. Oncken made
9 it clear to me that he disagreed with my
10 position that we should leave the courthouse
11 alone and we couldn't spend the money. So I got
12 the impression that Mr. Oncken had decided that
13 the courthouse expansion was necessary. Now,
14 whether or not you want to take that conclusion
15 and extrapolate that he necessarily was
16 predisposed to approve this, I can't say that
17 obviously.

18 But, again, I'm -- the most striking
19 aspect of this entire process was the notion
20 that if you went back through and determined who
21 voted yes on the issuance of those bonds and
22 that ordinance you're probably going to line up
23 -- the same people are probably going to be the
24 ones that voted for the dump expansion, and it

1 seems to me that a logical conclusion would be
2 if they have already decided how they're going
3 to spend the money then they're not very likely
4 to come in and say we're not going to approve
5 this that's going to give us revenue to complete
6 our projects.

7 Q. Would it be also appropriate to conclude that
8 those who opposed either the jail or the
9 courthouse expansion would similarly have been
10 predisposed or inclined to vote against the
11 proposed expansion prior to all the evidence
12 being in?

13 A. If you take the -- if you take the -- I don't
14 even know if I call it logic, but if you take
15 the previous example I gave you I could see how
16 you could make that conclusion.

17 Q. And did you have any information of any kinds
18 to suggest that any County Board member had
19 decided to vote no on the application before all
20 the evidence was in?

21 A. I don't think so. And, again, I didn't have
22 any personal knowledge of yes or no, I'm just
23 trying to express to you that the atmosphere
24 here in the County, the courthouse, during the

1 hearings it was not an atmosphere of let's watch
2 while this presentation is being made and let's
3 see where our public officials go with their
4 decision; it was an atmosphere of these projects
5 were important to certain County officials, they
6 were determined to get these projects completed,
7 and this is one of the ways that they figured
8 out how to finance it. That's the feeling that
9 exists to this day here in the County.

10 Q. Was your stance on the proposed landfill
11 expansion an issue in your campaign to run for
12 State's Attorney?

13 A. I have made it -- I've probably had more
14 conversations with that -- about that issue with
15 citizens than just about any other issues, which
16 has astonished me, but absolutely.

17 Q. And has your opponent made it an issue?

18 A. She's not discussed it at all. I think if she
19 has discussed it it's to the extent that this
20 has nothing to do with being a State's Attorney
21 so I don't know why Mr. Campbell is belaboring
22 this issue, but no, she hasn't gone into any
23 detail on it.

24 Q. And, of course, you're aware that if you are

1 elected State's Attorney and this proceeding
2 continues in some form, an appeal or perhaps
3 some other decision by the board that might
4 result in a remand --

5 A. Sure.

6 Q. -- that you would then be in the position of
7 being the County's legal officer and required to
8 represent the County when you have taken the
9 position opposed to this proposed expansion?

10 A. I'm aware of that.

11 Q. Do you have any information to the effect that
12 between November 30th, 2009 and May 10th of 2010
13 that any employee, representative, or agent of
14 Waste Management of Illinois, Inc. had any form
15 of communication about the proposed expansion
16 with any member of the DeKalb County Board?

17 A. Directly, no.

18 Q. Do you have any information that you obtained
19 indirectly or generally regarding any such
20 communication?

21 A. It struck me during the hearing that there had
22 been an awful lot of financial discussion, both
23 involved in the County and the Town of Cortland,
24 in regards to compensation or remuneration or,

1 you know, whatever word you want to describe
2 money that -- for instance, it seemed to me
3 Cortland was aware that they were going to get a
4 specific amount of money if this was to go
5 through. That led me to believe that there had
6 been discussions -- maybe through the host
7 agreement or whatever, there had been
8 discussions involving the benefit financially to
9 the County and to the Town of Cortland with
10 Waste Management.

11 Q. Well, I believe you said earlier that at no
12 point did you review any part of the site
13 location application?

14 A. That's right. That's right.

15 Q. And had you reviewed any part of the site
16 location application you would have seen that
17 contained within it was the memorandum of
18 agreement or understanding between Waste
19 Management of Illinois, Inc. and the Town of
20 Cortland regarding this proposed expansion?

21 A. Correct.

22 Q. Did you ever become aware of the fact that
23 there was an agreement in place?

24 A. During the hearing, and which is getting back

1 to my point a little bit that it struck me
2 during the hearing -- and, again, I'm just
3 sitting there observing it, it struck me that we
4 were all kind of operating under this fiction
5 that there hadn't been an agreement already
6 reached, and it struck me as us kind of dancing
7 around the idea that there had been an agreement
8 reached in regards to you -- call it a
9 memorandum, you know, however you want to phrase
10 it, it struck me that the County Board was well
11 aware of the financial benefit of approving this
12 project, and Cortland was well aware of the
13 financial benefit they were going to receive if
14 this project was approved, and it struck me that
15 those conclusions or negotiations or agreements
16 or conversations or memorandum, whatever you
17 want to call it, had occurred prior to the
18 formal hearing at Kishwaukee College and that
19 struck me as odd if we were going to engage in
20 the notion that the County Board members that
21 were sitting on that jury were supposed to be
22 open-minded and partial and to only consider the
23 information that was contained in the hearing.

24 Q. Did you have any other information that

1 suggested indirectly that there had been any
2 communications between Waste Management of
3 Illinois, Inc. and the DeKalb County Board or
4 its members between November 30th, 2009 and May
5 10, 2010 regarding the proposed expansion?

6 A. I see where you're going with your question. I
7 couldn't tell you specifically, you know, what
8 time frames I'm referring to. It strikes me
9 from your question that you're saying that a lot
10 of this stuff happened before November 30th. I
11 have no reason to believe that that's not the
12 case.

13 Can I specifically say that between
14 November 30th and May that I heard anything, no.

15 Q. Do you have any information about whether any
16 person who expressed any interest in attending
17 and participating in the public hearings elected
18 or chose not to do so?

19 A. Ask me that again.

20 Q. Do you have any information that would indicate
21 that a person who had expressed a desire to
22 attend the public hearing ultimately chose not
23 to do so?

24 A. I recall numerous instances where people wanted

1 to attend and either because of work obligations
2 or family obligations couldn't get to Kishwaukee
3 College.

4 It was an interesting thing for me that it
5 seemed as time went on we seemed to have more
6 people there. And I remember there being a
7 discussions amongst the various citizens that
8 were there that they thought to have it during
9 the week at a place that's a little bit outside
10 of the DeKalb or Sycamore that they didn't feel
11 that that was a -- I'm not going to say unfair,
12 but that they thought that it wasn't -- that the
13 time and place of the hearing wasn't chosen to
14 be conducive to civic participation; in other
15 words, people felt like if you're going to do
16 this why not make it easy for people to attend,
17 make it during a time frame when they don't have
18 to work or deal with their kids. I do recall
19 that being the biggest reason that probably
20 jumps out at me if people had to change their
21 plans, had wanted to attend and then couldn't.

22 Q. Were you aware that the County had a local
23 ordinance that governed the matter by which
24 these site location proceedings were going to be

1 conducted?

2 A. I suspect there is one. I have no personal
3 knowledge of it.

4 Q. Did you sign up to participate at the public
5 hearing?

6 A. I -- I -- I think that I did, because I think
7 that the Hearing Officer -- his name escapes me
8 -- I think at one point or a couple times
9 probably came over to me, maybe when it first
10 started introducing ourselves, and I probably
11 put my name down on something as a -- you know,
12 and giving that information.

13 Q. Well, isn't it true that, in fact, you kind
14 signed up with the County clerk to participate?

15 A. Oh, I forget about that. Yeah, you're right.

16 Q. And how did you learn that there was an
17 opportunity to sign up to participate at the
18 public hearing?

19 A. It had to be through either, you know, one of
20 these mega-dump members or it could have been
21 through the local media, it could have been
22 through the newspaper or some sort of posting.
23 I mean, I can't specifically say how.

24 Q. Do you recall having gone into the clerk's

1 office and actually signing up?

2 A. I mean now that you mention it, yeah, I do.

3 Q. And I believe you signed up approximately a

4 week before the public hearing?

5 A. I think that's -- I think so.

6 Q. And your recollection is that you had learned

7 either in the paper or from one of the members

8 of Stop The Mega-Dump that you needed to sign up

9 with the County clerk in order to participate at

10 the hearing?

11 A. Absolutely.

12 Q. Were you aware of any person who had reviewed

13 or read the local siting ordinance and the

14 articles and the rules and procedures and

15 decided not to attend the public hearing because

16 of what was stated in the ordinance and the

17 articles about eligibility to participate in the

18 public hearing?

19 A. I don't recall any instance of that. And I

20 think at that time I made a statement, in fact

21 quite a few times, that my issue never was with

22 the -- you know, I think that, you know, the

23 Hearing Officer and yourself and I think

24 everybody there really made an effort to ensure

1 that if there was somebody else that wanted to
2 speak or couldn't be there or wanted to submit
3 something in writing I don't remember there
4 being any sort of obstruction to that. I
5 remember it being very, very, very -- the rules
6 were very liberal in terms of ensuring inclusion
7 from the start of the public hearing to the end.

8 Q. Did you object to the proposed expansion?

9 A. I did.

10 Q. What was the basis or what were your objections
11 to the expansion?

12 A. And, again, if I had my transcript of what I
13 said then, I think it was -- there was a couple
14 of reasons. Number one, I did feel that it was
15 unfair to the financial issues that I have
16 already talked about here. I thought it was
17 unfair to have discussions about how you're
18 going to spend the money and then actually take
19 action by the County Board on, you know, the
20 anticipated revenue from this and start making
21 plans on how you're going to spend it and then
22 come into this hearing and suggest that you're
23 going to be impartial, I thought that was a -- I
24 thought that was a -- it didn't strike me as

1 being fair.

