

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	PCB No. 14-3
)	
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on October 4, 2019, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, *Complainant's Response to Respondent's Motion in Limine to Strike the Opinions of Douglas G. Dorgan, Jr.*, a copy of which is attached hereto and herewith served upon you via e-mail. Paper hardcopies of this filing will be made available upon request.

Dated: October 4, 2019

Respectfully submitted,

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COMPLAINANT’S RESPONSE TO RESPONDENT’S MOTION *IN LIMINE* TO STRIKE THE OPINIONS OF DOUGLAS G. DORGAN, JR.

Complainant JOHNS MANVILLE (“JM”) hereby submits its response to Respondent ILLINOIS DEPARTMENT OF TRANSPORTATION (“IDOT”)’s Motion *in Limine* to Strike¹ the Opinions of Douglas G. Dorgan, Jr. (the “Motion”) as follows:

INTRODUCTION

The Hearing Officer has previously found that JM’s expert, Mr. Douglas Dorgan, possesses knowledge and experience such that his testimony “could consequently assist the Board in its determinations.” (April 26, 2016 Hearing Officer Order, p. 3.) This remains true. Nonetheless, as IDOT tried to do during the first phase of this case, IDOT again attempts to devalue Mr. Dorgan’s extensive experience in the environmental field and distorts Mr. Dorgan’s opinions and testimony. Where IDOT argues that Mr. Dorgan lacks qualifications to render an expert opinion about JM’s remediation costs attributable to IDOT’s violations of the Illinois

¹ It is unclear precisely what relief IDOT seeks in its Motion. The Motion is labeled as one “to strike,” but actually requests an Order “barring” certain opinion testimony at trial—two different types of relief. “Striking” Mr. Dorgan’s opinions makes little sense given that they have not yet been admitted into the evidentiary record in this case.

Environmental Protection Act (the “Act”), IDOT oddly overlooks Mr. Dorgan’s testimony concerning his significant experience in conducting analyses to attribute costs to particular parties responsible for environmental contamination. But even more peculiar is the fact that IDOT seeks to impose an untenable and non-existent requirement that a proffered expert must have opined previously on the exact same issues in the context of the exact same facts to qualify as an expert. This is nonsensical.

Where IDOT argues that Mr. Dorgan’s methodologies do not meet the *Frye* test for expert testimony, IDOT disregards authority holding that the Board does not apply the *Frye* test and holding that the *Frye* test is, in any event, inapplicable where an expert’s methods are standard, do not involve scientific tests or studies, and are not novel or new. Where IDOT argues that Mr. Dorgan is “cherry-picking” evidence, IDOT itself “cherry-picks” from Mr. Dorgan’s Expert Reports and ignores Mr. Dorgan’s testimony and thorough citations to the documentary evidence on which all of his conclusions are based. And where IDOT argues that Mr. Dorgan is attempting to re-litigate issues previously decided by the Board, IDOT fundamentally misunderstands Mr. Dorgan’s opinions and the findings in the Board’s December 15, 2016 Interim Opinion and Order (“Interim Opinion”) and brushes aside evidence newly discovered after the first hearing in this case. IDOT’s Motion should be denied.

ARGUMENT

1. Mr. Dorgan Is Qualified To Provide The Opinions In His Expert Reports.

IDOT’s renewed attack on Mr. Dorgan’s qualifications is based on its erroneous contention that, to be allowed to offer opinion testimony in a matter, an expert must have been tasked with the *exact same* assignment previously. (Motion, § III.B, p. 5.) There is no such requirement in the Illinois Rules, Board regulations, or the law. Nor is there any requirement that an expert witness have written articles or given presentations on the issues on which he

opines, despite IDOT's suggestion to the contrary (*see* Motion, § III.B, p. 6). Indeed, it is well-settled under Illinois law that:

A person will be allowed to testify as an expert if his experience and qualifications afford him knowledge that is not common to laypersons, and where his testimony will aid the trier of fact in reaching its conclusions. There is no predetermined formula for how an expert acquires specialized knowledge or experience and the expert can gain such through practical experience, scientific study, education, training or research. Thus, formal academic training or specific degrees are not required to qualify a person as an expert; practical experience in a field may serve just as well to qualify him. An expert need only have knowledge and experience beyond that of an average citizen.

Thompson v. Gordon, 221 Ill. 2d 414, 428 (Ill. 2006) (affirming reversal of trial court's decision to strike expert affidavit and holding that the expert was not required to be a licensed civil engineer to testify as a retained opinion witness) (internal citations omitted); *see also Pyskaty v. Oyama*, 266 Ill. App. 3d 801, 808 (Ill. App. Ct. 1994) ("An expert's opinion is allowed on the basis of his knowledge or experience which may aid the trier of fact.").

The Board has already heard days'-worth of expert testimony from Mr. Dorgan during the first Hearing in this matter and the Hearing Officer has previously found that Mr. Dorgan "may testify as an expert given his knowledge and experience, which go beyond that of an ordinary citizen . . . [His] testimony could conceivably aid the Board." (April 26, 2016 Hearing Officer Order, p. 3.) By virtue of his experience, education, and training, Mr. Dorgan has knowledge and experience regarding allocating/attributing environmental cleanup costs well beyond that of an average citizen.

Still, IDOT's Motion quotes, but nevertheless entirely ignores, Mr. Dorgan's testimony that Mr. Dorgan *has* "been tasked with assignments similar to this on multiple occasions." (*Compare* Motion, § III.B *with* Transcript of July 31, 2018 Deposition of Douglas Dorgan ("Dorgan I Dep."), attached hereto as **Exhibit 1**, p. 183:1-10.) Though omitted from IDOT's

Motion, Mr. Dorgan testified that, in reaching his attribution opinions, he relied on his expertise, including by virtue of having served as an expert witness on two previous occasions, in:

[S]imilar undertakings where I have had occasion to evaluate other similar issues of environmental contamination . . . where multiple parties are involved and responsible for their presence and ultimately responsible for their cleanup, including instances where I've had to evaluate costs incurred with a very similar experience where I had to evaluate the reasonableness, were the costs reasonable, was the scope of work reasonable and then of the costs that were incurred, *how should they be divided between the parties that have responsibility for the cleanup.*

(Dorgan I Dep., pp. 48:24-52:9 (emphasis added); *see also id.*, p. 62:6-24 (“I have had several, probably a half dozen other cases, matters, where I . . . was working as part of the team that was evaluating the information, writing, dissecting information, allocating costs, evaluating reasonableness of the costs incurred and ultimately supporting the technical evaluation . . .”).) Similar to this case, Mr. Dorgan has been called on to and has assessed the degree of responsibility for property contamination between parties. (*Id.*, pp. 191:6-192:5 (“ . . . [O]ne of our jobs was to look, in the universe of all the work that had been done at the site, who was responsible for the contamination that was present and to what degree each party was responsible.”).) Like here, he undertook a similar process in a prior matter, looking at the work performed, reviewing the costs incurred, and determining the percentage of costs attributable to a particular entity. (*Id.*, pp. 192:6-193:8.) Mr. Dorgan is therefore qualified to offer opinions in aiding the Board in determining “[t]he share of JM’s costs attributable to IDOT.” (Interim Opinion, p. 22.)

Further, Mr. Dorgan has over thirty years of experience as an environmental consultant. (*See* Motion, Exhibit A, § 1.1.) Throughout his lengthy career in the environmental field, Mr. Dorgan has served as a construction manager for large remediation projects similar to the project undertaken at the Sites and, in doing so, designed remediation work and provided consulting

oversight—all things Mr. Dorgan had to and did take into consideration in opining on which costs are attributable to IDOT here. (Dorgan I Dep., pp. 57:14-62:5, 65:10-67:16, 70:15-72:1.) Indeed, IDOT's own expert, Mr. Steven Gobelman, stated that he had no reason to believe there was any issue with Mr. Dorgan's qualifications to offer the opinions Mr. Dorgan did in this matter. (Transcript of October 2, 2018 Deposition of Steven Gobelman ("Gobelman I Dep."), attached hereto as **Exhibit 2**, p. 7:4-8.)

If, as IDOT contends, an expert must have been involved previously in the exact "sort of attribution exercise" occurring in this case to be qualified as an expert (Motion, § III.B, p. 5), IDOT's expert, Mr. Steven Gobelman, would lack the necessary qualifications. Mr. Gobelman testified that he was only relying on his background in "evaluating costs on highway authority agreements" in reaching *his* opinions in this phase of the case. (Gobelman I Dep., p. 15:15-22.) He otherwise has no experience doing cost allocations under CERCLA, state law, or outside the context of highway authority agreements (which have no pertinence here). (*Id.*, pp. 16:1-17:24.) He cannot identify a single method courts use to allocate costs among potentially responsible parties. (*Id.*, pp. 19:23-20:5.) He, too, has not written any articles on any cost allocation analysis similar to the analysis being done in this case. (*Compare id.*, p. 20:6-9 with Motion, § III.B, p. 6.) Mr. Gobelman's curriculum vitae does not list any experience in allocating or attributing costs to parties involved in an environmental remediation project (*see* "Expert Rebuttal Report of Steven Gobelman on Damages Attributable to IDOT based on IPCB Order of December 15, 2016" dated August 22, 2018 ("Gobelman Rebuttal Report"), attached hereto as **Exhibit 3**, § II, Appendix B), and Mr. Gobelman admits he has no experience relevant to his claimed opinions not listed on his curriculum vitae. (Gobelman I Dep., p. 20:10-14.)

Unlike Mr. Gobelman, Mr. Dorgan has specific experience on attributing cleanup costs associated with contamination to various parties. Mr. Dorgan is plainly qualified to offer the opinions in his Expert Reports regarding the costs that should be attributed to IDOT as a result of IDOT's violations of the Act. IDOT's Motion should be denied.

2. **Mr. Dorgan Utilized An Appropriate And Admissible Methodology In His Expert Reports.**

IDOT next complains that Mr. Dorgan does not identify which method he used to reach his opinions, suggesting that his purported "failure" to identify a method renders his methodology as one that is not generally accepted or admissible under the standard articulated in *Frye v. United States*, 293 F.3d 1013 (D.C. Cir. 1923). (Motion, § III.C.) The *Frye* test, however, is inapplicable here. Mr. Dorgan's methodology does not involve scientific studies or tests and is neither new nor novel, but rather, is standard and admissible under the Board's admissibility standards and Illinois law.

While IDOT argues that "Illinois courts adhere to the standard for the admissibility of expert testimony articulated by the court in *Frye*" (Motion, n.3), the Board does not adhere to the *Frye* standard. Notably, IDOT's Motion does not identify any Board or Hearing Officer Order excluding an expert opinion or testimony because it did not pass the *Frye* test. The absence of any applicable Board decisions is likely because the admission of evidence under the Board Rules is a "relaxed standard," reflecting "the Board's ability to comprehend scientific issues in a way a general court or jury may not," and, as such, an expert's testimony and opinion is admissible so long as it will assist the Board to determine the facts at issue. 35 Ill. Admin. Code 101.626; *Sierra Club et al. v. Midwest Generation, LLC*, PCB 13-15, Board Order (May 10, 2018) ("[T]he Board need not apply Rule 702 here. Under the Board's procedural rules, evidence that is admissible under Illinois' civil rules of evidence will be admitted, but the Board

may admit evidence that is inadmissible in Illinois' civil courts when the evidence is material, relevant, and reliable.”); *People v. Atkinson Landfill Co.*, PCB 13-28, slip op. at 9 (Jan. 9, 2014).

A *Frye* analysis does not apply for the additional reason that the methodology used by Mr. Dorgan, described at length in his Expert Reports, is standard, is not based on scientific studies or tests, and is not “new” or “novel.” See e.g., *In re Commitment of Simons*, 213 Ill. 2d 523, 530 (Ill. 2004) (“Significantly, the *Frye* test applies only to ‘new’ or ‘novel’ scientific methods. Generally speaking, a scientific method is [only] considered ‘new’ or ‘novel’ if it is ‘original or striking’ or ‘does not resemble something formerly known or used.’”) (internal citations omitted); *People v. McKown*, 226 Ill. 2d 245, 254 (Ill. 2007) (“Because *Frye* applies only to scientific evidence, we must first determine whether the results of [the] testing are scientific evidence subject to the *Frye* standard. Scientific evidence is the product of scientific tests or studies.”); *In re Marriage of Alexander*, 368 Ill. App. 3d 192, 196-97 (Ill. App. Ct. 2006) (“It is important to remember that the *Frye* test only applies to evidence that is both novel and scientific. If an expert’s opinion is not novel or scientific, it is not subject to the *Frye* test . . . If an expert’s opinion is derived solely from his or her observations and experiences, the opinion is generally not considered scientific evidence.”) (internal citations omitted).

Even under Illinois Rule of Evidence 702, then, Mr. Dorgan’s expert opinions are admissible. If “scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.” ILL. R. EVID. 702. Rule 702 is a two-part analysis. First, a determination is made whether an expert uses a standard or common methodology. Second, if the methodology is not a

common methodology, only then is the *Frye* test is considered. The Hearing Officer need not reach this second prong with respect to Mr. Dorgan's opinions.

Mr. Dorgan specifically testified that the work he relied upon and did in tabulating JM's costs for implementing the remedial work and in attributing the costs to IDOT were "standard methodologies. There wasn't anything unusual or cutting edge that was used. This is all very straightforward kind of work." (Dorgan I Dep., pp. 176:15-179:4.) Further, nowhere does IDOT's Motion argue that the evidence from Mr. Dorgan it now seeks to exclude is based on "scientific" tests or studies. To the contrary, Mr. Dorgan performed a technical analysis—which did not involve or require scientific tests or studies—to assess the extent to which IDOT's violations of the Act caused JM's costs. Because Mr. Dorgan utilized a standard, non-striking, methodology that he had used previously and that did not involve scientific tests or studies, Mr. Dorgan's opinions are admissible under the Board regulations and Illinois Rule of Evidence 702, and application of *Frye* is not appropriate or warranted.

3. **Mr. Dorgan's Opinions On Capping Costs Are Not Speculative Or Based On Cherry-Picked Evidence.**

IDOT erroneously argues that Mr. Dorgan "cherry-picked" evidence to reach his opinions on cost attribution, but only specifically takes issue with Mr. Dorgan's opinion on the \$341,003 in capping costs on Site 3 attributable to IDOT. (Motion, § III.D.) IDOT's dispute with Mr. Dorgan's attribution of capping costs is not a legitimate one. IDOT cites to no law that prohibits an expert from referencing data that supports his opinion. To the contrary, citing to supporting evidence is, in fact, a critical aspect of an expert report. IDOT claims that Mr. Dorgan's opinion on Site 3 capping costs "failed to acknowledge" a summary sentence in the USEPA's Enforcement Action Memorandum ("EAM") (*id.*, p. 9), but then fails to explain why such a lack of specific acknowledgement mandates exclusion of the entirety of Mr. Dorgan's opinions. In

fact, the EAM sentence referenced by IDOT – that the “site conditions” and “exposure pathways” described in the EAM may present an imminent and substantial endangerment – actually support Mr. Dorgan’s opinions. Mr. Dorgan opines that the remedy was driven by buried pieces of ACM, which the EAM repeatedly describes as a problematic exposure pathway. (*See e.g., id.*, pp. 4-6, 8.) IDOT’s argument simply makes no sense.

But even if IDOT’s argument were logical, IDOT cannot plausibly argue that Mr. Dorgan disregarded the factors identified in the USEPA’s EAM where Mr. Dorgan’s Expert Report expressly and repeatedly references the EAM and the factors the USEPA considered in driving its ordered remedial action. (Motion, Exhibit A, § 1, 1.2, 1.4.2, 2.1.1, 3.2.1.4, 3.2.1.6, 3.2.1.6.2, 3.2.1.8.) Further, Mr. Dorgan testified that “when you review the Enforcement Action Memorandum itself that laid out the original basis of the work that ultimately was represented in the remedial action work plan you could see that the record was pointing towards the occurrence of visual ACM as being one of the primary drivers that led all of the subsequent effort that took place.” (Transcript of June 12, 2019 Deposition of Douglas Dorgan (“Dorgan II Dep.”), attached hereto as **Exhibit 4**, pp. 83:23-84:16.) That IDOT disagrees with Mr. Dorgan’s read and interpretation of the EAM does not present any basis to preclude Mr. Dorgan from offering his opinions at hearing.

It was actually IDOT’s expert, not Mr. Dorgan, who “cherry-picked” facts he believes are helpful to IDOT’s position. (*See* Dorgan II Dep., p. 82:10-23 (“ . . . [Mr. Gobelman] has also limited the scope of cleanup very narrowly in his interpretation of the Pollution Control Board ruling; and, also, as I’ve noted in my report, failed to consider how certain activities that took place were being driven by the conditions that were identified within the IDOT area of responsibilities.”).)