2 I was struck by the hydrogen sulfide
3 issue, and I'm not a chemist, I'm not anybody
4 versed in that. You saw me try to examine
5 Dr. Serewicz. It struck me that the
6 presentation by Waste Management was very
7 comprehensive but it really stood out to me that
8 the issue of noxious gases and hydrogen sulfide
9 and that weren't really discussed by the
10 experts. And I thought that one thing that --
11 and this is in hindsight looking back on it, but
12 I thought that we might have heard from somebody
13 from Waste Management that could say, look, if
14 you're worried about air and you're worried
15 about this egg smell let me explain to you what
16 it is, let me explain to you what we do about
17 it, let me explain to you how it's not harmful.
18 Dr. Serewicz convinced me that this wasn't quite
19 the harmless issue that I think was the -- I
20 think that your argument was essentially that
21 this -- you know, that the public health and
22 safety won't be jeopardized by approving this,
23 and the more I learned about hydrogen sulfide
24 the less convinced I became of that.

1 I think those were the two primary
2 reasons.

3 Q. Did you have any objections or problems with
4 the fundamental fairness of the public hearings?

5 A. I think that the hearings themselves were
6 conducted in a fair manner.

7 Q. Did you have any problem with the fundamental
8 fairness of the siting process, the way this
9 process worked its way through the filing of the
10 application, the hearing, the public submission
11 of the written comment, and the County decision?

12 A. I think that we have a very flawed process
13 here. I -- and when you say fundamental
14 fairness, did it comport, you know, with the
15 statute and were the notice requirements adhered
16 to and did the Hearing Officer allow, you know,
17 input from everybody? Absolutely.

18 Can I say that the hearing itself in its
19 procedural aspects was fair? Absolutely.

20 But it struck me that we have a -- we have
21 a gargantuan project here and the level of
22 communication to the citizens of the County
23 was -- it was almost criminal how little the
24 average homeowner knew about this.

1 I'll give you an example. After the
2 project had been approved, after the formal
3 hearings had been concluded at Kish College the
4 mega-dump group sought Cortland Township, you
5 know, ordinance or some sort of action by the
6 Township, you know, basically objecting to this
7 and feeling that that might have some sort of
8 force of law. I don't know enough about it to
9 tell you anything about that conclusion. But
10 when we -- when that hearing was actually had in
11 Cortland I think it was the biggest public
12 gathering that I've seen in this County in a
13 decade of going to public events, I mean there
14 was hundreds of people there. For a town the
15 size of Cortland, that was an astonishing
16 turnout. What it led me to believe was that
17 most people in this county, certainly most
18 people in Cortland, did not know that this was
19 transpiring as it was transpiring.

20 So it -- when I say that I think that this
21 process is flawed, I think that the County did a
22 horrendous job of informing the public not only
23 the extent of this project but the ramifications
24 of the expansion of this project, and truly what

1 kind of a colossal decision it was for the
2 County. Like I said, I don't remember a bigger
3 decision. I have been here 23 years, this is
4 the biggest decision I have seen the County
5 Board make, and it was woefully publicized to
6 the public.

7 To this day when I'm going door to door
8 people are -- they're outraged. I mean,
9 Sycamore is a fairly nice town, you got educated
10 people here, I mean people are -- you know, I'm
11 not talking kind of the -- sometimes there's a
12 perception of protesters as being protesters.
13 Your average middle class person in DeKalb
14 County is absolutely astonished that this kind
15 of occurred right under their noses.

16 Q. Are you aware of any violations of either the
17 Illinois Environmental Protection Act or any
18 principles set out in the case law as it relates
19 to the fundamental fairness of this siting
20 process?

21 A. I wouldn't be versed enough to be able to
22 answer that, so I would say no.

23 Q. So when you talk about the problems with the
24 process what you're talking about principally --

1 and correct me if I am wrong, I don't want to
2 put words in your mouth -- is that the manner by
3 which this site location application was
4 communicated to people in this county, people in
5 the town of Cortland, in the City of DeKalb was
6 not sufficient to apprise them of the key
7 landmarks or the key events that would occur in
8 the County's consideration and vote on the site
9 location application?

10 A. No question about it. It's -- as a -- and I
11 really try to -- you know, I'm thinking as I'm
12 coming over here today, I'm a criminal lawyer.
13 This is a very, very, very -- it's a very --
14 this struck me as very undemocratic. It struck
15 me as very, very high-handed and I think it --
16 although the strict compliance with the rules is
17 certainly there, this process is not designed, I
18 don't think, to ensure that the public is
19 informed about this. There's kind of a
20 presumption that, you know, if you follow the
21 circulars that the County Board issues or you
22 read the back of the, you know, newspapers for
23 public notices that that's a sufficient notice
24 in regards to this and, you know, I don't think

1 that it was at all and I don't think it's even
2 close.

3 You know, I'm -- you know, when you ask me
4 whether or not the ordinances or regulations
5 were complied with, you know I sat there and
6 watched you put on your hearing, you're an
7 outstanding lawyer, it was a very well done
8 process. But this is truly a -- when you talk
9 about fundamental fairness, the overriding
10 elephant in the room on the fundamental fairness
11 issue is the notion that, you know, a town of a
12 hundred thousand people could be impacted by a
13 decision of this magnitude largely without their
14 knowledge.

15 Q. Were you aware of any persons who were
16 prevented from presenting their views, their
17 evidence, or their information to the County
18 Board regarding the proposed expansion?

19 A. No.

20 Q. Were you aware that there was indeed a notice
21 of the County Board hearing at which a vote was
22 to be taken on whether to approve the host
23 community agreement?

24 A. I think probably being somebody that follows

1 everything, I think I was probably aware of it,

2 yeah.

3 Q. Were you also aware that in the first week of

4 November of 2009 there was a publication in the

5 Daily Chronicle indicating that Waste Management

6 of Illinois, Inc. would file a site location

7 application to expand the DeKalb County Landfill

8 on November 30th of 2009 with the County Board?

9 A. I don't have a specific knowledge of -- or

10 recollection of reading that, but it strikes me

11 as something that probably came across my eyes.

12 Q. Were you also aware that a notice of the public

13 hearing to commence on March 1st, 2010 was also

14 published by or in the Daily Chronicle in, on,

15 or about February 10th or 11th of 2010?

16 A. I think I remember that.

17 Q. In fact, I think there's been testimony from

18 Mr. McIntyre that the impetus to form the Stop

19 The Mega-Dump group came after an article

20 appeared in the Daily Chronicle describing the

21 fact that public hearings were to commence on

22 March 1st of 2010?

23 A. I recall there being a -- kind of a rush there;

24 in other words, I think that that -- I can -- it

1 seems to me that that's probably shortly after
2 maybe Mr. McIntyre and them heard about it I
3 probably learned about it shortly thereafter.

4 And, again, it struck me as I'm sitting
5 through the hearing and I'm listening to the
6 extent of this expansion and the case that
7 you're putting on, another thing that jumped out
8 at me was the County was totally outmanned in
9 terms of the presentation. I mean, I realize we
10 had a lawyer that was hired and there was an
11 expert there, I can't remember his name. But as
12 a lawyer myself, having done a lot of trials, I
13 didn't feel at all that the County had done an
14 adequate job in not only calling witnesses
15 themselves to kind of challenge some of the
16 witnesses of Waste Management, but in the
17 cross-examination of the Waste Management's
18 witnesses it was almost nonexistent and if --
19 and a very nice lady, and I don't remember her
20 name, the attorney for the County.

21 Q. Renee Cipriano.

22 A. Ms. Cipriano was very nice, but even the
23 questions that she asked were very self-serving,
24 they were very -- they weren't probing for

1 additional information, they weren't challenging
2 of the witnesses, they were softballs, so I'm
3 remembering that as I sit here.

4 To get back to the fundamental fairness,
5 if Ms. Cipriano and that engineer that was
6 sitting there, if that was the extent of the
7 County's side of the case, if that's truly the
8 extent that they had gone to this thing -- you
9 know, as I understood it, Waste Management's
10 presenting their case, County Board members are
11 sitting as jurors, and this witness is
12 representing the County Board, this attorney
13 with an expert sitting there, I was
14 astonished at the lack of -- I won't say
15 preparation, but just no energy at all into the
16 performance. Most of the great questions that
17 came out of the public came from the objectors
18 that were sitting there. There was much better
19 questions asked out of the audience than there
20 was from Ms. Cipriano.

21 So, you know, it's -- getting back to your
22 original question on the fundamental fairness,
23 that really struck me as the County Board not
24 really taking its job seriously in terms of

1 challenging these witnesses on the presentation
2 that they were making.

3 I'll give you an example, if I can belabor
4 the point here. The traffic expert that was
5 called, outstanding, you know his credentials
6 were great, he was very well prepared. I think
7 he was from Michigan. He got up there and
8 talked about the impact that this would have on
9 the local traffic flow and stuff. It come from
10 Mr. Steimel I think when cross-examining him
11 that farm implement traffic hadn't really been
12 taken into account when you're considering the
13 traffic going in and out of the facility. That
14 led to a series of questions that led me to
15 believe that again the County had not adequately
16 prepared to cross-examine these witnesses on
17 their preparation, their study, and their
18 ultimate opinion, which really left the
19 impression that this presentation was just so
20 good that there was no need to ask questions,
21 that Ms. Cipriano had no need to do that, and I
22 thought that was a dereliction of the County
23 Board's responsibility.

24 I think there was a couple County Board

1 members that never asked any questions, which
2 again is astonishing to me that they're going to
3 make a decision on a project of this size. I
4 don't know if Ms. Vary asked any questions. I
5 don't know if Ms. Tobias asked any.

6 Q. Now, Mr. Campbell, are you aware of the
7 standards that were to be applied in reviewing
8 the site location application and whether it
9 should be approved or disapproved was, in fact,
10 the nine criteria that are set out in the
11 statute?

12 A. I specifically remember the nine criteria and I
13 specifically recall, you know, there being
14 evidence on each criteria. You were methodical
15 in ensuring that, you know, with each criteria
16 that was in the statute that there was evidence
17 to support your argument that, you know, Waste
18 Management had met its burden and therefore it
19 should be approved. But, again, I'm struck by
20 the notion that, you know, if I put a one-sided
21 case on, if I am in a Grand Jury I can indict a
22 ham sandwich. It's only when you have somebody
23 else in there challenging it -- and I thought
24 that the County was left to rely on a bunch of

1 volunteer citizens and a bunch of, you know,
2 hack lawyers like me and a retired chemist
3 professor, and it really struck me as the good
4 fight that was going on in there -- and when I
5 say good fight I don't mean to imply that the
6 presentation that you made was faulty, it's
7 simply to say that to truly get a good decision
8 out of that process I think would have required
9 both sides to be adequately prepared and kind of
10 armed for battle, so-to-speak, like a trial, and
11 it wasn't even close.