IDOT also oddly takes issue with Mr. Dorgan's Figure 2 of his Expert Report, claiming that it exemplifies cherry picking. However, the Figure clearly explains what it represents—the location of *visual ACM* based upon the record. (See Motion, Exhibit A, Figure 2, orange dots.) It is not as if Mr. Dorgan claimed that the Figure showed all ACM, but elected to just show the visual ACM. The relevance of IDOT's citations (*see* Motion, § III.D, p. 8) to Mr. Gobelman's Demonstrative Exhibit 202 and Exhibit 63-83 to support the cherry picking point are unclear. These exhibits were not depicting solely visual ACM. For example, the red circles of Exhibit 202 show where ACM was detected through any method, visual or non-visual (laboratory testing).

The header of Section III.D to IDOT's Motion also claims that Mr. Dorgan's opinions are "speculative," though IDOT makes no such argument in the body of its brief. Mr. Dorgan's opinions, included his opinion relating to the Site 3 capping costs attributable to IDOT, are not speculative. Rather, they are rooted firmly in the evidence and documentary record of this case. (See Motion, Exhibit A, § 1.2; Dorgan I Dep., pp. 36:3-20, 38:6-39:24, 41:7-42:23, 44:4-45:7, 74:23-80:13 (identifying documents, deposition transcripts, and witness interviews upon which he relied), 82:3-17 (same), 86:5-87:7 (same).)

An expert's opinions are not based on speculation, guess, or conjecture, when they are based upon documentary evidence. *See Davis v. Material Handling Assocs., Inc.*, 401 Ill. App. 3d 1085, 1094-1095 (Ill. App. Ct. 2010) (finding that expert's opinions were not based on speculation, guess, or conjecture where they were based upon a number of documents); *In re Saline Branch Drainage Dist.*, 19 Ill. App. 3d 125, 132 (Ill. App. Ct. 1974) (holding that "[t]here was ample data presented at the proceedings which would permit of the opinion testimony" and that "[t]he rule is clear that one test of admissibility of an opinion of an expert witness is whether

there is sufficient evidence in the record to act as a foundation of the expert's opinion"). As the Hearing Officer found with respect to Mr. Dorgan's opinions in the first phase of this case, "Mr. Dorgan's opinions are not impermissibly speculative but based on documentary evidence in the record including a number of reports and manuals." (April 26, 2016 Hearing Officer Order, p. 3.) There is again ample evidence in the record to act as a foundation for Mr. Dorgan's opinions in his Expert Reports. (Motion, Exhibit A, § 1.2; Dorgan I Dep., pp. 36:3-20, 38:6-39:24, 41:7-42:23, 44:4-45:7, 74:23-80:13 (identifying documents, deposition transcripts, and witness interviews upon which he relied), 82:3-17 (same), 86:5-87:7 (same).)

Finally, IDOT fails to identify one statement made by Mr. Dorgan that is contradicted by the record. To the contrary, Mr. Dorgan's opinions *are* based on the evidence in this case and are not contradicted by it. Accordingly, Mr. Dorgan's opinions in Section 3.2.1.8.1 of his Expert Report—on the share of JM's costs for capping on Site 3 attributable to IDOT—are not cherry-picked or speculative, and should be admissible and heard at hearing. IDOT's Motion should be denied.

4. Mr. Dorgan's Opinions Do Not Re-Litigate The Board's Liability Determination.

IDOT's contention that Mr. Dorgan's opinions "conflict[] with" the Board's Interim Opinion (Motion, § III.E) rests upon IDOT's fundamental misunderstanding of the role of expert reports, the Board's Interim Opinion, and the scope and nature of Mr. Dorgan's opinions. The Board's Interim Opinion left open for further hearing the questions of *what cleanup work was performed in the portions of the Sites where the Board found IDOT liable* and what share of JM's costs for cleanup work *is attributable to IDOT*. (Interim Opinion, p. 22.) The Board explicitly found that it is "appropriate that a party recover the cost of performing cleanup *as a result of* another party's violations" of the Act. (*Id.*, p. 21 (emphasis added).) This necessarily

required Mr. Dorgan to determine what cleanup work JM was required to perform *as a result of* IDOT's violations of the Act.

Consistent with the Board's direction, Mr. Dorgan looked at the cleanup costs that resulted from IDOT's violations, which included reviewing the amount of ACM connected with a given boring through documentary, photographic and observational evidence, as well as reviewing the language in the EAM. This does not mean, however, that Mr. Dorgan is "seek[ing] to undo a substantial part of the Board's prior work by arriving at cost attributions that go well beyond the Board's liability findings against IDOT in the Interim Opinion" as IDOT contends. (Motion, § III.E, pp. 9-10.) Unlike Mr. Dorgan, Mr. Gobelman did *not* take into consideration the amount of ACM connected to each boring, the scope of the work tied to the ACM in each boring, or whether the ACM in each boring was or was not driving particular work or the overall remedy—all facts that bear on "what cleanup work was performed in the portions of the Sites where the Board found IDOT liable" as well as the costs "attributable to IDOT." (Dorgan Expert Rebuttal Report, attached hereto as **Exhibit 5**, § 2.1, p. 2 ("The Gobelman Report fails to consider why certain cleanup activities were required and how the scope of the cleanup was driven by the Site conditions and where visible ACM was observed during earlier investigation activities.")) That Mr. Gobelman took a different approach—focusing very narrowly on surficial geography and the costs associated with work only immediately surrounding a boring attributed to IDOT (rather than the grid area that the boring represents)—does not warrant exclusion of Mr. Dorgan's opinions.

IDOT's Motion principally takes issue with Mr. Dorgan's opinions relating to three areas of the Sites: (1) Parcel No. 0393; (2) borings 5S-8S of Site 6; and (3) the North Shore Gas Line on Site 3. None of IDOT's differences of opinion, however, have any merit. Contrary to

IDOT's assertion, JM is not trying to re-litigate liability. That IDOT and Mr. Gobelman may disagree with Mr. Dorgan's opinions has no impact on their admissibility. Therefore, the Hearing Officer should allow Mr. Dorgan to present his full opinions at the second hearing in this case for the Board's consideration. The Board can then weigh the impact Mr. Dorgan's opinions have on the Board's Interim Opinion and ultimately, the Board's final order. Striking or excluding Mr. Dorgan's opinions at this stage is unwarranted.

A. IDOT's discussion of Parcel No. 0393 has no place in a motion *in limine*.

IDOT's Motion does not present a valid legal basis to exclude Mr. Dorgan's opinions on costs attributable to IDOT for the City of Waukegan Water Line on Parcel No. 0393. IDOT's argument is really just a disagreement on how to interpret the Board's Interim Opinion as to Parcel No. 0393. Mr. Gobelman believes that IDOT is only liable for the open dumping of ACM in certain boring locations within Parcel No. 0393. (Motion, p. 10 (disputing that IDOT is liable for costs associated with Waukegan Water Line on Parcel No. 0393).) Mr. Dorgan disagrees. (Dorgan Expert Rebuttal Report, § 2.4, pp. 8-9.)

Indeed, the Board actually found that "IDOT's interest in Parcel 0393" – not merely IDOT's interest in certain borings within Parcel No. 0393 – "gave and continues to give [IDOT] control over open dumping on that property," not merely control over dumping in certain boring locations on that property. (Interim Opinion, p. 12.) "By continuing to control the portion of Parcel No. 0393 falling within Site 3," the Board found, "IDOT continues to allow ACM waste in that soil." (*Id.*, p. 13.)

To the extent JM's remediation of the City of Waukegan Water line was *a result of* IDOT's open dumping in or control of Parcel No. 0393, the share of JM's costs attributable to IDOT fairly remains at issue in this case. These are questions for the Board and not ones to be

determined through a motion *in limine*. As a result, Mr. Dorgan's opinions involving Parcel No. 0393 and the Waukegan Water Line should not be stricken.

B. Mr. Dorgan's opinions on the extent of IDOT's liability for Site 6 have a sufficient factual basis and are not cumulative of evidence in the record.

IDOT also incorrectly contends that Mr. Dorgan "seeks to double the extent of IDOT's liability for Site 6" from the soil borings specifically referenced in the Board's Interim Opinion (1S-4S) "including borings 5S through 8S, as well" and that Mr. Dorgan's opinions on those areas should be barred as "lacking factual specificity." (Motion, § III.E, p. 10.) IDOT, however, fails to identify what specificity is purportedly lacking. This is because Mr. Dorgan's Expert Reports *do* present detailed explanations and support for the findings therein that "the Board found IDOT liable for contamination on the South Side of Site 6 in the areas of 1S to 4S because IDOT buried ACM waste in these while reconstructing Greenwood Avenue during the Amstutz Project" (*see e.g.*, Motion, Exhibit A, § 3.1.1.2) and, as a result, JM was required to perform extensive remediation work in the areas of 5S to 8S:

[M]ost of the visual ACM was encountered within IDOT's Area[s] of [L]iability (see Figure 2 of the Dorgan Expert Report). As a result of the buried visual ACM, USEPA required creation of a 25-foot clean corridor for all buried utilities on the Sites, "regardless of whether impacts from ACM were noted in the overlying soil during the assessment." Since IDOT is responsible for most of the visual ACM found on the relevant areas of the Sites, IDOT's unlawful disposal of ACM was the primary driver of the work required by USEPA in these areas, especially with respect to the clean corridors. For example, at the time the EAM was issued, no ACM had been found east of soil sample location 8S. Nonetheless, USEPA required a clean corridor for the entire NSG line from 4S and moving east regardless that ACM had not been found east of 8S.

(Dorgan Expert Rebuttal Report, § 2.5.2 (footnotes omitted).)

As Mr. Peterson [the engineering overseeing the work] indicted and as the construction photographs demonstrate, Campanella excavated to at least elevation 584 at areas 1S -8S and found a *consistent seam of the same type of AMC material . . .* along this entire transect from the ground surface to a depth of approximately 3 to 5 feet below the ground surface.

(Dorgan Expert Rebuttal Report, § 3.1.1.2, pp. 13-14 (emphasis added).) In other words, JM incurred costs in performing cleanup around Site 6 areas 5S to 8S *as a result of* IDOT's violations of the Act—the exact issue on which the Board wants additional evidence. (Interim Opinion, p. 21.) More specifically, the ACM the Board found that IDOT buried not only drove the remedy, but also was physically tied to ACM 5S-8S underneath the ground, leading Mr. Dorgan to opine that the costs associated with the 5S-8S area are attributable to IDOT.² Because this is an issue on which the Board called for additional evidence [the scope of cleanup work performed in the portions of the Site where IDOT was found liable], it would be improper to preclude Mr. Dorgan from offering testimony at hearing on these opinions. This is particularly so where Mr. Dorgan merely seeks to bolster his opinions on damages, not re-litigate IDOT's liability, regarding the North Shore Gas Line with information an expert would reasonably rely upon in rendering an opinion—the visual observations of the person overseeing the remediation, photographs taken during the remedial work and reports in the record. (Motion, Exhibit A, § 3.1.1.2.) Mr. Dorgan's opinions about the attribution to IDOT of the costs JM incurred to remediate the North Shore Gas line on Site 6 should be fairly at issue for the second hearing in this case.

Mr. Dorgan's opinions on IDOT's liability at Site 6 areas 5S-8S also cannot be considered cumulative³ given that they are based, in part, on evidence not available at the time of the first Hearing in this matter (May and June 2016). It was only during excavation work on Site 6, which occurred after the first hearing in this case, that it was discovered that the ACM found buried at areas 1S-4S (where the Board explicitly found IDOT liable) was part of a consistent

² Mr. Dorgan also explains how the existing record is consistent with his opinion. (Dorgan Expert Rebuttal Report, § 3.1.1.2, p. 14 and n.14.)

³ The only case that IDOT cites in making its argument that Mr. Dorgan's opinions should be excluded as "cumulative" (Motion, p. 11) actually allows the introduction of multiple experts discussing the same issue. *Cetera v. DiFillipo*, 404 Ill. App. 3d 20, 45 (Ill. App. Ct. 2010).

seam of ACM materials found extending to areas 5S through 8S and thus required remediation owing to IDOT's violations of the Act:

[E]verything that was known at the time of the last hearing was based upon soil borings, and soil borings is like taking one hole and putting it at that end of the conference room and trying to assume what's at this end of the conference room. What we have now is actual physical evidence based upon the materials that were removed and the conditions showed a se[a]m of asbestos-containing material that extended from the western edge of Site 6 all the way through and past 8S in a consistent se[a]m that ran at relatively consistent depths over the course of that cross section. That was information that was not available when my report was written previously . . . A test pit and an excavation are not one in the same.

(Dorgan I Dep., pp. 152:10-155:11, 156:2-7, 156:23-157:2; Motion, Exhibit A, § 3.1.1.2.)

The Board has previously allowed a party to introduce new facts at a remedy hearing that were not available before the Board's issuance of an interim opinion. *See e.g., Roti et al. v. LTD Commodities*, PCB 99-19, 2004 WL 285598, *5 (Feb. 5, 2004). Mr. Dorgan's opinions on the cleanup work required at borings 5S-8S go directly to "what cleanup work was performed in the portions of the Sites where the Board found IDOT liable" and what costs were required as a result of IDOT's violations, points that Mr. Gobelman ignores.

C. Mr. Dorgan's opinions on the extent of IDOT's liability for the North Shore Gas Line on Site 3 are misinterpreted by IDOT and are rooted in sound methodology.

Finally, IDOT argues that Mr. Dorgan was wrong to attribute 100 percent of the Site 3 North Shore Gas costs to IDOT "because a portion of the gas line runs through Parcel 0393." (Motion, § III.E, p. 11.) IDOT misstates Mr. Dorgan's opinion. Mr. Dorgan does not attribute these costs to IDOT solely because a portion of the line runs through Parcel No. 0393.⁴ Rather, he opines that the lines run through a portion of Parcel No. 0393 as well as B3-15 and B3-50,

⁴ Even Mr. Gobelman opines that IDOT is responsible for all Site 3 North Shore Gas costs that are associated with Parcel No. 0393. (*See* Gobelman Rebuttal Report, Figure 5; Figure 5 to "Expert Rebuttal Supplemental Report of Steven Gobelman on Damages Attributable to IDOT Based on IPCB Order of December 15, 2016," dated November 7, 2018, attached hereto as **Exhibit 6**.)

which are areas the Board found IDOT liable. (Motion, Exhibit A, § 3.2.1.6.1.) Further, Mr. Dorgan reasons that “[s]ince the only ACM found along the NSG line on Site 3 was attributed to IDOT by the Board, Mr. Gobelman should have included all of the costs associated with work on the NSG line on Site 3 to IDOT.” (Dorgan Expert Rebuttal Report, § 2.4.2, p. 9.) IDOT also overlooks Mr. Dorgan’s point that the EAM required clean corridors for entire utility lines, even if ACM was not found above a certain point along the line. (Motion, Exhibit A, n.18.) Using this reasoning, because the only ACM found along the North Shore Gas line on Site 3 was in borings attributed to IDOT, the ACM in those borings, which were due to IDOT’s violations of the Act, caused JM to incur all the costs associated with creating a clean corridor for the North Shore Gas line on Site 3.

Like his others, Mr. Dorgan’s opinions on the costs attributable to IDOT for the Site 3 North Shore Gas work is consistent with his methodology discussed above. Just because IDOT’s expert employs a different methodology wholesale exclusion of Mr. Dorgan’s opinions is not justified. It would be improper to preclude Mr. Dorgan from offering his opinions at hearing. IDOT’s Motion should be denied.

CONCLUSION

For the reasons set forth above, JM requests that the Board deny Respondent IDOT’s Motion *in Limine* to Strike the Opinions of Douglas G. Dorgan, Jr.

Dated: October 4, 2019

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

Attorneys for Complainant Johns Manville

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on October 4, 2019, I caused to be served a true and correct copy of *Complainant's Response to Respondent's Motion in Limine to Strike the Opinions of Douglas G. Dorgan, Jr.* upon all parties listed on the Service List by sending the documents via e-mail to all persons listed on the Service List, addressed to each person's e-mail address.

/s/ Lauren J. Caisman

Lauren J. Caisman

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EXHIBIT 1

Transcript of the Testimony of
DOUGLAS DORGAN, JR.