12 Q. Would it be fair to say that an appropriate
13 evaluation of the evidence as it related to the
14 criteria would have had to have required an
15 appropriate understanding as to the proper
16 considerations that would be applied in
17 evaluating those criteria?

18 A. I think that's a fair statement.

19 Q. And that, in fact, there may have been evidence
20 presented in terms of the cross-examination you
21 just mentioned --

22 A. Sure, sure.

23 Q. -- of Mr. Miller -- who was from Barrington, by
24 the way.

1 A. I'm sorry. Who was from Michigan? Or maybe he
2 had done studies in Michigan?

3 Q. Yes, he had done work there.

4 A. That's right.

5 Q. But certainly from the standpoint of addressing
6 some of those issues that were of concern and
7 perceived of a concern to citizens and others
8 may indeed not have truly been a relevant
9 standard as it related to whether the criterion
10 was met or not met; is that possible?

11 A. That's possible but I -- again, I just have to
12 say this, if you put an expert on to say that
13 the air quality is going to be fine or that the
14 traffic patterns aren't going to be disrupted,
15 if you put an expert on there with the
16 credentials that your experts had -- and they
17 were all excellent -- then if you don't counter
18 those opinions with somebody of equal weight
19 then you're really outmatched and you really
20 aren't getting a full fleshing out of the issues
21 that were before the County.

22 So I'm simply trying to say I thought the
23 notion that having a guy that works in an
24 engineering firm, an engineer, and having an

1 attorney sitting there and having that be the
2 extent of the County's case it struck me as
3 being -- and I think you recall me saying I have
4 nothing against Waste Management, but it struck
5 me as being a giant corporation that really did
6 its homework going up against a County Board
7 that didn't and it showed in the presentation.

8 Q. And do you have any information as to the
9 amount of time that was spent by the County's
10 consultant in reviewing the application and
11 whether the application complied with any of the
12 statutory criteria?

13 A. I only saw the -- him at the public hearings
14 themselves. It just, again, struck me as -- you
15 called eight or nine experts to testify in
16 regards to the various criteria, and if I
17 understood it correctly this guy was from, you
18 know, an engineering firm, I never could tell
19 whether he was an expert in all these different
20 fields or whether he went back to his place and
21 they had experts all in the fields. So again, I
22 didn't -- I didn't -- that part of it didn't
23 jive with me. I didn't feel like the County had
24 called competing experts to try to, again, flush

1 this stuff out, which is what I think you need
2 to do to make sure the County Board makes an
3 informed decision.

4 Q. Would it be accurate to say that your view is
5 that the County consultant's performance at the
6 hearing did not make the proceedings
7 fundamentally unfair but perhaps might suggest
8 that the review performed by the County was not
9 what you would have expected or liked to have
10 seen from the County?

11 A. I think that if you're going to, as you did in
12 this case, have a hearing and I think if what
13 you're stating that you're doing in having this
14 hearing pursuant to statute is that you're
15 actually going to present these criteria to the
16 County Board and have them make a decision on
17 it, then I don't see how -- you know, you get to
18 that fundamental fairness, I don't see how it's
19 fundamentally fair to have such a one-sided
20 presentation be made and then have us conclude
21 that the information presented at the hearing
22 that was used to decide whether or not each
23 individual board member was going to approve it
24 or disapprove it I think that, you know, there's

1 a flaw there in the process.

2 Now, I'm kind of getting, you know, where
3 you're going with that. I don't think that -- I
4 don't think that the process in itself is
5 unfair, and I think that the process is designed
6 there during the hearing that I witnessed to
7 have ample opportunity for everybody to present
8 their side. But, you know, again, I'm struck, I
9 do think it's fundamentally unfair to have such
10 a one-sided case be put on and to not have
11 any -- I mean, we didn't even have any
12 discussion amongst the County Board members. I
13 never heard anybody talk about, you know, we
14 have got a traffic expert that just testified,
15 do we have a traffic expert? Do we have a -- I
16 think you had a water hydrologist testify. I
17 mean, it just struck me that we were kind of --
18 I don't know if it was because of cost. In
19 fact, it would be a curious factor to determine
20 how much the County Board spent on this to hire
21 these individuals and how much Waste Management
22 spent. I suspect that if I looked at those
23 numbers I might see the kind of disparity I
24 would expect if you consider the presentation.

1 Q. Do you have any information to indicate whether
2 the County, in fact, had experts review other
3 portions of the application and other criteria
4 even though those experts may not have attended
5 the hearing and obviously they didn't testify?

6 A. I -- to answer your question, it's no. I
7 suspect that's the only way I could walk out of
8 there and think that they're going to be fully
9 informed in making their decision.

10 Q. Did you ask anyone at the County whether, in
11 fact, they that had experts who had reviewed --

12 A. I kept being told that I was violating the law
13 if I tried to communicate, so I stayed away from
14 everybody.

15 Q. You didn't ask Ms. Cipriano or one of the
16 non-decision makers if --

17 A. I can't remember if I -- you know, the problem
18 with her was she was so engaging, she was very
19 nice, and obviously, you know, she knew the
20 hearing process. But if there were other
21 experts that were relied upon, I didn't hear or
22 review their testimony. But, again, if you're
23 getting back to fundamental fairness and this is
24 a public hearing where the evidence is

1 presented, again, it strikes me as odd that the
2 County would rely on experts that they didn't
3 put forth and present to the public and to the
4 County Board so we could all see what exactly
5 information it was that they relied upon.

6 I realize that the -- I think you even
7 made a point of it, I know the Hearing Officer
8 did, that, you know, we're going to make these
9 records available, I think you could download
10 them onto a disk, and I think all of that stuff
11 was -- I thought that was a nice part of it, but
12 you're still talking about trying to -- you
13 know, thousands and thousands of documents that,
14 you know, I think the average middle class
15 homeowner here just -- there's just no way that
16 this information was going to get imparted to
17 them.

18 Q. And I believe you also indicated that part of
19 your objection to just the way this process has
20 been set up is that it's not appropriately
21 democratic; would that be correct?

22 A. Absolutely. If you're going to -- if you're
23 going to call this a democratic process then to
24 me, you know, that information that the public

1 gets, I mean you really have to go out of your
2 way to let them know. I think -- I'll give you
3 an example here. We have a -- what's the gas in
4 basements that everybody worries about?

5 Q. Radon?

6 A. Radon. We have a radon problem here that goes
7 on. So about every couple of months the City of
8 Sycamore sends every resident a little IEPA or
9 whatever it is saying, hey, just want to let you
10 know we're working on the water problem but law
11 requires us to inform you that the radon
12 quantities in the water or the air in your
13 basement exceeds state or federal law.

14 It struck me that some of the efforts that
15 we see in communicating some of the issues to
16 the public far exceeded the efforts that were
17 made in this case to inform the public. And I
18 realize it was in the paper and the public
19 notices were there, but if you consider the
20 communication effort and compare it to the
21 gravity or the magnitude of the project it's not
22 even close to me.

23 MR. MORAN: Well, thank you, Mr. Campbell.

24 I have no further questions.

1 EXAMINATION

2 BY MS. ANTONIOLLI:

3 Q. Well, you mentioned again that the County --
4 let me start over.

5 Were you aware that the County had both
6 technical and legal experts, consultants prepare
7 a report that analyzed each of the criteria,
8 that analyzed the application?

9 A. I did learn that.

10 Q. As well as took into consideration the comments
11 that were filed throughout the end of the public
12 comment period?

13 A. I did learn that. But, again, I want to make
14 sure my point's clear, to not cross-examine
15 those witnesses when they're there or not have
16 the ability to call expert witnesses after those
17 witnesses testified you're really diminishing
18 the fact finding process. So I'm not disputing
19 that the County didn't have other people review
20 it, I'm not disputing, you know, that part of
21 it. But if you're actually talking to me about
22 the public hearing that I witnessed, not having
23 those individuals there or that substantive
24 cross-examination of the witnesses I think was

1 negligent.

2 Q. And you also mentioned back a ways in
3 discussing the hearing that there may have been
4 some County Board members that weren't decision
5 making entities, am I --

6 A. I just mean that there -- obviously the full
7 County Board ultimately voted on this so I know
8 that everybody on the County Board had a part in
9 making a decision on this case, whether up or
10 down. I was just referring to there was a
11 distinction for all of us during that hearing
12 that those factfinders, County Board members
13 that were acting as factfinders were a separate
14 entity from the rest of the people on the County
15 Board.

16 Q. But you understood that all of the entire full
17 County Board voted on the application?

18 A. I did. I was actually there.

19 MS. ANTONIOLLI: Okay. I think that's all
20 I have.

21 MR. MORAN: George?

22 MR. MUELLER: I don't have any questions.

23 MR. MORAN: Thank you, Mr. Campbell.

24 As you know, you have the opportunity to

1 review the transcript if and when it's prepared.

2 You would be notified, given the opportunity to

3 go to the court reporter's office and review it.

4 Otherwise you can trust that she's transcribed

5 everything accurately and waive signature.

6 THE WITNESS: I have actually had the
7 privilege of working with this young lady, and I
8 trust her abilities far beyond mine. I waive
9 signature.

10 MR. MORAN: Very good.

11 (The deposition was concluded at
12 4:50 p.m.)

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1 CERTIFICATE

2
3 I, Callie S. Bodmer, a Certified Shorthand
4 Reporter in and for the State of Illinois, do hereby
5 certify that, pursuant to the agreement herein
6 contained, there came before me on the 26th day of
7 October 2010 at 3:35 p.m. at the DeKalb County
8 Legislative Center, 200 North Main Street, Sycamore,
9 Illinois, the following-named person, to-wit:
10 CALVIN CLAY CAMPBELL, who was duly sworn to testify
11 to the truth and nothing but the truth of his
12 knowledge concerning the matters in controversy in
13 this cause; that he was thereupon examined on his
14 oath and his examination reduced to writing under my
15 supervision; that the deposition is a true record of
16 the testimony given by the witness, and that the
17 reading and signing of the deposition by said
18 witness were expressly waived.