Date: July 31, 2018

Case: JOHNS MANVILLE, A DELAWARE CORPORATION v.
ILLINOIS DEPARTMENT OF TRANSPORTATION

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, a)
Delaware corporation,)
)
Complainant,)
) PCB No. 14-3
vs.) (Citizen Suit)
)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

This is the deposition of DOUGLAS G. DORGAN, JR., called by the Defendant for examination, taken pursuant to the provisions of the Code of Civil Procedure and the Rules of the Supreme Court of the State of Illinois pertaining to the taking of depositions for the purpose of discovery, taken before PEGGY A. ANDERSON, a Certified Shorthand Reporter of the State of Illinois, at 69 West Washington Street, 18th Floor, Chicago, Illinois, on July 31, 2018, at 9:30 a.m.

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

2
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I N D E X

WITNESS	PAGE
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1 (WHEREUPON, the witness
2 was first duly sworn.)

3 WHEREUPON:

4 DOUGLAS G. DORGAN, JR.,
5 called as a witness herein, having been first
6 duly sworn, was examined and testified as
7 follows:

8 E X A M I N A T I O N

9 BY MR. MCGINLEY:

10 Q Mr. Dorgan, can you state and spell
11 your full name for the record, please.

12 **A Douglas G. Dorgan, D-o-r-g-a-n, Jr.**

13 Q Mr. Dorgan, I know that we've done
14 depositions before, but I'm just going to --
15 For the sake of making sure we are all
16 operating on the same page, just a few brief
17 guidelines, if you will.

18 Obviously, the court reporter is
19 here. She's writing down everything that we
20 say. It helps the record if you let me ask the
21 questions before you answer. I will let you
22 answer before I ask you another question. That
23 way, we are not talking over each other.

24 Also, in answering the question,

1 please don't do that natural impulse of shaking
2 your head yes or no. It's not going to make
3 for a good record.

4 Is there any reason why you cannot
5 give full and complete testimony today?

6 **A No.**

7 Q Okay. Not under the influence of any
8 medication, not feeling sick or anything like
9 that?

10 **A No.**

11 MR. McGINLEY: I'm going to mark this
12 as Exhibit 1.

13 (WHEREUPON, Dorgan Exhibit
14 No. 1 was marked for
15 identification.)

16 BY MR. McGINLEY:

17 Q Mr. Dorgan, the court reporter has
18 just handed you Exhibit 1 to your deposition.
19 This is the Amended Notice of Expert
20 Deposition. I take it you have seen this
21 Exhibit 1 before?

22 **A I have.**

23 Q And when did you -- When did you -- I
24 will stipulate for the record that this is an

1 Amended Notice of Expert Deposition. There was
2 an earlier version of this notice that was sent
3 to you.

4 Did you see the earlier version or
5 just the amended notice?

6 **A I believe I saw both.**

7 Q You saw both, okay. And when did you
8 first see the notice?

9 **A I want to say it was late June.**

10 Q In preparing for your deposition
11 today, tell me everything that you did to get
12 yourself ready.

13 **A Well, I first responded to the**
14 **document request that was referenced in the**
15 **notice, pulled those together with the**
16 **assistance of one of my admin support staff in**
17 **our office and transmitted that information to**
18 **Bryan Cave.**

19 Then I began going through my
20 original document just to refresh myself on its
21 content and its layout. I certainly reviewed a
22 few of the relevant figures and historic
23 documents that had been material to the case at
24 large.

1 **I reviewed several of the depositions**
2 **from earlier testimony on the part of other**
3 **witnesses in the case, and I met briefly with**
4 **Susan in order to discuss logistics and**
5 **planning for today and what the schedule was**
6 **going to look like.**

7 Q And I believe at this outset, you
8 were saying the original -- Did you say
9 "original document"? Is that the term you were
10 using?

11 **A I was referring to my most recent**
12 **expert report.**

13 Q Expert report. That's right. That's
14 the June 13, 2018 report, correct?

15 **A That's correct.**

16 Q And the depositions that you
17 reviewed, what deposition transcripts; do you
18 recall?

19 **A I reviewed deposition transcripts for**
20 **Dave Peterson, Tat Ebihara, Scott Myers and**
21 **Mr. Manikas. His first name escapes me right**
22 **at the moment.**

23 Q Any other depositions besides that?

24 **A I had seen other depositions that I**

1 **briefly reviewed when they were originally**
2 **transmitted to me, but I didn't spend any**
3 **significant time with them.**

4 Q And I think you, if I recall
5 correctly, you said you had reviewed some of
6 the other documents besides the transcript and
7 your report. What documents --

8 A I would have been referring to the
9 **figures in the report itself.**

10 Q So the deposition transcripts and the
11 report and the attached exhibits to the report.
12 Anything besides that?

13 A **Not that I recall.**

14 Q You met with Ms. Brice how many
15 times?

16 A **Twice.**

17 Q And what was the first time that you
18 met with her?

19 A **Last Thursday or Friday.**

20 Q About how long did that meeting last?

21 A **About an hour.**

22 Q What did you talk about?

23 A **We talked about the deposition and**
24 **the materials that I would bring with me to the**

1 deposition and the logistics for how the
2 deposition was likely to work. We talked a
3 little bit about scheduling given my travel
4 plans for today.

5 Q And what are your travel plans for
6 today?

7 A I just have a flight later this
8 afternoon.

9 Q And what documents did you bring with
10 you today?

11 A Just a copy of my report.

12 Q Okay.

13 A And then I also brought a copy of
14 the -- I believe it was provided in a
15 supplemental disclosure yesterday, which were
16 the -- one of the tables in my report that
17 provided comments that had been included,
18 imbedded into the electronic version of the
19 documents.

20 Q That version, that's Exhibit F to
21 your report, correct?

22 A Correct.

23 Q And so if I understand what you just
24 said correctly, the difference between the

1 Exhibit F that was provided to us yesterday
2 versus what's in the report, is that the
3 Exhibit F that was provided to us yesterday has
4 some additional comments in it not included in
5 your final version of the report; is that
6 right?

7 **A That's correct.**

8 Q So during the hour that you spoke
9 with Ms. Brice last Thursday or Friday, what
10 else did you talk about?

11 **A We talked about some of the past**
12 **depositions that had taken place, and she just**
13 **suggested again that I prepare by reviewing the**
14 **report and doing a little homework over the**
15 **weekend.**

16 Q What homework did you do over the
17 weekend?

18 **A Read the report and read some of the**
19 **depositions.**

20 Q Anything else that you talked about
21 last Thursday or Friday with Ms. Brice?

22 **A No.**

23 Q You said you met with her a second
24 time. Is it fair to say that the second time

1 was today?

2 **A Yes, just before walking over here.**

3 **Q About how long did that meeting last?**

4 **A About ten minutes.**

5 **Q What did you discuss during that**
6 **ten-minute period of time?**

7 **A Just confirmed what it was that I had**
8 **that I was bringing and where we were going and**
9 **what time, and I, again, I reiterated the**
10 **travel schedule, that I have to make sure**
11 **everything fit together, and it sounds like it**
12 **does.**

13 **Q What files do you keep related to**
14 **your work on this matter?**

15 **A I keep copies of any of the documents**
16 **that have been transmitted to me. I keep**
17 **copies of any of my final reports and final**
18 **figures. I keep copies of our invoices that**
19 **are issued as part of the project. I have**
20 **copies of the depositions that have been**
21 **provided to me, the legal notices that have**
22 **been provided to me. I have, obviously, copies**
23 **from the previous hearing, that continue to be**
24 **maintained, and certainly, in some instances, I**

1 was referring back to those as part of the
2 development of my more recent report.

3 Q When you say copies of the previous
4 hearing, can you be a little bit more specific?

5 A My expert reports, the rebuttal
6 reports, the transcripts from the hearing, the
7 exhibits that were used in the hearing, things
8 of that nature.

9 Q In the course of developing your
10 report for this matter, and we can just -- For
11 the sake of today's proceedings, why don't we
12 just refer to it as your June 2018 report -- or
13 we will say "current report," how about that?

14 A That works for me.

15 Q So for purposes of preparing your
16 current report, you were looking back at your
17 earlier versions of the reports, too?

18 A That's correct.

19 Q Who is your client in this matter?

20 A I work directly with Susan Brice. My
21 invoices are paid by Johns Manville.

22 Q So is Ms. Brice -- I don't know Ms. Brice.
23 I can't remember the current name of the firm,
24 formerly named Bryan Cave. Is that your

1 client, Bryan Cave?

2 **A She's acting as my attorney. My**
3 **invoices are paid by Johns Manville.**

4 MS. BRICE: Objection, calls for a
5 legal conclusion. Honestly, like, who his
6 client is is really a legal question.

7 BY MR. MCGINLEY:

8 Q Well, you work for Ms. Brice?

9 **A Yes.**

10 MS. BRICE: Same objection.

11 BY MR. MCGINLEY:

12 Q Is that a yes, sir?

13 **A Yes.**

14 Q You do work for Ms. Brice. Okay.
15 And, in fact, the -- What is the agreement that
16 you have -- is there -- I'm sorry.

17 Is there an agreement that you have
18 for the work that you're doing here?

19 **A No.**

20 Q There is no agreement?

21 **A No.**

22 Q Is there a letter agreement that you
23 entered into probably back in 2015 for your
24 work initially in this case?

1 **A Yes. There is.**

2 Q Does that letter agreement still
3 govern what you're doing in this matter?

4 **A It's been my understanding that it**
5 **would.**

6 MR. MCGINLEY: This is a prior
7 exhibit. If you could just -- You can
8 cover that, if you would like. I will mark
9 this as Exhibit 2.

10 (WHEREUPON, Dorgan Exhibit
11 No. 2 was marked for
12 identification.)

13 BY MR. MCGINLEY:

14 Q Sir, the document that I've handed to
15 you, Exhibit 2, is the February 8, 2015 letter.
16 I will represent to you that it is from
17 Katherine Hanna to yourself. I take it you are
18 familiar with this?

19 **A I am.**

20 Q Is this the agreement -- And you have
21 signed it on the back. That would be the third
22 page of this document, correct?

23 **A Yes.**

24 Q So is this -- This continues to be

1 the agreement under which you're doing work on
2 this matter for Bryan Cave for Ms. Brice?

3 **A It would be my opinion this would**
4 **still cover the work that we're doing.**

5 Q Fine. What is your -- What's your
6 purpose and function in this case?

7 **A I have been asked to serve as an**
8 **expert to opine on matters earlier regarding**
9 **nature and extent and causation of the**
10 **contamination; and after the initial hearing, I**
11 **was then retained again to evaluate the costs**
12 **that were incurred in an effort to align the**
13 **costs attributable to IDOT that were deemed to**
14 **be their responsibility by the Illinois**
15 **Pollution Control Board.**

16 Q So you were trying to align the costs
17 of work incurred by Johns Manville with the
18 liability, if you will, that had been assessed
19 by the Pollution Control Board back in 2016; is
20 that right?

21 **A That's correct.**

22 Q Pursuant to their December 2016
23 interim order and opinion?

24 **A That's correct.**

1 Q And you're being paid by Johns
2 Manville in this matter, correct?

3 A That's correct.

4 Q Is it possible in the -- If you look
5 at Page 2 of this letter agreement, this would
6 be the third paragraph from the bottom. Just
7 let me know when you have that in front of you.

8 So if you count up three paragraphs
9 from the signature line, this is the paragraph
10 starting "Consultant shall send its bills;" do
11 you see that?

12 A Uh-huh.

13 Q It says, "Consultant shall send its
14 bills to JM with a copy to Bryan Cave. JM or
15 its insurance carrier shall be solely
16 responsible for payment, and payments of all
17 invoices shall be made within 45 days of
18 receipt by JM."

19 My question to you, sir, is: Do you
20 know whether Weaver Consultants Group, who you
21 work for, have they been paid by Johns Manville
22 or by Johns Manville's insurance carrier?

23 A I don't know the answer to that
24 question.

1 Q Who would know if you needed to find
2 out?

3 **A I'm not sure.**

4 Q Would there be somebody -- You have,
5 I assume, some sort of accounting or group
6 that's responsible for tracking payment for
7 work?

8 **A I could look to see the form of the**
9 **check that we received to pay our bill. That**
10 **would be something I could look into if it were**
11 **necessary.**

12 Q Do you typically see or get carbon
13 copied on payments when they come in for work
14 that you have done?

15 **A No.**

16 Q Do you know from the very first
17 period when you started working for Bryan Cave
18 back in 2015 -- And you didn't work for Bryan
19 Cave before on the Johns Manville matter before
20 February of 2015; is that right?

21 **A That sounds like the approximate**
22 **correct date; but, yes, before this matter, I**
23 **had not worked on it.**

24 MS. BRICE: I would like to state an

1 objection. You know, I think the document
2 speaks for itself, and whether or not the
3 document legally applies currently to his
4 current testimony and what he's doing now
5 is a question of law.

6 He can testify what he interprets
7 it to mean as he is, but I'm not -- You
8 know, we're not conceding that this is the
9 governing document at this point in time or
10 that he is a client of Bryan Cave -- Bryan
11 Cave is his client. Sorry.

12 MR. MCGINLEY: You're not conceding
13 that. Thank you.

14 BY MR. MCGINLEY:

15 Q Is there a different letter agreement
16 that's come into play since this one from 2015
17 that governs your work in this Johns Manville
18 matter for Bryan Cave?

19 **A No, not that I'm aware of.**

20 Q And you would -- I would assume you
21 would be aware if there was some sort of
22 agreement that superceded this February 2015
23 letter from Bryan Cave to yourself, correct?

24 **A Yes.**

1 Q I mean, you would be aware of the
2 terms under which you're performing this work,
3 correct?

4 **A Yes.**

5 Q So it's safe to say then that this
6 Exhibit 2, the February 2015 letter, continues
7 to govern your work today?

8 MS. BRICE: Objection, calls for a
9 legal conclusion. He is not a lawyer.

10 BY MR. MCGINLEY:

11 Q Mr. Dorgan, you understand that this
12 letter continues to be the operative agreement
13 between yourself and Bryan Cave?

14 MS. BRICE: Same objection. It's a
15 consulting expert agreement, not a
16 testifying expert agreement.

17 BY MR. MCGINLEY:

18 Q Can you answer my question, sir?

19 **A It would be my understanding this**
20 **agreement applies to the work we have been**
21 **doing.**

22 Q Okay. Thank you. What do you see as
23 your duty as a testifying expert, and that's --
24 I mean, you recognize that you're a testifying

1 expert at this point, right?

2 **A Correct.**

3 Q What do you understand your duty as a
4 testifying expert to be with respect to Bryan
5 Cave?

6 **A I'm not sure I understand the**
7 **question.**

8 Q Okay. So you've agreed to be --
9 serve as an expert witness for Bryan Cave,
10 correct?

11 MS. BRICE: Objection, calls for a
12 legal conclusion.

13 BY MR. MCGINLEY:

14 Q You can answer the question to the
15 extent that you understand.

16 MS. BRICE: He's agreed to serve as
17 an expert witness. The case involves Johns
18 Manville. It's not a case about Bryan
19 Cave.

20 BY MR. MCGINLEY:

21 Q You understand -- who is your -- Your
22 client is Bryan Cave, correct?

23 MS. BRICE: Objection, calls for a
24 legal conclusion.

1 BY THE WITNESS:

2 A Client is Bryan Cave in that Bryan
3 Cave is who -- my principal point of contact.
4 I have had contacts with Johns Manville in the
5 course of my scope of work for my recently
6 produced report and as I had in earlier phases
7 of the project, but I have worked directly in
8 the preparation of the report with Susan with
9 guidance coming from the Johns Manville
10 personnel.

11 BY MR. MCGINLEY:

12 Q So what is your -- What do you
13 understand your role to be as an expert witness
14 in this case?

15 A I was tasked with evaluating the
16 costs that were incurred for the cleanup that
17 has happened at Site 3 and Site 6 under the
18 order that was signed by USEPA and the various
19 parties and to tabulate the costs and then
20 attempt to allocate those costs which would be
21 attributable to IDOT's actions as laid out in
22 the Pollution Control Board ruling.

23 Q This isn't the first instance in
24 which you have ever served as an expert

1 witness, correct?

2 **A That's correct.**

3 Q How many times in the past have you
4 been an expert witness?

5 **A About five times.**

6 Q Five times. And five times for
7 somebody other than Bryan Cave, correct?

8 **A That's correct.**

9 Q So as an expert witness, both
10 currently and in the past, what do you think --
11 what do you understand your responsibility to
12 be as an expert witness?

13 **A My responsibility is to, as fairly
14 and accurately as possible, evaluate the costs
15 that were incurred. As my report explains, I
16 evaluated whether those costs were reasonable.
17 I then attempted to allocate the costs that
18 were clearly attributable to the areas of
19 IDOT's responsibility based upon the Board
20 ruling and those areas that weren't.**

21 **I made a number of technical
22 evaluations in order to come up with those
23 allocations, all of which have been referenced
24 in my report and then the supporting**

1 **documentation.**

2 Q Do you see it as your role as an
3 expert witness to be an advocate on behalf of
4 the party that's retained you for your
5 services?

6 A **It's my role as an expert and as a**
7 **professional to be fair and accurate in the**
8 **work that I do, and that's how I believe I**
9 **approached my engagement.**

10 Q Yes or no, do you see it your duty to
11 be an advocate --

12 MS. BRICE: No. Objection, asked and
13 answered. It's not a yes-or-no question.

14 BY MR. MCGINLEY:

15 Q Mr. Dorgan, do you see it as your
16 duty as an expert witness to be an advocate for
17 your client, yes or no?

18 MS. BRICE: Objection, asked and
19 answered.

20 BY MR. MCGINLEY:

21 Q You can answer the question, sir,
22 please.

23 MS. BRICE: You can answer it the
24 same way as you did last time.

1 BY THE WITNESS:

2 **A No.**

3 BY MR. MCGINLEY:

4 Q No, You don't believe it's your duty
5 to be an advocate?

6 **A I have a duty to the protection of**
7 **human health of the environment, which is how I**
8 **approach all of my engagements.**

9 Q Are you interested in seeing Johns
10 Manville obtain as much money as possible --
11 Johns Manville obtain as much money from IDOT
12 as possible?

13 **A No.**

14 MS. BRICE: Objection, argumentative.

15 BY MR. MCGINLEY:

16 Q The process that you're describing
17 here as an expert witness to develop a cost
18 attribution model -- Would that be a fair way
19 to describe it?

20 **A Yes.**

21 Q Okay. Could we describe things going
22 forward as your role, at least in part, was to
23 develop a cost attribution model?

24 **A I would stipulate to that.**

1 Q Would you characterize the task of
2 developing a cost attribution model as a
3 subjective exercise or an objective exercise?

4 **A Objective.**

5 Q And why is it objective?

6 **A Because you're working with facts.**
7 **You're working with data. You're working with**
8 **geographic information. You're working with**
9 **observations and information that was collected**
10 **during the implementation of the work in**
11 **addition to many other variables, and you're**
12 **weighing all of those and making judgments in**
13 **terms of how they line up and apply to the**
14 **principal focus of your model undertaking.**

15 Q When you're making judgments, I mean,
16 isn't there a degree of subjectivity involved
17 in making judgments?

18 **A There can be.**

19 Q So is it possible that you were
20 making subjective judgments in the course of
21 developing your cost attribution model?

22 **A It's possible.**

23 Q You're licensed as a licensed
24 professional geologist both in this state and

1 Indiana, right?

2 **A That's correct.**

3 Q Any other states?

4 **A No.**

5 Q For some professions, for instance,
6 for attorneys, there are rules of ethical
7 conduct that guide how we are supposed to do
8 our work.

9 Are there similar rules that pertain
10 to being a licensed professional geologist?

11 **A Yes. There are.**

12 Q And what do those -- What do those
13 rules require of you as a professional
14 geologist, particularly if you're taking on an
15 assignment like this, being an expert witness?

16 **A I certainly don't remember by heart**
17 **the requirements that are laid out in the**
18 **licensing agreements, but I know that, in**
19 **general, as I've said previously, we have a**
20 **duty as professional licensed -- as licensed**
21 **professionals to be protective of human health**
22 **and the environment, and that is who our**
23 **primary responsibility to is; and so that when**
24 **we look at these types of matters, it is with**

1 **the understanding that our work should be**
2 **framed around those goals and not any others.**

3 Q As an expert or opinion witness, do
4 you believe it's your duty to reach your
5 opinions independent of bias?

6 **A Could you restate the question?**

7 Q Sure. Let me just ask a slightly
8 different question. You're familiar with the
9 term bias, correct?

10 **A Certainly.**

11 Q What's your understanding of the
12 term?

13 **A Bias is when you have some**
14 **preconceived notion that ends up influencing**
15 **the way in which you might evaluate a certain**
16 **situation.**

17 Q Is it possible for a licensed
18 professional geologist to be biased in the
19 conduct of their work?

20 **A It's possible.**

21 Q Yes or no, would you agree that bias
22 could be an issue in attempting to reach an
23 explanation for why something may have
24 occurred?

1 **A Possible.**

2 Q And yes or no, would you agree that
3 the work you did in developing the opinions in
4 this matter and that you're offering in your
5 current report could potentially be the product
6 of bias?

7 **A I do not believe so.**

8 Q And why do you say that, that you
9 don't think that that could be the product of
10 bias?

11 **A Because I believe I looked at the**
12 **information that I was provided very**
13 **objectively, and I tried to faithfully evaluate**
14 **the information within the context of the**
15 **Pollution Control Board ruling and the**
16 **information that I had at my disposal and**
17 **render an opinion that was fair and reasonable.**

18 Q So what steps did you take to avoid
19 the introduction of bias into your work, which
20 is culminating in your current report?

21 **A That would seem to require me to**
22 **prove a negative, which I'm not sure that's**
23 **what I want to do.**

24 Q I'm just asking you -- So how did

1 you -- When you went into this assignment, you
2 wanted to produce a report that would withstand
3 scrutiny; fair to say?

4 **A Yes.**

5 Q And part of withstanding scrutiny, I
6 would suppose, is to make sure that everything
7 that you're doing in the course of producing
8 that report is, shall we say, unimpeachable as
9 possible; is that a fair way to approach how
10 you took on this assignment?

11 **A Yes.**

12 Q So what efforts did you take to
13 ensure that bias -- some bias on your part
14 didn't come into the process of producing a
15 defensible current report?

16 MS. BRICE: Objection, asked and
17 answered, argumentative.

18 BY MR. MCGINLEY:

19 Q Please.

20 **A I would say that, as I mentioned**
21 **earlier, I evaluated all the data that was**
22 **available to me at my disposal.**

23 I considered always in the background
24 the Pollution Control Board ruling and where

1 they came in in terms of causality and
2 responsibility and attempted to line up the
3 work that had been done with those areas of the
4 site that were the responsibility of IDOT
5 versus those that weren't, and I approached
6 that objectively.

7 I evaluated, in some instances,
8 alternate ways of looking at it and tried to
9 come up with the one that was deemed most
10 reasonable and understandable and practical and
11 ultimately defensible.

12 Q Let me ask you this: As an expert
13 witness, either in your current engagement with
14 Bryan Cave or in any of the five prior
15 instances where you served as an expert
16 witness, have you ever been asked to do
17 something that you weren't comfortable with?

18 A In my capacity as an expert witness?

19 Q That's right. Yes.

20 A No.

21 Q Have you ever been asked to do
22 something you weren't comfortable with in the
23 context of being a consultant?

24 A Yes.

1 Q Give me an example.

2 MS. BRICE: Well, objection to the
3 extent you're disclosing confidential
4 information with respect to another client.
5 Don't identify the entity is what I'm
6 saying.

7 BY THE WITNESS:

8 A I won't identify entities, but,
9 certainly, we've had instances where clients
10 would like us to, you know, use certain data in
11 a certain way and perhaps not use other data
12 that should be used.

13 BY MR. MCGINLEY:

14 Q Okay. The report that you put
15 together for this, the current report, when did
16 you actually first start working on it?

17 A Sometime in 2017.

18 Q Can you be a little bit more
19 specific? It's a whole year.

20 A It would have been middle of the
21 year.

22 Q Middle of the year. Okay. So, say,
23 June, July of 2017?

24 A That would be reasonable. Yes.

1 Q After the Board's December 2016
2 interim order and opinion, did you have
3 occasion to discuss the results of that
4 decision with anybody at Johns Manville?

5 A No.

6 Q What about with Bryan Cave?

7 A Yes.

8 Q What did you talk about?

9 A I had read the order and counsel at
10 Bryan Cave had read the order, and we were
11 comparing notes in terms of our understanding
12 of what it meant and what the next steps in the
13 processes might look like.

14 Q So why don't you tell me what you
15 understood the Board's December 2016 order to
16 mean.

17 A That at the end of the day, as a
18 result of the hearing, that PCB concluded that
19 IDOT was responsible for asbestos that was
20 found in certain areas of Site 3 and Site 6 and
21 that, as a result, they would be responsible
22 for some portion of the costs that were
23 incurred as part of the cleanup of those two
24 areas and that this subsequent hearing would be

1 **designed to attempt to identify what that**
2 **dollar amount would be in terms of IDOT's**
3 **responsibility.**

4 Q Did you also understand the Board's --
5 And just for purposes of the court reporter,
6 PCB is Pollution Control Board.

7 **A Illinois Pollution Control Board.**

8 Q Maybe just for purposes of the record
9 today, let's just agree to refer to it as the
10 Board just because it will make things cleaner
11 going forward. Thanks.

12 So did you understand also, though,
13 from the Board's December 2016 order that some
14 aspects of the opinions which you had put forth
15 back in 2015 and also at the hearing in 2016
16 had not been accepted by the Board?

17 **A Yes.**

18 Q So some aspects of -- You had made
19 certain arguments back in 2015 and 2016 about
20 the assertions of liability -- Strike that.

21 You were asserting in your expert
22 report in 2015 that IDOT was liable for all of
23 the costs incurred with Site 3, correct?

24 **A My previous report I don't believe**

1 attributed all of Site 3 costs entirely to
2 IDOT, but there was a significant segment of
3 the work that I was indicating should be IDOT's
4 responsibility.

5 Q And the Board did not accept that,
6 the extent of liability that you were
7 advocating for back in 2015 and 2016, correct?

8 A That's correct.

9 Q And would it also be fair to say that
10 you had advocated for liability to be found in
11 an expansive fashion for Site 6 and the Board
12 also did not find liability to be as expansive
13 as what you were advocating for with respect to
14 Site 6?

15 A I agree that the Board found that the
16 IDOT liability was less than what I had
17 advocated in my report.

18 Q So you were talking with Ms. Brice
19 after the opinion came down. So what else did
20 you talk about with respect to the Board's 2016
21 opinion?

22 A The expectations of what the next
23 steps might look like and what that schedule
24 might look like; and at some point, there was a

1 discussion of the fact that there would need to
2 be an expert report prepared by me that would
3 attempt to do what I just outlined, which was
4 create an attribution model that would allow us
5 to identify those costs that would align with
6 the Board's findings and the costs that were
7 incurred in the work done at Site 3 and Site 6.

8 Q Did you speak -- When we talk about
9 Bryan Cave, are we talking about just Ms. Brice
10 or Ms. Brice and Ms. Caisman? Who exactly at
11 Bryan Cave were you having these discussions
12 with?

13 A Those would be the two.

14 Q Anybody else?

15 A No.

16 Q Anybody from Johns Manville?

17 A No.

18 Q So as part of, if you will, this
19 postmortem regarding the Board's December 2016
20 interim order and opinion, what did Ms. Brice
21 happen to share with you about that?

22 A I think the only thing that went
23 beyond that is once we understood there would
24 be another hearing, then I was tasked with the

1 preparation of the report, the product of which
2 has now been disclosed.

3 Q What were the preliminary steps that
4 you took as part of your work for this next
5 phase of the case?

6 A Well, the first thing I had to do was
7 look at the costs, and there were several other
8 individuals that had a significant role in the
9 development and tabulation of those costs
10 including Dave Peterson and Tat Ebihara. There
11 had been communications with them as they were
12 beginning to assemble the costs with a lot of
13 the work beginning to be finished, and there
14 was dialogue with them about the tabulations
15 and some changes that I was looking for to
16 align the costs that they were creating
17 together so that there would be comparisons and
18 that, ultimately, I could then begin making
19 some sense out of how they then got applied to
20 the Board Areas of Responsibility.

21 Q So let's break that down. First of
22 all, I just want to make sure I understand all
23 the players. So Mr. Peterson, Doug Peterson,
24 and Tat Ebihara?

1 **A Dave.**

2 Q Dave Peterson. Thank you. I'm
3 sorry. You're Doug. He's Dave. Mr. Peterson,
4 Mr. Ebihara, correct?

5 **A Correct.**

6 Q Anybody else that you were talking
7 with about tabulating costs?

8 **A Shannon Flanagan from AECOM probably**
9 **was involved in some of those earlier**
10 **conversations with Tat. Usually they were on**
11 **the phone. I can't recall the specific ones**
12 **that she was on and wasn't on, but she would**
13 **have been involved in some.**

14 Q Did you ever have occasion to have
15 face-to-face meetings with Mr. Ebihara in the
16 course of assembling these numbers?

17 **A No.**

18 Q What about with Mr. Peterson, did you
19 ever have any face-to-face meetings with him --

20 **A No.**

21 Q -- in the course of putting these
22 numbers together?

23 **A No.**

24 Q Have you ever met Mr. Peterson face

1 to face?

2 **A Not in person.**

3 Q Okay. But you have met Mr. Ebihara
4 face to face?

5 **A I have.**

6 Q So what did you actually tell them?
7 I mean, did you give them some sort of general
8 assignment about how to go about getting you
9 this information concerning costs?

10 **A I have, and I believe I have**
11 **described that in the report in terms of asking**
12 **them to tabulate all of the costs for Site 3**
13 **and Site 6.**

14 **There was an effort because of the**
15 **way that the project had been contracted and**
16 **invoiced, there was costs for Site 4, 5 that**
17 **were intertwined with some of the costs for**
18 **Site 3 and Site 6; and part of my request to**
19 **them was to pull that out, identify what those**
20 **costs were and pull those out since they**
21 **weren't relative to this matter.**

22 **I then asked them to organize the**
23 **costs in some logical way based upon the way**
24 **that the project was implemented. And,**

1 ultimately, they began providing me copies of
2 tables that were their work effort to tabulate
3 that information, and there was some dialogue
4 back and forth as we continued to refine and
5 fine-tune the formatting and the consistency
6 between the way the two independent sets of
7 information were being assembled.

8 Q Were you -- When you say refinements,
9 I mean, what did those refinements consist of?

10 A Well, as you know, having reviewed my
11 report, we had one matter of trying to
12 segregate costs between Site 3 and Site 6, and
13 then we had these different work elements that
14 we ultimately agreed to consider to be task
15 buckets, for lack of a better term; and so part
16 of their effort was then to take the work from
17 any individual invoice period and assign it
18 within those task buckets for Site 3 or for
19 Site 6.

20 There was a lot of alignment between
21 the two contractors, but there was a few
22 differences, and I had to understand what those
23 differences were so that I could speak to them
24 in the report.

1 Q What do you mean there was a lot of
2 alignment between the two contractors but you
3 had to work things out? What kinds of
4 alignment issues, if you could be more
5 specific?

6 A Well, for instance, they both worked
7 on the North Shore Gas Line, and so there was a
8 lot of alignment in terms of how they
9 approached tabulating their numbers for the
10 North Shore Gas.

11 By contrast, in Tat's tabulation, he
12 had a bucket for ramp work that was basically
13 only supplemental investigation work that
14 occurred on the 0393 ramp embankment, but there
15 was no work that was performed by Campanella as
16 documented by Peterson so that, in his
17 tabulation, he didn't have the ramp, but Tat's
18 tabulation did.

19 So it was those kinds of deviations
20 that I had to understand and work out.

21 Q Because some work would have been
22 unique to either Mr. Peterson on the one hand
23 or Mr. Ebihara's folks on the other hand?

24 A That's correct.

1 Q At what point -- So as you were
2 getting this information from Mr. Ebihara, from
3 Mr. Peterson, once they provided that
4 information to you in tabular form -- And that
5 was how you received it, correct?

6 A That's correct.

7 Q Was that the point in which you
8 started working on the development of your
9 opinions?

10 A No. What I really did at that point
11 was to continue working back and forth as they
12 continued to refine the presentation of their
13 cost numbers so that I could understand them as
14 well as I could.

15 Then, my next step was to take their
16 costs and translate them into a -- what you
17 have seen as Exhibit F in my report, which is
18 the -- I would consider to be the total-cost
19 model.

20 My first task was to attempt to
21 understand how much money was spent in total on
22 Site 3 and Site 6, and my attempt to do that
23 was translated into the table that appears in
24 Appendix F.

1 Q When was your report final?

2 A Late in June, mid-June, June 13th.

3 Q What sort of work were you doing on
4 the report back in the spring of this year?

5 A I was still working on the cost
6 model. And then once I had the total cost
7 picture understood and I could get the various
8 costs from the various sources to foot, kind of
9 an accounting perspective, so that I had a
10 confidence that I had all of the costs
11 represented and I had them represented
12 accurately, I then began evaluating the work as
13 it related to the Board areas of IDOT
14 responsibility and began coming up with that
15 allocation model for the costs over time for
16 each of the buckets. And that effort, again,
17 was primarily isolated to the -- that
18 tabulation that's in Appendix F.