19 I further certify that I am neither
20 attorney or counsel for, nor related to or employed
21 by, any of the parties to the action in which this
22 deposition is taken, and further, that I am not a
23 relative or employee of an attorney or counsel
24 employed by the parties hereto or financially
interested in the action.

In witness whereof I have hereunto set my
hand this 11th day of November 2010.

Callie S. Bodmer
Certified Shorthand Reporter
Registered Professional Reporter
IL License No. 084-004489
P.O. Box 381
Dixon, Illinois 61021

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,)	
)	
Petitioner,)	PCB NO. 2010-103
)	
v.)	
)	DEPOSITION OF
COUNTY BOARD OF DEKALB)	GRACE MOTT
COUNTY, ILLINOIS and WASTE)	
MANAGEMENT OF ILLINOIS,)	
INC.,)	
)	
Respondents.)	

DEPOSITION OF GRACE MOTT, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on September 15, 2010, commencing at 1:07 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action. Also present: Mac McIntyre.



1 APPEARANCES:

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19 Waste Management of
20 Illinois, Inc.

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1 GRACE MOTT,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MORAN:

6 Q. Could you state your full name and spell your
7 last name for the court reporter.

8 A. Grace Mott, M-O-T-T.

9 Q. What is your address?

10 A. 118 Oak Street, Number 101, DeKalb, Illinois.

11 Q. And how long have you been there?

12 A. In that residence I think three years.

13 Q. What is your business or occupation?

14 A. I work for E-World Links. We do business
15 websites and an online newspaper.

16 Q. We're here today to conduct your deposition in
17 connection with an appeal that's been filed by
18 Stop The Mega-Dump with respect to the approval
19 given by the DeKalb County Board to the site
20 location application filed by Waste Management
21 of Illinois, Inc. My name is Don Moran, I
22 represent Waste Management of Illinois, Inc. in
23 connection with the matter, and I'll be asking
24 you a number of questions regarding or relating

1 to the appeal in this process.

2 Have you ever been deposed before?

3 A. No.

4 Q. Let me just lay out a few of the things that
5 we'll try to accomplish today. I will ask you a
6 number of questions. I'll try to make the
7 questions as clear and concise as I can;
8 however, when I don't I would ask that you
9 request clarification of those questions,
10 because it's important that your answers are
11 responsive to the questions that I ask. Is that
12 clear enough?

13 A. Yes.

14 Q. If you don't understand a question, please ask
15 for clarification at any point. You'll also
16 need to respond audibly, because the court
17 reporter can't take down any nonverbal gestures
18 or actions that you might make.

19 A. Okay.

20 Q. Does that make sense?

21 A. Yes.

22 Q. When did you first become aware that a site
23 location application to expand the DeKalb County
24 Landfill was going to be filed?

1 A. Depends on how you word that. I was aware
2 DeKalb County was going to expand for our own
3 use, for DeKalb County's use, via a proclamation
4 I read from the DeKalb County Board that only
5 talked about expanding for DeKalb County's use.
6 The first time I heard it was going to be
7 expanded for larger than my use was the
8 announcement of the public hearing that was to
9 be held in March that I read about in the paper.

10 Q. When did you learn about the proclamation of
11 the DeKalb County Board?

12 A. It was several months before that. We read
13 through minutes.

14 Q. Would it have been in 2009 or prior to 2009?

15 A. It could have been late 2009, early 2010. I'm
16 not sure of the date of that.

17 Q. And this proclamation stated what?

18 A. That we -- the DeKalb County Board was
19 considering expanding for our own use, that we
20 done well on recycling and -- but irregardless
21 of that, we needed to expand the dump for DeKalb
22 County's use.

23 Q. When you say for our own use, are you referring
24 to DeKalb County residents?

1 A. DeKalb County, correct.

2 Q. And then I believe you said you then learned
3 about the site location application in
4 connection with a notice of a public hearing?

5 A. Correct.

6 Q. And where did you observe or see this notice of
7 public hearing?

8 A. In the Chronicle, Daily Chronicle.

9 Q. And when did you see it?

10 A. It was a couple of weeks before the March
11 public hearing. It was the announcement that
12 there was going to be a public hearing on the
13 landfill. It was I'm guessing two weeks before
14 the public hearing.

15 Q. And the public hearing began on March 1st,
16 2010?

17 A. I was thinking it was more like the 11th but --
18 of March 2010, wasn't it?

19 Q. Would you accept the fact that the hearings
20 began March 1st, 2010?

21 A. Except that I think that they were March 11th,
22 2010.

23 Q. Could that have been the last date of the
24 public hearings?

1 A. If it is then my calendar is written down
2 wrong.

3 Q. Did you attend the public hearings?

4 A. Yes, I did, every day.

5 Q. And how many days of public hearing were there?

6 A. I believe it was like nine.

7 Q. There were six, weren't there?

8 A. Was there?

9 Q. There were six.

10 A. Was it?

11 Q. It started Monday through Friday, March 1st
12 through March 5th, 2010.

13 A. Okay. Maybe I'm thinking nine hours. You're
14 right, it was six days of public hearing.

15 Q. Then the sixth day was March 11th, which was a
16 Thursday.

17 A. Okay.

18 Q. You attended each of those days?

19 A. Yes, I did.

20 Q. And your recollection is that the notice of
21 public hearing you first saw in the Chronicle
22 about two weeks before March 1st?

23 A. Correct, it's my recollection. I could be
24 wrong.

1 Q. And did the notice indicate in any way that a
2 site location application had been filed with
3 the County Board?

4 A. I believe it did, and that that's what the
5 public hearing was going to be about.

6 Q. Did you become aware at any point in 2009 that
7 Waste Management of Illinois and DeKalb County
8 had negotiated a host community agreement that
9 would apply to any expansion that might be
10 approved of the existing landfill?

11 A. Ask me that question again, please.

12 Q. Did you become aware anytime in 2009 of the
13 fact that a host community agreement had been
14 negotiated between Waste Management of Illinois
15 and DeKalb County Board that would apply to any
16 proposed expansion?

17 A. I believe the proclamation that I read was the
18 front page of that.

19 Q. Would have been the front page of the
20 agreement?

21 A. It was the front page of a larger thing that I
22 didn't read any more of because it sounded like
23 we just needed to expand for ourselves, so I
24 read that and I didn't read the rest of it, but

1 I believe it was about the host agreement.

2 Q. So you knew at some point in 2009 that a
3 request would be made of DeKalb County to
4 approve an expansion of the existing landfill?

5 A. For our own use was my understanding in 2009.

6 Q. Had you at any point had an opportunity to
7 review the host community agreement that was
8 approved by the DeKalb County Board in March of
9 2009?

10 A. No.

11 Q. Did you ever become aware of the existence of
12 that host community agreement at anytime?

13 A. Yes.

14 Q. And when did you become aware of the existence
15 of that written agreement?

16 A. I don't think I was aware of that agreement
17 until -- you know, what the extent of that
18 agreement was and what it meant until 2010 when
19 I first heard that it was other counties were
20 involved and I started doing more investigating.

21 Q. And you learned that other counties were
22 included within the service area in mid February
23 of 2010?

24 A. Correct.

1 Q. Have you ever reviewed that host community
2 agreement?

3 A. Only skimmed through very quickly, not read it.
4 I have not read it.

5 Q. And was it in the host community agreement
6 where you came to learn that the service area
7 for the expansion included 17 counties?

8 A. No.

9 Q. How did you learn that the proposed expansion
10 proposed a service area which included the 17
11 counties?

12 A. That was in the Chronicle article about the
13 public hearing.

14 Q. Did you ever seek to obtain a copy of the site
15 location application?

16 A. Yes, I did.

17 Q. When did you seek to obtain a copy of the site
18 location application?

19 A. After the Chronicle article came out and before
20 the public hearing.

21 Q. So sometime between February 15th and February
22 28th of 2010?

23 A. Yes, I would guess that was the dates.

24 Q. And what steps did you take in an effort to

1 obtain a copy of the site location application?

2 A. I came to the County Clerk's office.

3 Q. And did you go to the County Clerk's office by
4 yourself, were you with other individuals?

5 A. I was with Mac McIntyre.

6 Q. So the two of you went to the County Clerk's
7 office to obtain a copy of the site location
8 application?

9 A. Yes.

10 Q. Do you remember what day of the week that was?

11 A. No idea.

12 Q. And you went to the office of Sharon Holmes,
13 the County Clerk?

14 A. Yes.

15 Q. And tell me what you did when you went to her
16 office.

17 A. A woman came up to us from that office, I do
18 not know her name, and asked what we would like.
19 We asked for a copy of the siting application.
20 She told us that was not available to us, took
21 me off guard a little, and I asked her to repeat
22 that, she said it was not available. I asked
23 her if I was going to have to file a Freedom of
24 Information Act to get a copy of that siting

1 application, uhm, a FOIA, and she said hold on a
2 minute, let me talk to somebody else. Then
3 Sharon Holmes came out and she let us look at
4 the nine volumes of the siting application. We
5 sat in there awhile. We continued to ask for a
6 copy of it on disk, and we were told no a couple
7 of times. We asked Sharon if we would have to
8 file a Freedom of Information Act, FOIA, to get
9 a copy of the siting on a CD, and eventually she
10 ended up giving us what she said was her only
11 copy, and we left.

12 Q. Let's start with your entering the building in
13 which the County Clerk's office is located.

14 A. Okay.

15 Q. As you walk into that building you need to walk
16 up a flight of stairs, correct?

17 A. Correct.

18 Q. Then you turn to the right to go to the Clerk's
19 office?

20 A. Correct.

21 Q. As you go to the Clerk's office on the
22 left-hand side there's a counter and there are
23 employees sitting -- or they're located behind
24 the counter, and there are two offices with

1 doors leading to each on the right side of this
2 aisle?

3 A. Yes.

4 Q. The far office is Sharon Holmes' office,
5 correct?

6 A. Correct.

7 Q. And the office immediately before that is the
8 office of I believe one of the deputies --
9 deputy clerks; is that correct?

10 A. I believe it is.

11 Q. The site location application that you were
12 able to look at, was it located in that first
13 office --

14 A. Yes, it was.

15 Q. -- on the right?

16 But when you first came into the office,
17 as you said, did you approach one of the
18 employees behind the counter on the left?