19 Q And that's the total cost model that
20 you're referring to, correct?

21 A Right, but it also shows the
22 allocation to IDOT as well, but it started with
23 the total cost first.

24 Q In the course of developing your

1 opinion, what discussions did you have with
2 counsel, Ms. Brice or Ms. Caisman or anyone
3 else at Bryan Cave?

4 **A** There were occasions when I would
5 check in with Susan to explain where I was at,
6 what I was doing, how I was approaching it.
7 There would be some modest feedback in terms of
8 trying to be sure I was approaching it in as
9 logical and as clear a fashion as possible so
10 it could be understood. I have a tendency
11 sometimes to use the technical terms that allow
12 things to get lost, and then I would continue
13 to refine the cost model; and there came a
14 point in time where I felt as though I had
15 reached a point where I understood the cost
16 model both from a total and at least a
17 preliminary allocation for IDOT.

18 **Q** And you're saying that Ms. Brice
19 provided modest feedback? I think that was
20 your expression.

21 **A** Uh-huh.

22 **Q** And it sounds like, if I understand
23 you correctly, that was, shall we say, of an
24 editorial nature?

1 **A** **Correct.**

2 **Q** Anything substantive?

3 **A** **No.**

4 **(WHEREUPON, Dorgan Exhibit**
5 **No. 3 was marked for**
6 **identification.)**

7 **MR. MCGINLEY:** For the record, I'm
8 going to stipulate what I have just handed
9 to you as Exhibit 3 is your report.
10 However, you will notice, if you look
11 through this, that the tables are not
12 attached. We have produced them separately
13 because in order to get things on a large
14 enough piece of paper, it just made sense
15 to break it up. So don't be concerned
16 about that. We will get to those in a bit.

17 **BY MR. MCGINLEY:**

18 **Q** If I could ask you, please, to turn
19 to page 1 of your expert report; and if I could
20 also ask you on page 1 of your report, if you
21 could read the third paragraph down on page 1
22 for us, please.

23 **A** **The top of the page?**

24 **Q** **No. Third paragraph down.**

1 **A "Based upon my review"?**

2 **Q Yes, please, starting there.**

3 **A "Based upon my review of the record,**
4 **my interviews with various persons involved in**
5 **the work and my expertise, I have developed the**
6 **following general opinions to a reasonable**
7 **degree of professional certainty."**

8 Q What, to your mind, is a reasonable
9 degree of professional certainty? How would
10 you define that term?

11 A I think the operative term there is
12 "reasonable," that we try to approach it
13 objectively understanding that it's very
14 difficult to be 100 percent correct all of the
15 time, but that, on balance, that there may be
16 areas where we could be -- could be off in one
17 direction on one issue, off in another
18 direction on another issue, but in the end, the
19 balance that's struck is reasonable.

20 Q And when you say "professional
21 certainty," what is the -- Let me just go back
22 and ask you one question first.

23 In your mind, is there a percentage
24 associated with a reasonable degree of

1 professional certainty?

2 **A No.**

3 Q So is it you're 40 percent certain?

4 MS. BRICE: Objection, asked and
5 answered.

6 BY MR. MCGINLEY:

7 Q Well, I mean, how -- How strongly do
8 you feel when you say "reasonable degree of
9 professional certainty"?

10 **A I feel strongly that there is a**
11 **reasonable degree of professional certainty in**
12 **the outcome of this work effort.**

13 Q On a scale of one to ten with one
14 being lowest and ten being highest, where would
15 you put your reasonable degree of professional
16 certainty? Quantify it.

17 **A I would put it between eight and ten.**

18 Q But that still means that there is,
19 as you have acknowledged, that you're not
20 100 percent certain about your opinions,
21 correct?

22 **A That's correct.**

23 Q And so there's still the possibility
24 that you could be wrong about some of your

1 opinions here; isn't that right?

2 **A I could be wrong about underlying**
3 **evaluation and conclusions drawn from my review**
4 **of the information. That doesn't necessarily**
5 **mean that I'm wrong about the opinions that**
6 **have been stated.**

7 **Q But you could be wrong about the**
8 **opinions that you've stated, correct?**

9 **MS. BRICE: Objection, asked and**
10 **answered.**

11 **BY THE WITNESS:**

12 **A There's the possibility there could**
13 **be limitations with the opinions stated,**
14 **certainly.**

15 **BY MR. MCGINLEY:**

16 **Q The paragraph that I asked you to**
17 **read, you state that "I have developed the**
18 **following general opinions to a reasonable**
19 **degree of professional certainty." Could you**
20 **read through those opinions for us, please?**

21 **A Yes. "Johns Manville incurred costs**
22 **of \$5,579,794 for implementing the AOC at Site 3**
23 **and Site 6 ("Implementation costs").**

24 **"The implementation costs are**

1 reasonable and appropriate considering the work
2 required and performed. JM has incurred
3 \$3,274,917 in implementation costs that are
4 attributable to IDOT."

5 Q Thank you. Let me ask you this:
6 This is the only point in your report where you
7 say that you have reached opinions based upon a
8 reasonable degree of professional certainty.

9 Is the statement of "reasonable
10 degree of professional certainty" -- obviously,
11 you're applying it here to these general
12 opinions 1, 2, 3 that you have just read.

13 Are you also saying that you've
14 reached a reasonable degree of professional
15 certainty with all the opinions that you've
16 reached in your report?

17 **A Yes.**

18 Q Okay. But even though it's not
19 actually laid out that way in the body of the
20 report?

21 **A It would be my opinion that this**
22 **reference here would apply to the remainder of**
23 **the document.**

24 Q Okay. To your mind, what is the

1 professional discipline, if you will, that
2 underlies your opinion that provides the
3 reasonable degree of professional certainty?

4 **A It would be my past experience in**
5 **similar undertakings where I have had occasion**
6 **to evaluate other similar issues of**
7 **environmental contamination, fate in transport,**
8 **where multiple parties are involved and**
9 **responsible for their presence and ultimately**
10 **responsible for their cleanup, including**
11 **instances where I've had to evaluate costs**
12 **incurred with a very similar experience where I**
13 **had to evaluate the reasonableness, were the**
14 **costs reasonable, was the scope of work**
15 **reasonable and then of the costs that were**
16 **incurred, how should they be divided between**
17 **parties that have responsibility for the**
18 **cleanup.**

19 **Q And did you do that work as an expert**
20 **witness?**

21 **A I have on two previous occasions.**

22 **Q And what were those occasions?**

23 **A One had to do with a contamination**
24 **that emanated from an adjacent property.**

1 **Actually, both of them were the result of**
2 **contamination that emanated from an adjacent**
3 **property impacting another property with the**
4 **underlying issues being how was the**
5 **contamination caused and how appropriately to**
6 **allocate the cost of the cleanup that remained**
7 **and to restore the property to a reasonable**
8 **condition.**

9 Q And where did that event -- I mean,
10 where did those engagements take place?

11 A One was in Illinois. One was in
12 Indiana.

13 Q And the one in Illinois was where?

14 A In the Chicago suburbs.

15 Q What suburb?

16 A I don't recall offhand.

17 Q Did you have to testify with respect
18 to the expert opinion that you're describing
19 here in Illinois?

20 A Only in deposition.

21 Q And who did you work for? I mean,
22 who were you retained by in that matter?

23 A The plaintiff was the property owner
24 that had had their property impacted.

1 Q And what was the conclusion that you
2 reached, that the adjacent property owner was
3 responsible; is that right?

4 A Correct.

5 Q What was the outcome of that matter?

6 A I don't recall.

7 Q So you don't know whether or not the
8 opinion that you offered in that Illinois case
9 was actually the basis for the resolution of
10 the case?

11 A I believe it ended up being material
12 to an ultimate settlement that the various
13 parties reached.

14 Q And why do you have that belief?

15 A Because I know they reached a
16 settlement.

17 Q But they settled the case, but you
18 can't really say with any certainty the extent
19 to which your opinion formed the outcome of
20 that settlement?

21 A Not sitting here today.

22 Q What about the one in Indiana, tell
23 me about that.

24 A That was a similar issue. Both

1 **petroleum storage tanks on an adjacent**
2 **petroleum terminal had migrated onto an**
3 **adjacent site, and very similar issues with**
4 **nature and extent, the scope of the cleanup,**
5 **what was a reasonable cleanup and how should**
6 **the costs be allocated.**

7 **Q And did you testify either in**
8 **deposition or at trial?**

9 **A In deposition.**

10 Q What was the outcome of that matter?

11 **A Again, it settled, as I recall.**

12 Q Do you know to what extent, if at
13 all, the opinion that you offered in that case
14 was instrumental in the settlement?

15 **A Not sitting here today.**

16 Q So you can't say with respect to
17 either of the two instances where you have
18 testified either here in Illinois or in
19 Indiana, whether the opinion that you offered
20 in either of those two matters was instrumental
21 to the outcome in those cases?

22 **A Not as I sit here today.**

23 Q Okay. Thank you. What do you think
24 is the weakest part of the opinions that you've

1 offered in your report?

2 **A I don't think there's any weak parts**
3 **in my opinion.**

4 Q No weaknesses whatsoever?

5 **A No.**

6 Q Did you do everything that you would
7 have hoped to have done in this report?

8 **A I believe so.**

9 Q Is there anything that you would have
10 liked to have done that you weren't able to do?

11 **A Not that I can think of.**

12 Q No analysis that you would have hoped
13 to have done that you weren't able to
14 undertake?

15 **A No.**

16 Q Was there any information that you
17 would have liked to have had with respect to
18 the formulation of your opinions contained in
19 your current report that you didn't have access
20 to?

21 **A Not that I can think of.**

22 MR. MCGINLEY: I'm going to mark
23 this. This is Exhibit 4, I believe.
24

1 (WHEREUPON, Dorgan Exhibit
2 No. 4 was marked for
3 identification.)

4 BY MR. MCGINLEY:

5 Q Exhibit 4 has been tendered to you,
6 sir. It is -- As you are obviously aware, it's
7 your resume. I would like you to look at --
8 just talk to you about the education component
9 of your resume.

10 You had -- You received a Bachelor's
11 of Science in Earth science from Eastern
12 Illinois University, correct?

13 A That's correct.

14 Q Master's in Geography from Northern
15 Illinois University, concentration in Earth
16 science, right?

17 A Environmental science, correct.

18 Q Environmental science. Sorry. Thank
19 you. When you were at EIU, did you ever take
20 any classes in construction management?

21 A No.

22 Q Same question with respect to NIU,
23 did you ever take any construction management
24 classes there?

1 **A No.**

2 Q And you also pursued some additional
3 graduate coursework at Sangamon State, correct?

4 **A Correct.**

5 Q Did you ever do any construction
6 management coursework there?

7 **A No.**

8 Q Have you ever attended any
9 presentations on -- since graduating school on
10 construction management?

11 **A Certainly.**

12 Q You have. Okay. Tell me a few of
13 them.

14 **A I don't recall the specifics, but I**
15 **have been in the career for 35 years now and**
16 **have attended all form of seminars over time**
17 **and many of them involved, in particular,**
18 **remediation construction management.**

19 Q When is the most recent --

20 **A Most of the national conferences have**
21 **breakout sessions on the topic, and I have**
22 **attended several of those.**

23 Q When is the most recent one you went
24 to?

1 **A Within the last five years.**

2 Q Have you ever taken -- When you were
3 at EIU, did you take any accounting classes?

4 **A No.**

5 Q What about when you were at NIU
6 pursuing your master's degree, did you take any
7 accounting classes there?

8 **A No.**

9 Q Same question for Sangamon State,
10 ever take any accounting classes?

11 **A No.**

12 Q Have you ever taken any kind of
13 accounting classes at all?

14 **A I have.**

15 Q Can you tell us about those, please?

16 **A In my capacity as a leader within my
17 firm, I have managed our accounting program for
18 many years. Shortly before assuming those
19 responsibilities, I had taken a class through
20 the American Management Association called
21 Fundamentals of Finance and Accounting for
22 Nonfinancial Managers, which I found to be
23 extremely helpful in understanding the
24 accounting concepts that I have to deal with**

1 every day in my capacity as president of the
2 company.

3 Q And I don't see any of those --
4 having taken any of that accounting classwork
5 here on your resume; is that right?

6 A It's generally not something that I
7 would use on my professional resume for
8 purposes of establishing qualifications for my
9 other types of client work.

10 Q What about coursework in conducting
11 reviews of legal bills, have you ever taken any
12 classes about that?

13 A No.

14 Q What part of your undergraduate
15 education qualifies you to offer the opinions
16 that are set forth in the current report?

17 A Well, my undergraduate and graduate
18 educations allowed me to initiate the career
19 that I did in the environmental field; and as
20 my technical knowledge grew from the
21 experiences that I had, my technical role
22 expanded significantly through the years. I
23 have designed. I have managed. I have been
24 the construction manager for large remediation

1 projects similar to the one that was undertaken
2 at Johns Manville. I continue to be involved
3 in those types of projects to this day.

4 I've actually been in the role that
5 Dave Campanella is in having been the
6 construction manager responsible for
7 preparation of bids, selection of contractors,
8 management of contractor invoices, review of
9 contractor submittals, review of contractor
10 lien waivers and sworn statements, tracking of
11 the project expenses relative to the assumed
12 agreed-upon budgets and ultimately making
13 recommendations to the owner that payment of
14 these invoices was appropriate given the
15 confirmation that the work entailed had been
16 completed. And so from that perspective, it's
17 very similar.

18 I've also had the opportunity to
19 serve in capacities similar to Tat Ebihara
20 where I've actually been the consultant that's
21 been responsible for the design of the work and
22 the consulting oversight of the work.

23 So I believe my background is
24 entirely suitable to have been able to evaluate

1 **the information that was evaluated and render**
2 **the opinions that I did.**

3 **Q That's a very interesting**
4 **explanation. The question I asked you, though,**
5 **was whether your coursework, actually, in**
6 **either undergraduate or graduate had provided**
7 **you with any basis for the opinions.**

8 **A I believe I started out by saying the**
9 **coursework led to the type of career I had and**
10 **gave me a solid foundation for the experiences**
11 **that I've experienced as a professional.**

12 **So there would be relevancy even if**
13 **they weren't specific to your individual**
14 **inquiry.**

15 **Q Other than your current work for**
16 **Johns Manville on this matter, are there any**
17 **other matters that you've worked on since the**
18 **start of 2013 that are not listed on the**
19 **project experience section of your resume?**

20 **A Yes.**

21 **Q This is -- So is this not an**
22 **up-to-date resume?**

23 **A Our resumes don't reference every**
24 **single engagement we've ever worked on. They**

1 are intended to provide a representative
2 example of the types of engagements we worked
3 on to demonstrate the breadth and scope of our
4 experience.

5 Q Have you done anything since 2013
6 that you believe would be directly relevant to
7 the work that you've done in the course of
8 preparing your opinions as set forth in your
9 current report that's not listed on your
10 resume?

11 A I don't recall the specific projects
12 that are referenced on my resume, but I would
13 assume, yes, there are additional projects
14 since 2013 that would have relevance.

15 Q Can you give me an example?

16 A I can tell you right now I'm working
17 on several projects that are large industrial
18 properties that are undergoing redevelopment
19 that have long history of industrial use with
20 many and wide-varying legacy environmental
21 issues, and we routinely develop cost models
22 for the cost of the cleanup. We then monitor
23 and are involved in the implementation and the
24 oversight of the work being done that was

1 outlined within those models. We track costs
2 as the costs are incurred. We have
3 responsibilities for reporting on those costs;
4 and ultimately, we're responsible for
5 concluding as to whether the work is
6 progressing in a fashion consistent with the
7 approved work plans and whether the costs are
8 reasonable and whether they should be paid by
9 the owner.

10 Q And when you say developing cost
11 models, I mean, what does that mean, actually?

12 A That means looking at the information
13 that's available to us at the time and putting
14 an estimate together of what we anticipate the
15 ultimate costs will be to implement a -- some
16 form of cleanup, whether that be through a
17 regulatory process or an agreed order or a
18 state voluntary cleanup program or something of
19 that nature.

20 Q So it's an effort to essentially
21 project -- If I understand you correctly, it's
22 an effort to project what you believe would be
23 the costs involved. So as part of an overall
24 development, you can provide an owner with

1 information about what you think it will take
2 to get the property to a point where they can
3 start whatever development work they want to;
4 is that a fair summarization?

5 **A Yes.**

6 **Q** Other than the matter that you were
7 referring to, the two matters that you referred
8 to previously about being an expert witness
9 here in Illinois and also in Indiana, are there
10 any other engagements that you've had as an
11 expert witness where you were called upon to
12 provide similar types of opinions about cost
13 attribution, what you're doing in this case
14 today?