19 A. Actually she was coming out of Sharon Holmes'
20 office and walking towards behind the counter,
21 and she just walked right up to us and asked if
22 she can help us.

23 Q. Was she behind the counter when she asked you
24 if she could help you?

1 A. No.

2 Q. She was facing you directly, she was in front
3 of the counter and you were in front of the
4 counter?

5 A. She was coming out of Sharon's office and going
6 behind the counter and caught us first and asked
7 if she could help us.

8 Q. What did the woman look like, if you remember?

9 A. I really don't remember.

10 Q. And you don't remember her name?

11 A. No.

12 Q. But the first thing that -- was it you or
13 Mr. McIntyre who asked for a copy of the
14 application?

15 A. I believe it was Mr. McIntyre that asked
16 initially.

17 Q. And the response from this individual was the
18 application was not available?

19 A. Correct.

20 Q. And those were her words as you best recall
21 them?

22 A. Yes.

23 Q. Was there any explanation as to why the site
24 location application --

1 A. No.

2 Q. -- was not available?

3 A. No.

4 Q. What was then said after you were told the
5 application was not available?

6 A. Then I asked if we need to file a FOIA to get a
7 copy of that application.

8 Q. To the same individual?

9 A. To the same individual.

10 Q. And what was the response?

11 A. "Uh, let me get somebody else."

12 Q. And then what did she do?

13 A. She went and got Sharon Holmes.

14 Q. And Sharon Holmes was in her office?

15 A. Yes.

16 Q. Sharon Holmes came out?

17 A. Yes.

18 Q. Did you or Mr. McIntyre speak first to
19 Ms. Holmes, or did she speak first to you?

20 A. She spoke first.

21 Q. What did she say?

22 A. "Who's starting trouble out here."

23 Q. And did you respond to that question?

24 A. We just laughed.

1 Q. What did -- did she say anything else?

2 A. "What is it you guys need?"

3 Q. And who responded, you or Mr. McIntyre?

4 A. I don't remember.

5 Q. What was the response to Ms. Holmes?

6 A. Uhm, we'd like a copy of the site application
7 on CD, and her answer was that we have it here
8 in the book volume, you can come in and look at
9 it, so we did that for about a half hour.

10 Q. When Mr. McIntyre first asked the other woman
11 in the office for a copy of the site location
12 application, did he ask her for a CD --

13 A. I don't remember.

14 Q. -- of the application?

15 Now, at this point before you came into
16 the Clerk's office you were aware that there was
17 a site location application on file with the
18 County Clerk?

19 A. Yes.

20 Q. Did you know how many three-ring binders
21 comprised that site location application before
22 you got in the Clerk's office?

23 A. I knew it was big. I think I did know that it
24 was nine volumes.

1 Q. And how did you acquire the information that
2 there was nine volumes in this siting
3 application?

4 A. Don't remember, I'm sorry.

5 Q. And when you came into the office were you
6 aware that there was a CD version of the
7 application?

8 A. I was.

9 Q. How did you become aware of that?

10 A. Again, I don't remember.

11 Q. Was Mr. McIntyre aware that there was a nine
12 volume siting application on file with the
13 Clerk's office before you went into the Clerk's
14 office that day?

15 A. I believe he was.

16 Q. And how did he come to be aware that there was
17 nine volumes in this written siting location
18 application?

19 A. Again, I don't remember.

20 Q. Was Mr. McIntyre aware that there was an
21 electronic version on file with the Clerk's
22 office before you went in?

23 A. I -- I want to say I believe so, but we could
24 have just been asking for it. I'm not real

1 clear on the details of that. I think you'll
2 need to ask him.

3 Q. So you're not aware as you're sitting here
4 whether he was aware of whether there was an
5 electronic version of the application on file
6 with the Clerk's office?

7 A. I think we assumed there was, but I don't know
8 if he had definitive knowledge of that or not.

9 Q. Would it be fair to say that you simply assumed
10 there was an electronic version, you didn't know
11 that for a fact?

12 A. I wouldn't say that. We either knew or we
13 assumed, and I don't remember which.

14 Q. But when Sharon Holmes came out the request
15 that was made was for the electronic version?

16 A. I believe so.

17 Q. What was her response?

18 A. That that wasn't avail -- she only had one copy
19 and -- but we could look at the books, so we did
20 so.

21 Q. Did either of you ask Ms. Holmes why you had
22 been told by this other employee in the office
23 that the application was not available?

24 A. I don't remember.

1 Q. So you then were given the opportunity to look
2 through the nine volume written site location
3 application?

4 A. Yes.

5 Q. Where did you review the application?

6 A. Sitting at a desk in that office.

7 Q. When you say that office, that would have been
8 the --

9 A. First office.

10 Q. -- first office --

11 A. Correct.

12 Q. -- on the right?

13 You and Mr. McIntyre were given seats at a
14 table with the nine volumes?

15 A. Yes.

16 Q. And were these nine volumes being maintained or
17 kept in that office from what you could tell?

18 A. Yes.

19 Q. How much time did you and Mr. McIntyre spend
20 going through the written copy of the site
21 location application?

22 A. I'd say about a half an hour, while we
23 continued to ask for a CD copy, but we read the
24 books.

1 Q. And who did you continue to ask about --

2 A. Ms. Holmes.

3 Q. -- getting an electronic version?

4 A. Ms. Holmes.

5 Q. Was she in the office you were in when you were
6 reviewing the application?

7 A. She was in and out, yes.

8 Q. Each time she would come in one of you would
9 ask her for the electronic version?

10 A. We had asked her initially and she said she was
11 making some phone calls to see.

12 Q. And did she say who she was calling?

13 A. I believe she said she was calling Ray Bockman
14 and did not get an answer.

15 Q. Did she indicate she called anyone else?

16 A. Not that I remember.

17 Q. So she said she tried to call Ray Bockman,
18 couldn't reach him so she was still not willing
19 to give you an electronic version of the
20 application, correct?

21 A. For awhile. Eventually she did give us that
22 copy and we walked out with it.

23 Q. And at some point did she come to you during
24 your continued review of the hard copy

1 application and indicate that she would give you
2 an electronic version?

3 A. At some point, yes.

4 Q. And what did she say when she gave you that
5 version?

6 A. She was giving us her only copy.

7 Q. In what form did she give you the electronic
8 version of the application?

9 A. On a CD.

10 Q. Was it a CD, a DVD, or some other form?

11 A. I think it was a CD.

12 Q. And who did she give it to, you or
13 Mr. McIntyre?

14 A. Probably Mr. McIntyre.

15 Q. And she said it was her only copy?

16 A. Yes.

17 Q. Did she indicate she was going to charge you
18 anything for that electronic version?

19 A. Yes, I believe we paid for that.

20 Q. What did she charge you for it?

21 A. I do not remember.

22 Q. What did you pay for it?

23 A. I do not remember. It wasn't much.

24 Q. Did she indicate the basis for her charging you

1 the amount that she quoted; in other words, give
2 you a reason why she was charging you X as
3 opposed to some other number?

4 A. Not that I remember.

5 Q. Did she say anything else to you at that time
6 or during the course of your visit to the
7 Clerk's office on that date?

8 A. Not that I remember.

9 Q. Did you say anything further to her on that
10 date --

11 A. Not that I remember.

12 Q. -- that you haven't talked to us about?

13 A. Not that I remember.

14 Q. What did Mr. McIntyre then do with the DVD that
15 was given to him by Ms. Holmes?

16 A. Brought it home and read it.

17 Q. Did you at any point review any --

18 A. I did not.

19 Q. -- part of that DVD?

20 So once it was received you never had
21 occasion to look at it in any form at anytime?

22 A. I figured he did. I could ask him.

23 Q. Did you make any other efforts at any point to
24 obtain a copy of either the written site

1 location application or the DVD?

2 A. No.

3 Q. Are you aware of whether Mr. McIntyre ever did?

4 A. No.

5 Q. Do you have any information about any other

6 persons who sought to obtain a copy of the

7 written site location application or the

8 electronic version from the County?

9 A. Ask that again, please.

10 Q. Are you aware of any other person who sought to

11 obtain a copy of the written site location

12 application or the electronic version from the

13 County?

14 A. Yes.

15 Q. Who?

16 A. I know Mark Charvat did.

17 Q. Who is Mark Charvat?

18 A. A member of Stop The Mega-Dump.

19 Q. What is Stop The Mega-Dump?

20 A. An organization comprised to stop the mega-dump

21 to come here -- from coming to DeKalb County.

22 Q. Are you a member of Stop The Mega-Dump?

23 A. Yes.

24 Q. Do you hold any positions or titles within that

1 organization?

2 A. No.

3 Q. When was Stop The Mega-Dump formed?

4 A. The night that the Chronicle article came out
5 saying it was going to be for -- the expansion
6 was going to be for more than just DeKalb
7 County.

8 Q. Who formed Stop The Mega-Dump?

9 A. Mac McIntyre.

10 Q. Was Mac the only one who formed the
11 organization or were there others?

12 A. He's the one who started it.

13 Q. Does he have a position within Stop The
14 Mega-Dump?

15 A. I believe so.

16 Q. What is his position or positions?

17 A. I'm not sure.

18 Q. Are you aware of whether a facebook page was
19 set up with respect to any communications by,
20 among, or between members of Stop The Mega-Dump?

21 A. Yes.

22 Q. And was that facebook page set up or
23 established on February 12th of 2010?

24 A. That sounds accurate.

1 Q. And would February 12th have been the date when
2 the article appeared --

3 A. Probably.

4 Q. -- in the Chronicle with respect to the
5 proposed expansion?

6 A. I would guess that would be correct.

7 Q. And therefore, would it be fair to say that
8 Stop The Mega-Dump was formed on or perhaps the
9 day after February 12th, 2010?

10 A. To my knowledge, yes.

11 Q. Now, Mr. Charvat was someone who you came to
12 understand had also sought a copy of the
13 application, and how did you become aware of
14 that?

15 A. Just --

16 Q. Did he tell you?

17 A. He told me.

18 Q. When did you first become aware or become
19 acquainted with Mr. Charvat?

20 A. I have known him for several years.

21 Q. When did he tell you that he had sought a copy
22 of the site location application?

23 A. I'm thinking it was during the public hearing
24 or -- that he told me about it, so it -- I

1 believe he attempted to get it right before the
2 public hearing.