15 **A** I have had several, probably a half
16 dozen other cases, matters, where I have worked
17 on where I was not necessarily identified as
18 the testifying expert, but I was working as
19 part of the team that was evaluating the
20 information, writing, dissecting information,
21 allocating costs, evaluating reasonableness of
22 the costs incurred and ultimately supporting
23 the technical evaluation that was worked into
24 the expert's final report.

1 Q So you were sort of serving in a
2 consultative capacity for somebody else who was
3 being an expert witness; is that an accurate
4 statement?

5 **A That's reasonable.**

6 Q Prior to the work that you have done
7 with respect to the current report, have you
8 ever been asked to analyze and review legal
9 bills concerning the reasonableness of the fees
10 that are being billed for them?

11 **A Yes.**

12 Q You have. Please tell me about that.
13 What are those instances?

14 **A I review the fees that are generated**
15 **by legal counsel representing Weaver**
16 **Consultants. They have to be approved by me**
17 **before being paid by our accounting department.**

18 Q I don't see any mention of that in
19 your report.

20 **A I wasn't sure that it was relevant.**

21 Q You didn't think that it would be
22 relevant that you have professional experience,
23 apparently, in reviewing legal counsel's bills
24 and then to also make opinions about

1 Mr. Manikas' with respect to this matter?

2 **A I did not reference in my report the**
3 **specific experience I just referenced.**

4 Q How often would you say you've had
5 occasion to do that?

6 **A Monthly.**

7 Q For how long?

8 **A Ten years. I may not receive an**
9 **invoice every month but with regularity.**

10 Q So all billings by legal counsel to
11 Weaver Consultant Group for the past ten years,
12 you've reviewed them?

13 **A As well as other professional**
14 **consultants. And I would stipulate that it may**
15 **not have been all but certainly most.**

16 Q With respect to your resume, the list
17 of publications that's included here on
18 Presentations, I see the earliest is dated
19 1989. The most recent is 2011. I assume you
20 have done some presentations since 2011,
21 correct?

22 **A I have.**

23 Q Have any of those presentations
24 involved doing cost attribution work similar to

1 what you're doing here in the current report?

2 **A Not that I recall.**

3 Q Have you ever done any presentation
4 on cost attribution analysis or modeling?

5 **A Not that I recall.**

6 Q Have you ever written any publication
7 about cost attribution analysis similar to what
8 you're doing in this matter?

9 **A No.**

10 Q If I could ask you to turn back to
11 your report, please. Let's turn to Page 2.
12 Under -- This is the paragraph that starts
13 "During my career, I have extensive
14 experience," and with respect to Number 3,
15 "Designing environmental remediation programs
16 and preparing budgets to support the same."

17 Can you give me an example of where
18 you have done that?

19 **A Sure. We had a project here in the**
20 **western suburbs of Chicago, large industrial**
21 **facility, heavily contaminated with PCBs and --**
22 **our firm, and I was serving as a senior project**
23 **manager. So most of the work was done under my**
24 **direction: Was responsible for completing all**

1 of the investigation of the property and then
2 preparing all of the work plans that were being
3 done under a voluntary cleanup program through
4 the state of Illinois under the auspices of a
5 settlement agreement that had been reached by
6 private parties that were responsible for the
7 cleanup, and we designed the scope of the
8 environmental work. We put together the
9 preliminary budgets upon which the escrow was
10 established to pay for the work, and then we
11 allocated the costs for the work between the
12 various parties that were responsible for
13 funding the escrow.

14 Q And when you say "escrow," I mean,
15 what is the escrow with respect to? How are
16 you using the term in this instance?

17 A In the case I was just referencing,
18 the escrow was funded by the various parties
19 that were determined to be responsible for the
20 contamination that was present and so that all
21 the future work as it was being performed was
22 being paid for out of the escrow, and we were
23 responsible for the review of the invoices that
24 were coming in and the draws and requests on

1 **the escrow so that the subcontractors would be**
2 **paid.**

3 Q So were you working for the holder of
4 the escrow fund?

5 A We were working for one of the
6 parties that was one of the members of the
7 escrow fund under the agreement reached by the
8 various parties.

9 Q And was the escrow -- that member of
10 the escrow fund, the parties in the escrow
11 fund, the ones doing the work or were they
12 outside of that group?

13 A They were outside -- Well, they were
14 all responsible for doing the work, but we were
15 retained to actually manage and oversee the
16 work that was being done.

17 Q You know, before we go any further
18 down this line, I want to ask you just a little
19 bit more about your experience at Weaver
20 reviewing legal bills.

21 So what kinds of legal matters does
22 Weaver require legal counsel for?

23 MS. BRICE: Objection to the extent
24 that you're disclosing any sort of

1 confidential internal communications or
2 confidences of the business.

3 THE WITNESS: Understood.

4 BY THE WITNESS:

5 A As with many firms, we have
6 occasional matters involving employee law. So
7 we have issues of employees that have left that
8 may have certain grievances that they'll then
9 make application under various statutes to try
10 to recover certain rights as an employee.

11 We have, from time to time,
12 litigation matters surrounding projects that
13 we'll retain outside counsel to work with our
14 corporate counsel.

15 We have issues of corporate
16 governance documents that have to be modified
17 and updated from time to time. We have
18 corporate counsel that helps us with those.

19 We have counsel that helps us in
20 working with some of our lending institutions
21 and with some of our members, owners of the
22 company, and they'll review documents and
23 comment on documents and things of that nature.

24 So it can vary from all different

1 **sorts of types of services.**

2 BY MR. MCGINLEY:

3 Q Have you ever -- Has Weaver ever
4 retained counsel to advise the company with
5 respect to real estate matters?

6 A **Yes.**

7 Q And can you elaborate on that?

8 A We own a piece of property in the
9 western suburbs that we had originally been
10 involved as a result of having provided some
11 design services as part of a proposed
12 development. Part of that arrangement included
13 us having an ownership interest in the
14 property, and that hasn't worked out so well
15 yet, but we are continuing to work on it; and
16 there's legal representation working with us on
17 that right now.

18 Q Is that the only instance of any real
19 estate --

20 A We've had other projects that we had
21 equity positions in that involve real estate,
22 and we certainly had attorneys looking at those
23 issues as well.

24 Q Let's go back to your qualifications

1 under Page 2 of the report. Item Number 4, it
2 says: Developing bid package specifications.
3 What would these have been -- What types of
4 projects would these bid specs have been
5 developed for?

6 **A Well, just because I used this as an**
7 **example already, you'll probably need another**
8 **good one. The project that I just referenced**
9 **involving the PCB contamination, we developed**
10 **all of the bid documents for that document**
11 **including the general specifications, the**
12 **technical specifications, the contract, the**
13 **payment and retainer provisions and all of the**
14 **attendant documents that went with that.**

15 **Q With respect to Number 6: Overseeing**
16 **contractors implementing remediation actions**
17 **and managing budget, what's important about**
18 **overseeing work done by contractors? What's**
19 **involved with that, from your experience?**

20 **A Well, when we're retained in this**
21 **role like we were for a big hospital demolition**
22 **that occurred in the city, we were responsible**
23 **for -- In that particular case, the contractors**
24 **were not working for us. They were working for**

1 the owner, but we were tasked with overseeing
2 the daily operations, the schedule, payment
3 requests.

4 Part of our job was, as the payment
5 requests were coming in, they would oftentimes
6 be done on a unit rate base, so unit rate times
7 quantity, and we had to evaluate whether the
8 quantity being requested was appropriate and
9 was actually supported by the work that was
10 done.

11 In other instances, they may have
12 invoices that come in on a percent-complete
13 basis. So then the contractor tells us that
14 they think they are 70 percent complete. We
15 need to make an independent assessment as to
16 whether that's accurate or not so they're not
17 seeking payment for more than the actual work
18 that has been performed. And then, ultimately,
19 we would typically have weekly construction
20 meetings with -- usually it involved the owner
21 and contractors, and we would discuss schedule
22 and then review their pay requests and,
23 ultimately, approve the pay requests.

24 Q Were you overseeing that project?

1 **A Yes, I was.**

2 Q As part of your duties, were you
3 issuing anything like a daily progress report,
4 anything like that?

5 **A We had individuals that were working**
6 **on site that were, yes.**

7 Q In your experience, is a daily
8 progress report something that should be done
9 any day that there's construction work taking
10 place?

11 **A It's not unusual to create daily**
12 **progress reports.**

13 Q Okay. And what's the purpose of a
14 daily progress report? What are you trying to
15 document with that?

16 **A What took place that day because, as**
17 **you can imagine with a big project like that**
18 **with as much as is typically going on, trying**
19 **to remember what occurred on any given day can**
20 **be difficult without some progress report that**
21 **you can refer back to.**

22 Q As part of this work that you have
23 done, have you also -- you're reviewing costs
24 that are being billed for or sought by the

1 contractors, correct?

2 **A That's correct.**

3 Q And I take it you're looking to
4 ascertain the reasonableness of costs that are
5 being billed for?

6 **A Yes.**

7 Q Or sought to be paid out by the
8 contractor?

9 **A But when I say "reasonableness," I'm**
10 **saying reasonableness with respect to the**
11 **completed scope. Reasonableness of whether --**
12 **the costs, individual costs, usually takes**
13 **place at the point in time when the contractor**
14 **is bidding on the work.**

15 Q In your experience as -- in this kind
16 of oversight capacity, is it fair to describe
17 it as being oversight work?

18 **A In many instances, yes.**

19 Q Okay. Have you ever been confronted
20 with instances where a contractor had to redo
21 work on a project?

22 **A Yes.**

23 Q So what happens if the work has to be
24 redone because of the fault of the contractor?

1 Maybe the contractor doesn't do the work
2 according to the specifications. Have you ever
3 seen a situation like that?

4 **A Certainly.**

5 Q So in a situation like that, the
6 contractor wants to be paid. Do you pay the
7 contractor when they have to do, in essence, a
8 do-over or do you just say the loss falls to
9 you, sorry?

10 **A It really depends on what the**
11 **specifications say in terms of rework; but**
12 **oftentimes, work that is required to be redone**
13 **because of the faultiness of the original work**
14 **would typically be something that the**
15 **contractor would not be paid for.**

16 MR. MCGINLEY: Before I start my next
17 line of questions, how about we take a
18 quick five-minute break.

19 THE WITNESS: That's fine with me.

20 (WHEREUPON, a short
21 break was had.)

22 BY MR. MCGINLEY:

23 Q Mr. Dorgan, if I could ask you to
24 turn to page 2 of your report. This is

1 Section 1.2, Information Considered. One
2 preliminary question: I notice that in your
3 prior reports back in 2015, the expert report
4 that you did as well as the rebuttal report,
5 you had included a bibliography in both of
6 those earlier reports, but you didn't include a
7 bibliography in this report.

8 I was just wondering if you could
9 give us an idea as to why you didn't include a
10 bibliography here?

11 For sake of clarity, the bibliography
12 was a separate exhibit attached to the report.
13 So, if you could, I mean, what was the thought
14 process in not including one here?

15 **A It was a bit practical. Certainly**
16 **having some of the challenges we had with the**
17 **bibliography from the first report, I hoped to**
18 **avoid that. This report I elected to include**
19 **more of the references as footnotes in the**
20 **actual document itself. One of the benefits of**
21 **that is that the way that Microsoft Word works,**
22 **as soon as you insert a footnote, all the other**
23 **footnotes automatically adjust, and so I didn't**
24 **have a problem with having to go back and**

1 renumber every time something new was added.

2 So most of the references are
3 included directly in the report as a footnote,
4 and I would also speculate that there is
5 perhaps not quite as many references as there
6 were in the first phase of the matter.

7 Q It says that "To prepare this
8 report," first sentence under Section 1.2, "in
9 addition to relying upon my experience and my
10 involvement in the first phase of this case, I
11 have reviewed various documents and deposition
12 testimony associated with the investigation of
13 the sites." And I will just end right there
14 for a second.

15 I assume by the deposition testimony
16 reference, you are referring to the depositions
17 of Mr. Peterson, Mr. Myers from Johns Manville
18 as well as Mr. Ebihara; is that right?

19 A That's correct.

20 Q With respect to the various
21 documents, could you elaborate on what the
22 various documents were that you reviewed to the
23 extent that you recall?

24 A Well, of course, the documents that

1 **were being produced by Dr. Ebihara and**
2 **Mr. Peterson, the remedial action work plan**
3 **was --**

4 Q I'm sorry. Let me just stop you for
5 one second. I hate to do it, but I just want
6 to make sure we're clear about this.

7 You're saying the documents that were
8 produced by Mr. Ebihara and Mr. Peterson, just
9 break that out, please?

10 A Those were their cost tabulations.

11 Q Okay. So their cost tabulations?

12 A Yes.

13 Q Fine. Thank you.

14 A And the cover letters that came with
15 them.

16 Q Right. Thank you.

17 A The completion report was finalized
18 at some point along the way. I can't say that
19 I reviewed every single word of the document,
20 but I certainly spent some time with it trying
21 to understand the information that was
22 presented. Those would have been examples of
23 the types of documents I was referring to.

24 Q Besides the cost tabulation and the

1 final report, what else did you look at?

2 A Of course I reviewed so many original
3 records relative to the original specifications
4 that were designed for the Amstutz project,
5 some of the figures that were included in the
6 previous hearing as I selectively pulled some
7 information that were presented in that one
8 into this one. That would be -- I mean, I'm
9 sure there's a few others that I'm not thinking
10 of right now, but those are kind of examples of
11 the one that I was looking at.

12 Q You're saying original records and
13 the figures. When you're referencing figures,
14 are you just describing or do you mean to
15 reference only the -- what, the as-builts from
16 IDOT for the Amstutz project or are there other
17 figures that you were referring to?

18 A No, the Amstutz and then the figures
19 that were used in the hearing I looked at.

20 Q Okay.

21 A And, of course, there's several
22 exhibits in my report that --

23 Q That's right. Yes. We will get to
24 those. You interviewed some folks in the

1 course of preparing your opinions in the
2 current work, correct?

3 **A Correct.**

4 **Q And who did you interview?**

5 **A Primarily Dr. Ebihara and, as I think**
6 **I indicated earlier, there may have been**
7 **occasions when Shannon Flanagan had been on the**
8 **phone as well. Usually not. And then Dave**
9 **Peterson; and I had a very brief phone call**
10 **with Scott Myers at one point in the process.**

11 **Q With respect to Mr. Myers' brief**
12 **phone call, do you recall what the subject**
13 **matter was about?**

14 **A Basically to have him explain to me**
15 **their payment process. I had been provided the**
16 **payment records that Johns Manville had**
17 **produced demonstrating that the payments that**
18 **had been received had been made showing no**
19 **outstanding amounts other than for work that**
20 **was still pending.**

21 **That had also been communicated to me**
22 **by both Dr. Ebihara and Mr. Peterson, and my**
23 **question was really a simple one, which is: To**
24 **the best of your knowledge, has everything been**

1 **paid? Is there anything that's not been paid?**
2 **Is there anything that won't be paid for**
3 **whatever reason? And he confirmed for me that**
4 **all of the invoices that had been received had**
5 **been paid, and he expected that any future**
6 **invoices received would be paid as well.**

7 **Q So you think that was just a one-off**
8 **occurrence with Mr. Myers?**

9 **A That's what I recall, yes.**

10 **Q And with Mr. Peterson, was it one**
11 **time that you spoke to him or more than one**
12 **time?**

13 **A More than one time.**

14 Q And when you say -- I mean, you've
15 indicated in your report that you interviewed
16 Mr. Myers -- I'm sorry. Not Mr. Myers --
17 Mr. Peterson, Mr. Ebihara. So did you prepare
18 a list of questions or anything like that
19 before you sat down and spoke with
20 Mr. Peterson?

21 **A Yeah. I would typically have some**
22 **questions as I was working through looking at**
23 **their tables, and I would be asking them**
24 **specific questions about the way that the table**

1 was constructed, asking them questions to help
2 me understand the thought process, make sure I
3 had clear in my own mind what the differences
4 were between how they were breaking out their
5 costs. So that would be pretty typical, and
6 that was an ongoing process.

7 Q And how would you create those lists
8 of questions, on your computer? Were you doing
9 it by hand?

10 A I would have them on my report or on
11 the draft of the table that I was working off
12 of.

13 Q How many times do you think you spoke
14 with Mr. Peterson over the course of this
15 project?

16 A I would say at least a half dozen
17 times.

18 Q What about for Mr. Ebihara, how many
19 times do you think you spoke with him?

20 A Probably the same.

21 Q Similar process with both Mr. Ebihara
22 and Mr. Peterson, you would develop a list of
23 questions, sit down and speak with them and
24 then work through your questions to get your

1 answers?