3 Q. Did he also tell you that he attempted to sign
4 up and participate as a party in the public
5 hearing?

6 A. I was not aware of that.

7 Q. What did he tell you about his attempts to
8 obtain a copy of the site location application?

9 A. That there was not one available but that Ray
10 Bockman personally delivered one to his home.

11 Q. And Ray Bockman delivered the nine volume site
12 location application?

13 A. No, a CD copy of the siting application.

14 Q. How did Mr. Charvat become aware that the
15 County had an electronic version of the site
16 location application?

17 A. I'm guessing from the Stop The Mega-Dump group.

18 Q. But he didn't indicate to you how he had
19 learned of the fact that the County had an
20 electronic version of the site location
21 application?

22 A. No.

23 Q. Did he indicate to you that he had requested a
24 copy of the written site location application?

1 A. That's not something I remember.

2 Q. Did he indicate to you that he had been denied
3 any access to the written site location
4 application?

5 A. Again, I do not remember that.

6 Q. What he indicated to you was he had requested a
7 copy of the DVD from Sharon Holmes or Sharon
8 Holmes' office, correct?

9 A. Correct.

10 Q. And was told there was not one available,
11 correct?

12 A. Correct.

13 Q. But that at some point afterwards Ray Bockman
14 had delivered to him a copy of the electronic
15 version?

16 A. Yes.

17 Q. Did he say anything else to you about his
18 attempts to obtain an electronic version of the
19 application?

20 A. No.

21 Q. Did he state to you what he did with the DVD
22 that he was given by Mr. Bockman?

23 A. No.

24 Q. So you have no information as to whether he

1 looked at any of the contents in this electronic
2 version or opened the electronic version or
3 looked at it in any way?

4 A. I have no knowledge either way that way.

5 Q. Mr. Charvat did attend some of the public
6 hearings?

7 A. Yes, I did see him there.

8 Q. He wasn't there every day, was he?

9 A. No.

10 Q. He attended on a couple of occasions as far as
11 you know?

12 A. Uh-huh.

13 Q. You have to say yes.

14 A. Yes.

15 Q. Other than Mr. Charvat, are you aware of any
16 persons who sought to obtain or review a copy of
17 the site location application from the County?

18 A. No, I am not.

19 Q. Were you aware that there was a DeKalb County
20 Siting Ordinance in place that would govern the
21 public hearing that would occur in connection
22 with the site location application?

23 A. You're going to have to restate that. A DeKalb
24 County what?

1 Q. Were you aware that there was a DeKalb County
2 Siting Ordinance that governed the public
3 hearings that were to be held on the site
4 location application?

5 A. No.

6 Q. Were you aware that there were rules --
7 articles of rules and procedures in place that
8 would also similarly govern the conduct of the
9 site location proceeding and the public hearing?

10 A. Yes, I was.

11 Q. And how did you become aware of those rules and
12 procedures?

13 A. I don't remember.

14 Q. Did you have occasion at any point to review
15 those rules and procedures?

16 A. I just remember the -- I forget the gentleman's
17 title who stood up front in the beginning of the
18 public hearing, the moderator or -- he had a
19 different name, title.

20 Q. The hearing officer?

21 A. The hearing officer. Explaining some of those
22 rules in the beginning.

23 Q. Would it be fair to say that that was the
24 extent of your knowledge of those rules and

1 procedures?

2 A. Initially, yes.

3 Q. At some later point did you review those
4 articles and procedures?

5 A. No.

6 Q. Now, was there a meeting of the Stop The
7 Mega-Dump group on February 18th of 2010?

8 A. I don't believe so.

9 Q. Was there any meeting of the Stop The Mega-Dump
10 in February of 2010?

11 A. I really don't remember.

12 Q. Do you remember any discussions that you had
13 with any person about the Stop The Mega-Dump
14 group's attempts to prepare for the public
15 hearing which was to begin on March 1st?

16 A. Please ask that question again.

17 Q. Did you have discussions with any person about
18 the Stop The Mega-Dump group's preparation for
19 the public hearings to begin on March 1st?

20 A. No.

21 Q. And you didn't participate in any such
22 discussions?

23 A. No. We went in pretty blind.

24 Q. Did you hear any information or any statements

1 made by anyone to the effect that the proposal
2 to expand the existing landfill was a done deal?

3 A. Yes.

4 Q. When did you first hear any such statements?

5 A. The first time I heard it was at the public
6 hearing about a half hour before it started.

7 Q. This would have been on March 1st?

8 A. Correct.

9 Q. And where were you?

10 A. Sitting in the auditorium waiting for the
11 public hearing to start.

12 Q. Okay, and who made the statement?

13 A. Riley Oncken made it to Paulette Tolene, and I
14 heard it secondhand.

15 Q. When you say you heard it secondhand, you mean
16 some other person heard Mr. Oncken's statement
17 and then told you?

18 A. Paulette -- Mr. Oncken talked to Paulette
19 directly, and Paulette came up to me right
20 afterwards and told me directly what he had just
21 said to her.

22 Q. And what did Ms. Tolene tell you that
23 Mr. Oncken had said?

24 A. "I'm not sure why all of these people are here,

1 they must have too much time on their hands,
2 this is all a done deal, everyone wants this, we
3 have been working on it a long time."

4 Q. And your testimony is that you heard this
5 before the public hearing commenced?

6 A. On the first day.

7 Q. At 9 a.m. on March 1st?

8 A. Probably 8:40 on March 1st.

9 Q. And did you then repeat what you had heard to
10 any person?

11 A. To Riley. I walked up to Riley directly and
12 talked to him about it.

13 Q. And did he have any response?

14 A. He said, how are you today; I said, apparently
15 I have too much time on my hands because I'm
16 here; and he said that is -- yes, that is what I
17 said; and I -- my answer was, well, Riley, that
18 attitude is unfair and borderlines on illegal,
19 you'd think you'd want to hear the testimony and
20 questions before you make your mind up; and he
21 just shook his head and looked the other way.

22 Q. And did you state to him his alleged comment
23 about this whole application and request being a
24 done deal?

1 A. Yes.

2 Q. Did you use those terms to him when you
3 approached him to talk to him about this
4 statement?

5 A. I don't think I used the words done deal.

6 Q. You simply had indicated that you must not have
7 anything to do because you're at the hearing to
8 him?

9 A. Correct, and then when he said, yes, that's
10 what I said, uhm, I said, well, that attitude
11 is -- I was concerned that it would discourage
12 public participation.

13 Q. Then he simply turned away?

14 A. Right.

15 Q. Did you have any conversations with Mr. Oncken
16 after that?

17 A. Not that I remember.

18 Q. Did you hear any other information to the
19 effect that any County Board member had decided
20 this application before the public hearings had
21 even begun?

22 A. Yes, I did. The fact that they were discussing
23 what -- how to spend the money before the
24 application was approved told me that they had

1 already decided to approve it.

2 Q. And which County Board members were discussing
3 how they were going to spend the money before
4 the application was voted on?

5 A. All of the County Board members in a County
6 Board meeting discussed how they were going to
7 spend the money.

8 Q. Which County Board meeting was this?

9 A. I can't give you a date.

10 Q. Was it a County Board meeting that occurred
11 prior to the beginning of the public hearing on
12 the application?

13 A. I believe it was between the public hearing and
14 the decision being made on the public hearing,
15 in that period of time.

16 Q. And can you identify any specific County Board
17 member who made these comments about spending
18 money that would come about as a result of
19 approving the expansion?

20 A. No specific County Board member. It was an
21 article about the County Board meeting that said
22 they were discussing how to spend the tipping
23 fees.

24 Q. Do you have any other information about any

1 County Board member who decided to approve the
2 application before the public hearings were
3 concluded?

4 A. No.

5 Q. Do you have any information about any County
6 Board members who decided the application before
7 all of the evidence was presented to the County
8 Board?

9 A. No.

10 Q. Were you aware that the hard copy of the site
11 location application was available not only in
12 the County Clerk's office but also in the County
13 Board office here in this building?

14 A. No, I was not.

15 Q. Were you aware that the site location
16 application was available at the DeKalb Public
17 Library?

18 A. No, I was not.

19 Q. Or the Cortland Library?

20 A. No, I was not.

21 Q. Or the Sycamore Library?

22 A. No, I was not.

23 Q. Or the City of DeKalb?

24 A. No.

1 Q. Or the Town of the Cortland Town Hall?

2 A. No.

3 Q. You weren't aware it was available at any of
4 those locations?

5 A. No, sir. Later I learned it was available in
6 the DeKalb Library, just recently, that was just
7 recently.

8 Q. I believe you said earlier that at no point had
9 you ever actually reviewed any part of the
10 siting application other than what you have
11 looked at in Sharon Holmes' office when you went
12 in to get a copy of it; would that be fair?

13 A. Right.

14 Q. Are you aware of any information that would
15 indicate that there were communications between
16 any employee or representative of Waste
17 Management of Illinois, Inc. and any member of
18 the DeKalb County Board between November 30th of
19 2009 and May 10, 2010?

20 A. When was the siting application submitted?

21 Q. November 30, 2009.

22 A. And you're asking me if I'm aware of it after
23 that date?

24 Q. Yes, beginning with the filing of the

1 application on November 30th, 2009 --

2 A. No, I'm not aware of that.

3 Q. Are you aware of any communications between any
4 member of the public or any person and any
5 member of the County Board between November
6 30th, 2009 and May 10, 2010?

7 A. No, I'm not.

8 Q. You didn't in any fashion, either by e-mail,
9 telephone call, or correspondence, or personal
10 meeting, communicate with any County Board
11 member regarding the proposed expansion between
12 November 30th, 2009 and May 10, 2010 outside of
13 the public hearing?

14 A. No, I did not.

15 Q. And you said you're not aware of any individual
16 who did --

17 A. Not to my knowledge.

18 Q. -- is that correct?

19 A. Correct.

20 Q. Are you aware of any persons who wanted to
21 attend the public hearing but chose not to?

22 A. There was a gentleman who wrote a letter in the
23 paper saying that, but I don't know who he is
24 and I don't -- and I don't have a copy of that,

1 A. I provided comments.

2 Q. Did you submit any written public comment after
3 the hearing was concluded?

4 A. Yes, I did.

5 Q. Did you provide any written comment or make any
6 other submission to the County Board about the
7 expansion before the public hearings began?