2 **A Yes.**

3 **Q And the -- When you say "the chart,"**
4 **I assume that you were creating this in Excel**
5 **or what were you creating the document in?**

6 **A Well, there were three. There were**
7 **the tables that Dr. Ebihara and Mr. Peterson**
8 **were giving me, and then there was a table that**
9 **I was creating, which is Exhibit F in the**
10 **report. I had PDF versions, I believe, from**
11 **Dr. Ebihara; I had an Excel version from**
12 **Mr. Peterson; and, of course, my document was**
13 **being generated in Excel.**

14 **Q I'm sorry. PDFs were from**
15 **Mr. Peterson and Excel was from Mr. --**

16 **A No. Mr. Ebihara provided the PDFs,**
17 **and Mr. Peterson provided Excel.**

18 **Q And you were creating your chart in**
19 **what?**

20 **A Excel.**

21 **Q Would the -- You wouldn't have any**
22 **separate notes outside of what you were putting**
23 **into your chart?**

24 **A That's correct.**

1 Q Did you review all of the invoices
2 from contractors and consultants that were
3 generated over the course of this project?

4 A I did not.

5 Q Have you reviewed any of the
6 invoices?

7 A I did. I selectively looked at
8 various invoices to understand how they were
9 structured and the type of content that was
10 included.

11 Q Did you receive copies of all the
12 invoices?

13 A Yes.

14 Q Were you provided copies
15 of all the invoices?

16 A Yes.

17 Q At what point were you provided with
18 those invoices?

19 A Second half of 2017.

20 Q And when you say you selectively
21 looked at invoices, what were you hoping to --
22 what information were you hoping to glean from
23 looking at those invoices?

24 A I really wanted to understand what it

1 was that both Dr. Ebihara and Mr. Peterson were
2 seeing as it related to how they then
3 translated those invoices into the tabulations
4 that they were preparing.

5 Q Did you just choose the invoices
6 yourself or did Mr. Ebihara or Mr. Peterson
7 suggest invoices that you should look at, and
8 then you can both look at them together?

9 A No. I just spot-checked.

10 Q You just spot-checked?

11 A Yeah.

12 Q Okay. Are you familiar with the term
13 "redaction"?

14 A Yes.

15 Q What's that term mean to you?

16 A Where material on a document has been
17 overwritten or hidden in some way so that it
18 can't be viewed by others.

19 Q In the course of your doing any of
20 the work that you did on the current report,
21 were you provided with documents that were
22 redacted?

23 A The Manikas invoices. The consultant
24 or the legal expert that assisted with some of

1 **the entitlement work on easements did have some**
2 **redacted items on the invoices that I reviewed.**

3 Q Were you provided with unredacted
4 copies of those invoices?

5 **A No.**

6 Q Just the redacted?

7 **A Correct.**

8 Q If I could turn your attention,
9 please, to page 4 of your report, Section
10 1.41 -- 1.4.1, I should say. Could you read
11 that first sentence for us, please?

12 **A "JM entered into the AOC with USEPA**
13 **in 2007. The AOC required that JM investigate**
14 **and, to the extent necessary, remove ACM found**
15 **at certain locations."**

16 Q Okay. You can stop there. Thank
17 you. In fact, the AOC was entered into by both
18 Johns Manville and Commonwealth Edison; isn't
19 that right?

20 **A I'm not sure I can confirm that**
21 **independently.**

22 Q You're not aware of the fact that
23 Commonwealth Edison is also a respondent under
24 the AOC?

1 **A** **I'm aware that Commonwealth Edison is**
2 **involved. Whether they are a signatory to the**
3 **AOC is not something I spent any time looking**
4 **at.**

5 **Q** **Are you also aware that in the**
6 **earlier phase of this case with respect to the**
7 **environmental technical documents, if we could**
8 **characterize them as such, you're familiar with**
9 **the environmental evaluation, the EECA,**
10 **correct?**

11 **A** **Yes. I am.**

12 **Q** **You're familiar with the remedial**
13 **action work plan and its various iterations,**
14 **correct?**

15 **A** **Yes. Correct.**

16 **Q** **And you're also then, I take it,**
17 **familiar with the fact that both the EECA, the**
18 **various versions of that, as well as the**
19 **various versions of the remedial action work**
20 **plan jointly being submitted by Commonwealth**
21 **Edison and Johns Manville to USEPA, correct?**

22 **A** **I don't recall that offhand, but I**
23 **won't argue that that's not the case.**

24 **Q** **Did you go back and look at any of**

1 those -- either the EECA or the remedial action
2 work plan in the course of preparing the
3 current report?

4 MS. BRICE: Objection, asked and
5 answered. You can answer.

6 BY THE WITNESS:

7 A I did.

8 BY MR. MCGINLEY:

9 Q But yet you didn't notice whether
10 Commonwealth Edison was also a party to those
11 documents or listed as co-submitters of those
12 documents; is that your testimony?

13 A That wasn't the purpose of my review
14 to establish that. I was looking for other
15 information.

16 Q In the course of your preparing the
17 current report, did you speak with anybody at
18 Commonwealth Edison?

19 A No.

20 Q Have you ever spoken with anybody at
21 Commonwealth Edison in the course of any of the
22 work that you've done on this matter?

23 A No.

24 Q I would like to direct your

1 attention, please, to Section 1.4.2 entitled
2 "History of Scope of Remedial Action." Turning
3 your attention, please, to the last paragraph
4 of the page just before the bullet points. It
5 says, "The various tasks required by USEPA and
6 performed with respect to the sites fall into
7 the following task buckets."

8 Was it your idea to develop this
9 concept of task buckets? Did you do that by
10 yourself or in conjunction with other people?

11 **A I would say that was a collaborative**
12 **effort.**

13 Q And who would that collaborative
14 effort involve besides yourself?

15 **A Dr. Ebihara and Mr. Peterson.**

16 Q And at what point in time were you
17 having the discussion that led to your decision
18 to use this concept of task buckets?

19 **A It was pretty early in those**
20 **communications as they were tabulating their**
21 **cost data and beginning to put it into their**
22 **spreadsheets that they were beginning to share**
23 **with me, and we had some dialogue about what**
24 **should this be, work elements. We had several**

1 **conversations about it; but, at the end of the**
2 **day, we kind of agreed, let's call it task**
3 **buckets.**

4 Q So early on when you were having
5 these discussions with Mr. Ebihara and with
6 Mr. Peterson, were you talking about any issues
7 concerning this effort that you were tasked
8 with doing about cost attribution?

9 MS. BRICE: Objection to the form of
10 the question.

11 BY MR. MCGINLEY:

12 Q You can answer.

13 A **They were aware as to what I needed**
14 **the information for.**

15 Q And you specifically advised them
16 that the purpose of needing this information
17 was to do what?

18 A **That I would ultimately have to**
19 **render an opinion on -- of the costs that were**
20 **incurred with the help of them tabulating it.**
21 **I would then have to allocate it to IDOT based**
22 **upon the Board's ruling.**

23 Q The first bullet point, "Nicor Gas
24 Line identified as Nicor Gas on Exhibit B and

1 Nicor on Exhibit C." The Exhibit B and
2 Exhibit C refer to what exactly?

3 **A The cost tabulations prepared by both**
4 **AECOM and DMP.**

5 Q And those are the cost tabulations
6 that are attached to your report, correct?

7 **A That's correct.**

8 Q Exhibit B and Exhibit C are, in fact,
9 comprised of more than -- they're comprised of
10 multiple tables in both cases, right, both
11 exhibits?

12 **A That's correct.**

13 Q Do you know which of these -- which
14 table in Exhibit B or Exhibit C has that
15 information?

16 **A I don't understand the question.**
17 **Which information?**

18 Q When you're saying: Following the
19 tasks required by USEPA performed with respect
20 to the sites fall into the following task
21 buckets: Nicor Gas Line identified as Nicor
22 Gas on Exhibit B and Exhibit C, which tables in
23 Exhibit B and Exhibit C does that designation
24 appear; do you know?

1 **A I would need the tables to --**

2 MS. BRICE: Objection. As noted
3 earlier, the document in front of him
4 doesn't have the tables. So I think if he
5 has the tables, he could maybe tell you.

6 MR. MCGINLEY: Sure. I can do that.
7 Can you mark that 5, please. Thank you.

8 (WHEREUPON, Dorgan Exhibit
9 No. 5 was marked for
10 identification.)

11 BY THE WITNESS:

12 **A So you have just given me Exhibit B,**
13 **correct?**

14 BY MR. MCGINLEY:

15 Q That is correct. Can you tell me --
16 So you have Exhibit B in front of you. This is
17 Exhibit 5, Exhibit B in your report, correct?

18 **A Correct.**

19 Q Can you tell me what tables we would
20 look for to find the Nicor reference?

21 **A On Exhibit B, it would be Table 1.**

22 Q How about for the City of Waukegan
23 Water Line, would that also be on Table 1?

24 **A That's correct.**

1 Q Is that the case for all of these,
2 whenever you're referencing Exhibit B as a
3 task-bucket item, the corresponding information
4 could be found on Table 1 of Exhibit B?

5 A **That's correct.**

6 Q Exhibit 5 to this deposition,
7 correct?

8 A **Yes.**

9 Q Okay. Thank you.

10 MR. MCGINLEY: Will you mark this as
11 Exhibit 6, please.

12 (WHEREUPON, Dorgan Exhibit
13 No. 6 was marked for
14 identification.)

15 BY MR. MCGINLEY:

16 Q Which table in Exhibit C corresponds
17 to -- which table, I'm sorry, in Exhibit C of
18 your report, Exhibit C in the deposition,
19 corresponds to the information listed for task
20 buckets, sir?

21 A **You'll see it referenced on both**
22 **Table 1 and Table 2, and I believe Table 3 as**
23 **well.**

24 Q Thank you. I would like to turn your

1 attention, please, to the last bullet item on
2 page 4. "Northeast Excavation, identified as
3 Northeast Excavation on Exhibit B and Northeast
4 Excavation on Exhibit C."

5 Isn't -- First of all, northeast
6 excavation, what you have characterized as
7 that, isn't that -- That's depicted in your
8 expert report from 2015, correct?

9 **A It is.**

10 Q That same area?

11 **A Yes. It's also depicted on a figure**
12 **in my document.**

13 Q In which document?

14 **A In my current document.**

15 Q Yes. In the current document.
16 That's right.

17 MR. MCGINLEY: I guess we could just
18 make the figures a group exhibit.

19 MS. BRICE: Can you identify which
20 figures these are for the record?

21 MR. MCGINLEY: The figures are the
22 figures that were attached originally to
23 Mr. Dorgan's current report.

24 MS. BRICE: Current report?

1 MR. MCGINLEY: Current report. Yes.

2 MS. BRICE: Okay.

3 MR. MCGINLEY: Mark this Exhibit 7,
4 please.

5 (WHEREUPON, Dorgan Exhibit
6 No. 7 was marked for
7 identification.)

8 MR. MCGINLEY: Then we will do this
9 as Exhibit 8, because we'll need both,
10 unfortunately, to go back and forth.

11 (WHEREUPON, Dorgan Exhibit
12 No. 8 was marked for
13 identification.)

14 BY MR. MCGINLEY:

15 Q Mr. Dorgan, Exhibit 7 that's in front
16 of you, Group Exhibit 7, calling your attention
17 to Figure 1, just let me know when you have got
18 that in front of you.

19 A I have that.

20 Q And with Exhibit 8, your 2015 report,
21 if I could --

22 A I'm sorry?

23 Q Exhibit 8, which is the 2015 report
24 that's on top of the figure, right there.

1 **A** **Oh, okay.**

2 Q You have got it turned to the right
3 page.

4 **A** **I have got it.**

5 Q So it's Figure 2 of your 2015 report
6 and Figure 1 of your current report. If you
7 look at your 2015 report --

8 MR. MCGINLEY: I'm sorry. Do you
9 mind if I just reach over and point?

10 MS. BRICE: Oh, no.

11 MR. MCGINLEY: Okay. Thanks.

12 BY MR. MCGINLEY:

13 Q So what I'm pointing to right now on
14 your 2015 report on Figure 2, this area of
15 excavation that's demarcated in the northeast
16 corner of Site 3, right --

17 **A** **Correct.**

18 Q -- that's the same geographic scope
19 as what's depicted as the northeast excavation
20 in Figure 2 of your current report, correct?

21 **A** **Same general geographic scope, yes.**

22 Q The northeast excavation has how many
23 borings in it? And maybe it would make sense
24 to -- Actually, if we could turn to Figure 2 of

1 your current report. This is Figure 2 in Group
2 Exhibit 7 for this deposition. Just let me
3 know when you've got that in front of you.

4 **A I have got that.**

5 Q How many borings with visual ACM
6 observed are located in the northeast
7 excavation area?

8 **A There's four shown on this figure.**

9 Q And how many areas where visual ACM
10 was observed are listed on Figure 2 of your
11 current report?

12 **A I don't believe Figure 2 references**
13 **visual ACM. It references samples where ACM**
14 **had been detected in the soil samples.**

15 Q I'm talking about your current --

16 MS. BRICE: Yeah, that's what he's
17 saying. Look at the note down at the
18 bottom.

19 BY MR. MCGINLEY:

20 Q It says "visual ACM observed," right?

21 **A Figure 2?**

22 Q We're talking about Figure 2 of your
23 current report.

24 **A Yes, yes.**

1 Q And there is a note in the lower
2 right-hand corner, orange circle, "visual ACM
3 observed;" do you see that?

4 A Yes.

5 Q My question to you, sir, is --

6 MS. BRICE: Sorry. I was pointing to
7 the note on the left-hand side about sample
8 locations with visual ACM detected over
9 2.5 percent. Sorry. Just for
10 clarification, I might have misdirected
11 people. I apologize.

12 MR. MCGINLEY: It's okay.

13 BY MR. MCGINLEY:

14 Q The orange circle, "visual ACM
15 observed," how many points on Figure 2 have
16 visual ACM observed?

17 A Four.

18 Q On all of Figure 2?

19 A Oh, I'm sorry. I was assuming you
20 meant within the northeast excavation.

21 Q Right.

22 A Well, let me take a second to count.
23 It appears 17.

24 Q Let's turn our attention back to the

1 northeast excavation. Of the four points where
2 visual ACM is observed in the northeast
3 excavation, how many of those points are
4 subject to the Board's 2016 order?

5 **A I don't recall specifically, although**
6 **I believe three of the four borings were**
7 **specifically referenced in the Board's order.**

8 Q You know, I'm sorry. We're going to
9 have to stop for one second because I have to
10 get you a copy of that order if we're going to
11 go forward with this testimony.

12 MS. O'LAUGHLIN: Here.

13 MR. MCGINLEY: Do you have a copy?

14 MS. O'LAUGHLIN: Yeah, and I think
15 it's clean.

16 MR. MCGINLEY: Can we mark this,
17 please?

18 (WHEREUPON, Dorgan Exhibit
19 No. 9 was marked for
20 identification.)

21 BY MR. MCGINLEY:

22 Q Mr. Dorgan, if I could direct your
23 attention to Page 22. You're familiar,
24 obviously, with the order, right, Exhibit 9?

1 **A Yes.**

2 **Q You have seen this before?**

3 **A Yes, I have.**

4 **Q Page 22, sir, if I could ask you to**
5 **read the first paragraph under "Additional**
6 **Hearing."**

7 **A The first paragraph?**

8 **Q Yes, please.**

9 **A As explained above, the Board finds**
10 **that IDOT caused and allowed open dumping of**
11 **ACM waste. Specifically, IDOT caused open**
12 **dumping of ACM waste along the south side of**
13 **Greenwood Avenue within Site 6 (1S to 4S) and**
14 **adjacent areas along the north edge of Site 3**
15 **(B3-25, B3-16, and B3-15). IDOT continues to**
16 **allow open dumping as long as ACM waste remains**
17 **in these locations. Additionally, IDOT allowed**
18 **open dumping on Parcel 0393 (B3-25, B3-15,**
19 **B3-16, B3-50, and B3-45 (to the extent Sample**
20 **B3-45 falls on Parcel 0393)).**

21 **Q In representing the northeast**
22 **excavation as you've depicted here on Figure 2**
23 **to your expert report, Group Exhibit Number --**
24 **Group Exhibit 7, is it your assertion that IDOT**

1 is responsible for contamination at B3-45?

2 **A It was my position that, yes, they**
3 **would be.**

4 Q Do you know if B3-45 is within -- and
5 on the Figure 2, I note that in the middle of
6 Site 3, you have a notation here, "Parcel
7 Number 0393 per legal description," and that
8 black line is the boundary, right? You've
9 depicted the boundary of 0393 on Figure 2,
10 correct?