8 A. No, I did not.

9 Q. What was your objection to the proposed
10 expansion?

11 A. I have many, many that I'm not prepared to
12 answer. My basic objection is expanding for
13 more than just DeKalb County.

14 Q. In other words, for the fact that the service
15 area for this expansion included 16 counties in
16 addition to DeKalb County?

17 A. Yes, sir.

18 Q. What other objections did you have?

19 A. I have an objection to the process. I believe
20 it was wrong that Waste Management was able to
21 take them on a tour and talk to the County Board
22 for at least a year before the siting
23 application was submitted, and during that time
24 the County Board did not tell the public about

1 it at all other than they were thinking of
2 expanding for ourselves. The first the public
3 knew about it was the announcement of the public
4 hearing, and that was already after the siting
5 application was submitted, so ex parte had taken
6 place. I believe that the County should have
7 told the citizens about it during that same time
8 they were talking to Waste Management about the
9 benefits. The citizens should have been able to
10 talk about the reasons we didn't want it before
11 ex parte took place.

12 Q. And when did you first become aware that the
13 site location application had been filed on
14 November 30th of 2009?

15 A. I think the first one I heard of was you had
16 the one before the site application that -- host
17 agreement, uhm, I was aware of that. The first
18 I knew of the site application was that letter
19 in April -- or in February about the public
20 hearing.

21 Q. Do you know an individual by the name of
22 Frankie Benson?

23 A. Yes, I have met her.

24 Q. When did you first meet Frankie Benson?

1 A. It was after the public hearing.

2 Q. Did she attend the public hearing?

3 A. I can't answer that. I don't know. I didn't
4 know her during that time.

5 Q. Do you know an individual by the name of Robert
6 Benson, her husband?

7 A. No, I do not.

8 Q. Do you know Roger Steimel?

9 A. Yes, I do.

10 Q. How long have you known Mr. Steimel?

11 A. I knew of Mr. Steimel because he was a County
12 Board member. I didn't know him personally
13 until the first day of the public hearing.

14 Q. What other objections besides the 17 county
15 service area and your objections to the process
16 did you have regarding the proposed expansion?

17 A. I believe that several of the requirements
18 weren't met, the criteria weren't met. And --
19 what was I just thinking -- I guess just that, I
20 didn't believe that the requirements had been
21 met, the criteria had been met.

22 Q. Did you communicate each of those objections to
23 the County Board?

24 A. No, I wasn't allowed to talk to them.

1 Q. You said you had provided public comment.

2 A. I meant during my public comment, which is on
3 public record, you can read that, and whatever I
4 said in my public comment was my only
5 communication with any County Board members.

6 Q. I believe you said you also submitted a written
7 public comment?

8 A. Correct, those two.

9 Q. So both your oral public comment at the
10 hearing --

11 A. Correct.

12 Q. -- and your written public comment after the
13 hearing --

14 A. Yes, they would --

15 Q. -- were your communications to the County
16 Board --

17 A. Yes, sir.

18 Q. -- that set forth your objections to this
19 proposal?

20 A. Correct.

21 Q. Were you in any way prevented from presenting
22 your objections to the expansion to the County
23 Board?

24 A. Yes, because I should have been allowed to have

1 discussions with them be -- at the same time
 2 Waste Management was having discussions with
 3 them before ex parte took place.

4 Q. So what you're saying is that you have been
 5 prejudiced because you were unable to have a
 6 discussion with County Board members about a
 7 proposed expansion of the landfill prior to the
 8 filing of the site location application?

9 A. I would not say I was prejudiced because of
 10 that, unless I'm understanding your implication
 11 of that word differently. I would say I felt
 12 that was unfair.

13 Q. Well, did that unfairness result in any injury
 14 or prejudice to your rights?

15 A. Injury to my rights, yes. I don't like your
 16 use of the word prejudice.

17 Q. What injury to your rights did you suffer?

18 A. We should have been able to have this
 19 discussion before the ex parte took place.

20 Q. So before November 30th of 2009?

21 A. Correct.

22 Q. And what prevented you from having this
 23 discussion with any County Board member prior to
 24 November 30th of 2009?

1 A. The County Board not telling the public they
2 were discussing expanding it for 17 counties.
3 The only thing I saw from the County Board said
4 it was going to be an expansion from us -- for
5 us alone.

6 Q. And is that what the host community agreement
7 stated, the host community agreement that was
8 approved in March of 2009?

9 A. I don't -- I'm not sure.

10 Q. And so in your view it was the County Board's
11 obligation to communicate with citizens and
12 interested residents regarding a proposed
13 expansion that would accept waste from outside
14 DeKalb County?

15 A. Just like Waste Management was, yes, we should
16 have had that same opportunity.

17 Q. Would you agree you had the opportunity but
18 what you didn't have, and what you're saying, is
19 the knowledge about what the expansion might
20 include?

21 A. I would not agree it was the same opportunity
22 because they -- Waste Management obviously
23 already knew what you were proposing. The
24 public should have known what was -- what was

1 being proposed as well, so we did not have the
2 same opportunity.

3 Q. But weren't some of the aspects of the proposal
4 contained in the host community agreement, which
5 was signed by the County and Waste Management in
6 April of 2009?

7 A. I don't know.

8 Q. Isn't it true that that agreement was a
9 publicly available document as of April of 2009?

10 A. I don't have knowledge of that either. I was
11 never told that it was available.

12 Q. So would it be accurate to say that your
13 contention is it was not fair that Waste
14 Management of Illinois had communications with
15 the County Board about the proposed expansion
16 prior to the filing of the site location
17 application on November 30th of 2009?

18 A. It was not fair that Waste Management had that
19 knowledge and the public didn't.

20 Q. And as a result of Waste Management having
21 those communications and members of the public
22 did not have those communications, what was the
23 injury suffered by the members of the public?

24 A. Once we found out about it, ex parte had

1 already taken place and we were not allowed to
2 have those discussions with our County Board
3 members until after the vote was taken.

4 Q. Was there anything that prevented any citizen
5 or interested person from communicating his or
6 her views about the proposed expansion to the
7 County Board after November 30th of 2009?

8 A. No. We were allowed to send letters but not
9 have a discussion. I would not call those
10 letters a discussion.

11 Q. And there was the opportunity to present
12 evidence at the hearing, correct?

13 A. Correct, if you had signed up.

14 Q. And present any written comment to the Board up
15 to 30 days after the close of the public
16 hearing?

17 A. Again, that is not discussion, but yes, the
18 written opportunity was available.

19 Q. I agree, they're not discussions, but they're
20 communications directed --

21 A. Not the same.

22 Q. -- to County Board members --

23 A. Not the same.

24 Q. -- expressing the views of constituents; would

1 that be accurate?

2 A. It's not the same.

3 Q. You're saying communication is not the same as
4 a discussion?

5 A. Correct.

6 Q. And your view is or your contention is that the
7 citizens or residents should have had an
8 opportunity to engage in a discussion with
9 County Board members about the proposed
10 expansion after the application was filed?

11 A. No, before the application was filed. Just
12 like Waste Management had that opportunity to
13 discuss with them before the application was
14 filed, the citizens should have had that
15 opportunity to discuss with them before it was
16 filed and ex parte took place.

17 Q. Well, wouldn't it be accurate that nothing
18 prevented the citizens from having a discussion
19 with County Board members prior to the filing of
20 the application?

21 A. Yes, the County Board prevented that by not
22 telling the citizens. Everything coming out of
23 the County Board only said it was an expansion
24 for us.

1 Q. Other than the proclamation you identified
2 earlier, were there any other communications
3 from the County Board to the community which
4 indicated that the expansion only contemplated
5 accepting waste from within DeKalb County?

6 A. Other than that communication I don't think I
7 heard word one about it, so no.

8 Q. So it was only this proclamation that you were
9 talking about that in your recollection had
10 indicated that any expansion would only receive
11 waste from within DeKalb County?

12 A. Yes, that was the only time the County let the
13 public know they were even talking about it.

14 Q. Are you aware that there were various citizens
15 who were, in fact, aware of the negotiations
16 between Waste Management of Illinois and DeKalb
17 County with respect to the proposed host
18 community agreement in February of 2009?

19 A. Not until after the public hearing.

20 Q. And similarly, you weren't aware of citizens
21 who knew and were aware of the approval of the
22 host community agreement by DeKalb County in
23 April of 2009?

24 A. No, I was not.

1 Q. When did you become aware that Waste Management
2 of Illinois had allowed County Board members to
3 tour one of its facilities?

4 A. I don't remember.

5 Q. Was it before or after?

6 A. I believe it was after the hearing.

7 Q. It was after the hearing, the public hearing?

8 A. I believe so.

9 Q. And what did you hear?

10 A. That they -- that the County Board had taken a
11 tour to visit one of Waste Management's
12 landfills.

13 Q. And were you told that it was the entire County
14 Board that had toured one of Waste Management's
15 landfills?

16 A. It was just the County Board, so I assumed it
17 was everyone who could make it that day.

18 Q. Did you ever inquire as to whether you or any
19 member of the Stop The Mega-Dump group could be
20 offered a tour of a Waste Management facility?

21 A. No.

22 Q. That never occurred to you to even ask whether
23 that was a possibility?

24 A. No.

1 Q. Because you had no interest in such a tour?

2 A. Because I know tours -- I have done tours, and
3 I know tours can be made to show anything you
4 want them to show so I don't put a lot of faith
5 in them.

6 Q. Is part of your contention that the fact of the
7 tours was unfair?

8 A. Yes, because it was part of the communication,
9 the discussion that was going back and forth
10 between Waste Management and the County Board,
11 when I believe that they should have also been
12 discussing with the citizens.

13 Q. Other than the person who wrote the letter to
14 the Chronicle that you saw in the paper, were
15 you aware of any other person who wanted to
16 attend the public hearing but for whatever
17 reason chose not to?

18 A. Only second and thirdhand, so. I don't know
19 who those people are.

20 Q. And what did you hear second or thirdhand?

21 A. That a couple different people had read it in
22 the Chronicle that you had to sign up first
23 and -- to be allowed to go to the public hearing
24 and so they decided not to. I have not been

1 able to track down any names.

2 Q. And was it the fact that they had to sign up
3 that they decided they did not want to do and
4 therefore did not attend the hearing, or was it
5 that they had missed the time period to sign up
6 and therefore would not be allowed to attend the
7 hearing?

8 A. I think I heard one of both.

9 Q. You don't remember the names of any of these
10 people?

11 A. There was no names. If I tried to get names --
12 I did not get names.

13 Q. Who did you hear the second or thirdhand
14 information from?

15 A. I don't remember.

16 Q. Would it be fair to say that you never talked
17 to any such people?

18 A. Yes, that would be fair to say.

19 Q. Did you want to communicate or say anything to
20 County Board members about the proposed
21 expansion that you did not say either at the
22 public hearing or in your written comment?

23 A. Not that I can think of.

24 Q. After the hearings concluded are you aware of

1 any persons requesting or asking others to
2 contact County Board members directly regarding
3 their opposition to the application?

4 A. No.

5 Q. Do you know of any individual who communicated
6 or attempted to communicate with any County
7 Board member regarding the proposed expansion
8 after the public hearing?

9 A. No, I do not.

10 Q. Do you have any information or any facts that
11 would support the claim that DeKalb County in
12 any way limited, restricted, or discouraged
13 public participation in the siting process?

14 MR. MUELLER: Other than what she's
15 already stated?

16 MR. MORAN: Yes.

17 A. Please repeat.

18 Q. Do you have any information or facts that would
19 support the claim that DeKalb County in any way
20 restricted, limited, or discouraged public
21 participation in the siting proceeding?

22 A. Is the siting proceeding the public hearing?

23 Q. It includes the public hearing, it includes the
24 submission of any written public comment to the

1 County Board, it includes reviewing the siting
2 application.

3 A. Uhm, just what I said before, the newspaper
4 article that said you had to sign up seemed like
5 that was restricting people from participating.

6 Q. Just the requirement that they sign up before
7 the hearing, that was a restriction?

8 A. Yes.

9 Q. Anything else?

10 A. That's all I can think of.

11 Q. Other than what you have already described, are
12 you aware of any information or facts that would
13 support the claim that the site location
14 application was not made available to members of
15 the public?

16 A. Not other than what we have talked about.

17 Q. Do you know an individual by the name of Aubrey
18 Serewicz?

19 A. Yes.

20 Q. Who is Mr. Serewicz?

21 A. A professor from Northern.

22 Q. How long have you known Mr. -- Dr. Serewicz?

23 A. I met him during the public hearing.

24 Q. Have you had any discussions with Dr. Serewicz

1 after the conclusion of the public hearing?

2 A. Yes.

3 Q. On how many occasions?

4 A. Several. Three, four.

5 Q. Have they been in conjunction with Stop The
6 Mega-Dump group meetings?

7 A. No.

8 Q. And what has the substance of those
9 communications been with Dr. Serewicz?

10 MR. MUELLER: I'm going to interpose an
11 objection here. I think it's pretty far afield
12 in terms of what she talked to other people
13 about after the decision was made. I'll let her
14 answer, but I think we're getting near the edge
15 of what's relevant.

16 MR. MORAN: My question was after the
17 public hearing, not just after the vote.

18 MR. MUELLER: If you restrict it to before
19 the vote I don't have a problem.

20 Q. So after the public hearing and before May 10th
21 of 2010.

22 A. Now what's the question again?

23 Q. Your communications with Dr. Serewicz and what
24 the substance of those communications were with

1 him?

2 A. During that period of time I don't believe I
3 had any communications with him.

4 Q. So all of your communication with Dr. Serewicz
5 other than your communication with him during
6 the public hearing occurred after May 10 of
7 2010?

8 A. That I remember, yes.

9 Q. Do you know an individual by the name of Jason
10 Hoshaw?

11 A. No.

12 Q. Do you know an individual by the name of
13 Barbara Votaw?

14 A. Yes.

15 Q. Who is Barbara Votaw?

16 A. A woman I met during the public hearing. I --
17 other than that, I don't know how to describe
18 Barb Votaw.

19 Q. Have you had any conversations with Barb Votaw
20 after the public hearing and before May 10,
21 2010?

22 A. Not that I remember.

23 Q. So again, the only time you spoke with
24 Ms. Votaw was during the public hearing?

1 A. And more recently.

2 Q. Yes, not -- I'm not asking you anything after
3 May 10th of 2010. Have you had any
4 communications about the proposed expansion with
5 any member of the County Board since May 10,
6 2010?

7 A. That was the night of the vote?

8 Q. Yes.

9 A. That evening.

10 Q. After the vote or before the vote?

11 A. After the vote.

12 Q. Which County Board members did you have a
13 discussion with?

14 A. I'm trying to think of his name. He's another
15 professor over at Northern.

16 Q. Mr. Stoddard?

17 A. Yeah, that one. I just told him I was
18 disappointed in the decision.

19 Q. Did he have any response?

20 A. Not that I'd allow him to say. That was it, I
21 walked away.

22 Q. You had no other communication with any other
23 County Board member regarding the proposed
24 expansion since May 10th?

1 A. No. Actually he did have an answer, his answer
2 was, I had no choice and let me tell you why,
3 and I wouldn't let him tell me why, but his
4 answer was, I had no choice.

5 Q. And what was the reason why you didn't let him
6 explain why he voted the way he did?

7 A. Because I had heard enough. The vote was
8 already over, didn't really matter. I was
9 upset.

10 Q. Did you at any point learn any other
11 information about any of the reasons why any
12 County Board member voted the way he or she did?

13 A. I have heard that several have said they had no
14 choice, they had to vote yes, but I only heard
15 that directly from Stoddard.

16 Q. And you heard it indirectly through?

17 A. Through other members of the Stop The Mega-Dump
18 group.

19 Q. And that would have been after the vote on May
20 10th?

21 A. Yes.

22 Q. And what specifically did you hear from the
23 other Stop The Mega-Dump members about the
24 reasons why certain board members voted the way

1 they did?

2 A. Just that several said they felt they had no
3 choice.

4 Q. Did anyone identify which board members they
5 were?

6 A. They probably did, and I don't remember.

7 Q. Other than what you have described this
8 afternoon, are there any other objections that
9 you have about the process that was employed
10 here in connection with the site location
11 application?

12 A. Not other than what we have discussed.

13 MR. MORAN: Thank you. I have no further
14 questions.

15 THE WITNESS: Thank you.

16 MR. MUELLER: She gets a chance to ask you
17 questions too.

18 THE WITNESS: Oh.

19 MS. ANTONIOLLI: I just have one or two.

20 THE WITNESS: Okay.

21 EXAMINATION

22 BY MS. ANTONIOLLI:

23 Q. You gave us your --

24 A. And who are you?

1 Q. I'm Amy Antoniolli, and I'm here on behalf of
2 the County.

3 A. Gotcha.

4 Q. I heard you give your address at the beginning
5 of the deposition, and how far -- about how far
6 from the boundary of the landfill do you live,
7 would your address be?

8 A. From the boundary of the landfill?

9 Q. From the landfill site.

10 A. I live in downtown DeKalb.

11 Q. Okay.

12 A. So however many miles. I'm not really good on
13 miles.

14 Q. Okay.

15 A. A couple miles.

16 Q. Minutes in the car or anything?

17 A. Five minutes in the car.

18 Q. Okay, and you also mentioned that you believe
19 several of the siting criteria weren't met --

20 A. Uh-huh.

21 Q. -- and that was one of the reasons why you feel
22 the way that you do. What criteria were those
23 specifically that you feel haven't been met?

24 A. I'd have to review to remember, but the

1 driving -- the traffic study was one of them,
2 because they did not take farm vehicle equipment
3 into consideration, nor proof of development in
4 that path, that was one of them. I'd have to
5 review the -- it's been a long time since I have
6 reviewed the -- is it seven or nine criteria?

7 Q. Nine criteria.

8 A. I'd have to review them to remember and be able
9 to delineate more what those were.

10 Q. Okay, and can you recall any specific piece of
11 evidence or facts that you would rely on when
12 you're making your determination that these
13 criteria haven't been met?

14 MR. MUELLER: I'm gong to interpose an
15 objection, I think that's beyond the scope of
16 this proceeding and this deposition. This is to
17 determine whether or not the proceedings were
18 fundamentally fair. The issue as to whether or
19 not criteria were proven will be resolved based
20 upon the record that's already made.

21 That having been said, go ahead and answer
22 the question if you can.

23 A. The question again?

24 Q. Well, I can -- you know, you had mentioned

1 before that you believe some of the criteria had
2 not been met, so I can just leave it as you have
3 answered which ones, you know, you mention the
4 traffic.

5 I think that's all I have.

6 THE WITNESS: Okay.

7 MR. MUELLER: I don't have any questions.

8 Do you have any more, Don, based on that?

9 MR. MORAN: I have nothing more.

10 MR. MUELLER: Grace, you have the right to
11 read the transcript of the deposition before it
12 can be used for any purpose. The reading of it
13 is just to make sure it's accurately
14 transcribed, it's not to change any of your
15 answers. We typically trust the court reporters
16 to do a good job in typing it up. So you can
17 waive that right; or you can reserve it, which
18 means you'll have to then go to their office and
19 read it at some point.

20 THE WITNESS: I'll waive it.

21 MR. MUELLER: Okay. Show signature
22 waived.

23 (The deposition was concluded at
24 2:22 p.m.)

C E R T I F I C A T E

I, Callie S. Bodmer, a Certified Shorthand Reporter in and for the State of Illinois, do hereby certify that, pursuant to the agreement herein contained, there came before me on the 15th day of September 2010 at 1:07 at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, the following-named person, to-wit: GRACE MOTT, who was duly sworn to testify to the truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause; that she was thereupon examined on her oath and her examination reduced to writing under my supervision; that the deposition is a true record of the testimony given by the witness, and that the reading and signing of the deposition by said witness were expressly waived.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of an attorney or counsel employed by the parties hereto or financially interested in the action.

In witness whereof I have hereunto set my hand this 8th day of October 2010.

Callie S. Bodmer
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