11 **A That's correct.**

12 Q B3-45, it appears to be on the line
13 between 0393 -- inside and outside of 0393; is
14 that right?

15 **A It certainly is partially on the**
16 **line.**

17 Q Do you know specifically where 03 --
18 the boundary for 0393 is with respect to the
19 location of B3-45?

20 **A I do not have personal knowledge as**
21 **to the precise and exact location of the**
22 **boundary with respect to the soil boring.**

23 Q Are you aware of any survey that
24 places B3-45 inside the lines of 0393?

1 **A Not that I'm aware of.**

2 Q And that's the question that the
3 Board has too, right?

4 **A Apparently.**

5 Q What would -- Are you -- Within a
6 reasonable degree of professional certainty, do
7 you believe that B3-45 is within 0393?

8 **A It looks like it to me.**

9 Q And then can you elaborate on why you
10 think that's the case given the fact that, by
11 your own testimony, it appears to be on the
12 line?

13 **A Well, it looks to be partially on the**
14 **line. It also looks to be partially within**
15 **B3-45 and, I guess, borrowing upon my soccer**
16 **experience, when a ball is on the line, it's**
17 **still inbound; and that would be part of my**
18 **rationale as to why I consider it to be inside**
19 **0393.**

20 Q But just to play up on the soccer
21 experience, we don't exactly have
22 video-assisted refereeing here either. So you
23 have to admit that it's still -- it's not
24 exactly a clear case, right?

1 MS. BRICE: Objection, asked and
2 answered.

3 BY MR. MCGINLEY:

4 Q You can answer, sir.

5 **A It's a close call.**

6 Q It's a close call. But you can't be
7 100 percent certain of that, right?

8 **A Not 100 percent, no.**

9 Q Let me ask you this: When was that
10 boring first drilled; do you know?

11 **A I don't recall the specific date.**

12 Q I will represent to you that it
13 happens to have been in place for about
14 20 years. That was when it was first drilled.
15 Does that sound about right to you?

16 **A That would be reasonable.**

17 Q When these soil borings were -- Well,
18 based on your experience in doing environmental
19 work, site investigation work, how do you
20 typically go out and attempt to locate where to
21 place soil borings? What procedures would you
22 follow in laying out soil borings?

23 **A Well, there's several. There's one**
24 **method where it's completely random, and you**

1 have something called a ratified -- random
2 ratified sampling strategy where you would lay
3 out a grid over the site, and you would then,
4 using something like a random number generator,
5 pick coordinates and that would be the location
6 that you would go out and drop a boring.

7 In other instances, you would do it
8 based on judgment. If you went out and found a
9 specific potential source that you think could
10 be responsible for an impact, you may then
11 choose to locate a boring close to that source,
12 and then subsequent borings generally are
13 implemented after you've identified a source
14 and are now trying to define the boundaries of
15 it.

16 Q Would you typically expect to see
17 coordinate information associated with the soil
18 boring?

19 A Sometimes but not all the time.

20 Q And why would you have coordinate
21 information, too, associated with the soil
22 boring?

23 A If a soil boring was surveyed and the
24 actual coordinates of its location were

1 **established, you would then have it.**

2 Q But the reason you would do that, I
3 assume, is to have as precise a sense of where
4 that soil boring is, if possible, right?

5 **A That's true, but it doesn't happen**
6 **very often.**

7 Q B3-46, you would admit that that's
8 not part of the Board's December 2016 order,
9 correct?

10 **A That's correct.**

11 Q And S3-50B, which is depicted in the
12 northeast corner -- northeast excavation,
13 excuse me, that's not part of the Board's order
14 of December 2016 either, is it?

15 **A I don't believe so.**

16 Q If I could ask you to turn your
17 attention to Section 2.1 of your report. If
18 you could read, please, the second paragraph on
19 Page 6 and the two bullet points underneath
20 that, please, and I will ask you a few
21 questions.

22 **A 2.1 of page 6?**

23 Q Yes, the summary.

24 **A And the two bullet points?**

1 Q Yes, please.

2 A Okay. "The following presents a
3 summary of the costs JM paid or will pay in
4 connection with the work performed on the sites
5 under the RAWP," or the remedial action work
6 plan. "JM retained various vendors who
7 generally performed three types of services
8 with respect to the sites: (1), professional
9 engineering services; (2) construction
10 services; and (3) overall support services.

11 "To align the services provided and
12 costs incurred with the IPCB Order, I requested
13 that Dr. Tatsuji Ebihara of AECOM who has been
14 involved with the sites since 2007 and Mr. Dave
15 Peterson of DMP PE, PC (DMP), the engineer
16 overseeing the removal/construction
17 implementation on the sites since 2000, to
18 complete the following tasks:

19 "Segregate costs incurred/invoiced on
20 Site 3 from those incurred/invoiced on Site 6;
21 allocate the segregated costs into the various
22 task buckets above."

23 Q Thank you. So this, what you just
24 read, this is the process that you were talking

1 about earlier, right? Is that -- You were
2 consulting, collaborating with Mr. Ebihara and
3 with Mr. Peterson in devising this approach to
4 segregate the costs invoiced for the project;
5 is that right?

6 **A That's correct.**

7 Q Did they have any difficulties going
8 through the segregation? Were they the ones
9 doing the segregation above the costs?

10 **A Yes.**

11 Q Did they have -- What challenges did
12 they face in the course of segregating out
13 those costs?

14 **A Well, I think they had independently**
15 **different types of challenges.**

16 Q Tell me about Dr. Ebihara's
17 challenges first.

18 **A Dr. Ebihara, some of the early work**
19 **that was done on the site, invoicing had not,**
20 **at that point, been segregated between Site 3**
21 **and Site 6. So there were costs for Site 4, 5**
22 **that were included in some of the invoicing,**
23 **and one of the first things he had to do was to**
24 **go in and assess which of the work and,**

1 therefore, which of the costs were related to
2 Site 4, 5 so he could pull them out of his
3 analysis of the costs for Site 3 and Site 6;
4 and once he had done that, he then had to
5 allocate the costs that remained through to the
6 various task buckets that then, by that time,
7 had begun to evolve for how it eventually was
8 represented in the report.

9 Q Okay. And what about for
10 Mr. Peterson, what kinds of challenges did he
11 face in that segregation?

12 A He faced some of the same challenges
13 owing to the way that the work had originally
14 been billed and originally had been invoiced.
15 The original contractor invoices had not been
16 structured to bill separately for work on
17 Site 6, Site 3 and Site 4, 5. So he had to go
18 through a process of assigning them between
19 both the original base bid and then the T&M
20 services for Site 3 and Site 6 and then the
21 same process of allocating them into the task
22 buckets that Dr. Ebihara had to go through.

23 Q And what, I mean, was your
24 understanding of how they actually went about

1 that process? Were they simply looking at
2 invoices or were they looking at invoices and
3 comparing the information, numbers on those
4 invoices, with some other set of information?

5 **A I believe they were looking at the**
6 **invoices, but then they were going back and**
7 **looking at their daily reports. They were**
8 **looking at pictures that were taken during the**
9 **construction effort. They were looking at**
10 **invoices coming in from contractors and**
11 **descriptions on the invoices on the -- the**
12 **contractor invoice descriptions, and I'm sure**
13 **there were other sources that they relied on to**
14 **allocate where the work was actually being**
15 **performed so it could then be assigned to one**
16 **of the buckets.**

17 **Q In doing that activity, they're not**
18 **doing it contemporaneously for the most part**
19 **when the work is occurring, right? I mean,**
20 **they're looking back in time and trying to**
21 **piece out those costs and attribute it to**
22 **various activities, right? I mean, they're**
23 **looking at old invoices, in some cases years**
24 **after the fact, and trying to figure out what**

1 those costs from those older invoices were and
2 how they pertained to the costs that are at
3 issue in the case currently, correct?

4 A I would say that's true in part
5 certainly for the older work where the
6 invoicing had not had the degree of segregation
7 that it did during the later phases of the
8 project.

9 There came a point in time where they
10 did begin allocating and separating the costs
11 between Site 3 and Site 6. So the effort there
12 was a little bit easier, and then it was just a
13 matter of allocating it to the task buckets.

14 Dave's work, his base bid, his costs
15 were organized by Site 3 and by Site 6 to begin
16 with. He then had to go through a similar
17 exercise for the T&M costs that were incurred
18 over the course of the project by allocating
19 them between Site 3 and Site 6 and then
20 allocating them into the task buckets again.

21 Q The costs that Dr. Ebihara had to go
22 through, I mean, how far back in time was he
23 looking?

24 A I don't recall the specific date,

1 **although if you will allow me to look at his**
2 **table, I can tell you exactly.**

3 Q Sure, if you can find it in the
4 paper.

5 A **It's this one.**

6 Q And just for the record, you're
7 looking at which exhibit now?

8 A **I'm looking at Exhibit 6, which is**
9 **the tabulation for DMP services.**

10 MS. BRICE: Was the question about
11 Ebihara or Peterson?

12 MR. MCGINLEY: Ebihara.

13 BY THE WITNESS:

14 A **Oh, Ebihara?**

15 BY MR. MCGINLEY:

16 Q Yes.

17 A **Therefore, I'm looking at Exhibit 5.**

18 Q Okay.

19 A **And it appears the earliest invoice**
20 **date for Dr. Ebihara is for the 20th of June in**
21 **2007, which covers services provided between**
22 **April 28th of 2007 and June 1st of 2007.**

23 Q So, in essence, Dr. Ebihara was going
24 through a, kind of, forensic exercise to try

1 and parse out those costs from going back in
2 time over ten years to segregate them out into
3 the task buckets today, correct?

4 **A** **I'm not sure how I would characterize**
5 **Dr. Ebihara's effort. I just know he was**
6 **evaluating the information he had in making the**
7 **allocations that he did.**

8 **Q** **Were you concerned at all that there**
9 **might be some degree of subjectivity or**
10 **interpretation that went into how Dr. Ebihara**
11 **would have gone through and pulled out those**
12 **numbers for you?**

13 **MS. BRICE:** **Objection to the form of**
14 **the question.**

15 **BY THE WITNESS:**

16 **A** **My discussions with Dr. Ebihara, he**
17 **seemed to have a reasonable approach towards**
18 **how he was evaluating the information and the**
19 **types of sources that he was relying upon to**
20 **make his allocations; and, again, that was not**
21 **work that I was specifically directly involved**
22 **with. So I had to rely on the approach that he**
23 **was taking, which I thought was reasonable and**
24 **was adequate for purposes of my evaluation.**

1 BY MR. MCGINLEY:

2 Q Was it solely Mr. Peterson and
3 Dr. Ebihara's role of assigning the costs into
4 the task buckets or did you play a role in
5 that?

6 **A They assigned them into the task**
7 **buckets.**

8 Q So they essentially put them into the
9 task buckets, put the costs into the
10 appropriate -- what they believed to be the
11 appropriate task buckets in the first order of
12 business, right?

13 **A Correct.**

14 Q Did you end up reviewing that change
15 in allocations of work between task buckets
16 that Mr. Peterson or Dr. Ebihara had done?

17 **A No.**

18 Q So once Dr. Ebihara had assigned
19 costs to a task bucket, it was final, as far as
20 you were concerned, correct?

21 **A That's correct.**

22 Q Same thing with respect to
23 Mr. Peterson, once he assigned a cost into a
24 task bucket, it was done as far as you were

1 concerned?

2 A I will say I recall at one point he
3 did -- and I'm trying to remember now the
4 specific circumstances, but on the T&M services
5 for Mr. Peterson, he did make a change when I
6 began asking him questions about what it
7 specifically related to; and I would need to go
8 back to look at his table to see if I could
9 recollect exactly what that change was, but
10 there was at least one.

11 Q Let me ask you this: When you refer
12 to things as being T&M services, what exactly
13 does that mean?

14 A My understanding was when the project
15 was originally bid, it was bid understanding
16 the scope of work that was understood at the
17 time. So they were able to put a bid package
18 together that outlined the work as it was known
19 and was going to be required. There were still
20 ongoing negotiations with the regulators about
21 the final scope so that the scope known at the
22 time was incorporated into the base bid; and
23 then as the scope evolved based upon additional
24 requirements from the regulators, obviously,

1 the base bid had already been let. Now, they
2 had additional work that had to be done, and
3 they handled that additional work on a
4 time-and-materials basis.

5 Q And the contract that was entered
6 into, let's say, between Campanella and Johns
7 Manville has provisions in it for time and
8 materials, correct?

9 A That's correct.

10 Q Is that a standard industry practice?

11 A It is.

12 Q Time and materials, I mean, contracts
13 generally make some allowance for that; is that
14 correct?

15 A Yes.

16 Q So it's, in essence, a sort of
17 contingency scenario that arises after the
18 initial contract is entered into; is that
19 right?

20 A That's correct.

21 Q If I could turn your attention to
22 2.1.1 under Professional Engineering Services,
23 if you could just read that first sentence to
24 me, please.

1 **A From April of 2007 to July of 2017,**
2 **professional engineering services were being**
3 **provided by several consulting firms including**
4 **LFR/Arcadis (June 2008-2012) and AECOM**
5 **(February 2012-present).**

6 Q I'm just a little confused about this
7 sentence, and let me tell you why. You're
8 saying initially professional engineering
9 services were incurred by Johns Manville
10 between April of 2007 through July of 2017;
11 and, at the same time, at the end of the
12 sentence, you're saying that AECOM, which I
13 assume is providing professional engineering
14 services, is doing it from February 2012 to the
15 present.

16 So are professional engineering
17 services currently being incurred or did they
18 end back in July of 2017?

19 **A There are some ongoing services that**
20 **are being provided.**

21 Q So did you really mean to say then
22 from April of 2007 to the present? Because it
23 says July 2017. I want to make sure we
24 understand why that date is there.

1 A That's a good question. I know that --
2 I believe the way that it's written is the work
3 started in April of 2007, which I have already
4 referenced, and there was probably a point in
5 time early when I was working on this that the
6 heavy lifting had finished by July of 2017 but
7 that there are ongoing efforts today that AECOM
8 continues to be involved with in support of
9 some of the O&M work. So that probably could
10 be worded more clearly.

11 Q So the ongoing professional
12 engineering services that AECOM is providing as
13 of the present day, and I suppose for some
14 period of time into the future, is that just
15 dealing with O&M costs or is there anything
16 else involved with that?

17 A I think they also still -- I don't
18 know that the final completion report has been
19 approved yet. So there may be some ongoing
20 dialogue and modifications of that that will be
21 needed as well.

22 Q You haven't heard about the
23 completion report being approved yet by USEPA,
24 right?

1 **A That's correct.**

2 Q So O&M and anything that comes up
3 contingent upon USEPA's approval process or
4 review of the final report by AECOM, anything
5 else besides that that's still an ongoing work
6 item requiring professional engineering
7 services?

8 **A There may be others, but I can't**
9 **think of them right at the moment.**

10 Q Okay. If I could have you jump over
11 to -- next Page 2.1.1.2. It says, "Work effort
12 at Site 3 and Site 6 is not yet completed."
13 Why is that the case? What remains to be done?

14 **A There's still, as I mentioned**
15 **earlier, there's still the final report that**
16 **they have to finalize. There is some ongoing**
17 **O&M work that's needed. I know that there's a**
18 **few basic maintenance items that one or the**
19 **other of the two parties takes care of from**
20 **time to time, some of the inspections, but,**
21 **again, I think the bulk of the work is finished**
22 **at this point.**

23 Q When you say one of the two parties,
24 who are you referring to specifically?

1 **A Either AECOM or DMP.**

2 Q And so would that be an example of
3 completion costs generally related to AECOM and
4 DMP work, which is not accountable for
5 elsewhere?

6 A **Yeah, I think I have in Footnote 3 a**
7 **reference to examples of the types of**
8 **additional work still to be completed.**

9 Q Well, I'm glad you brought up
10 Footnote 3. The reference to Footnote 3 to
11 repair of cap erosion, why would that be
12 necessary? The cap has already been placed on
13 Site 3, correct?

14 A **Correct.**

15 Q So why would it be necessary -- Why
16 would cap erosion occur?

17 A **Cap erosion can occur just from water**
18 **migration. It doesn't necessarily mean that**
19 **cap erosion will occur, but most O&M plans**
20 **include budget dollars to be able to come in**
21 **and dress up the cap to address any erosion**
22 **rills that might begin as a result of surface**
23 **water runoff.**

24 Q Your reference here to performance of

1 the final site for the survey, that has not
2 taken place yet?

3 **A I believe that that has, yes.**

4 Q Can you tell us when that final site
5 survey took place?

6 **A If you gave me my exhibits, I could.**

7 Q Would that be the Atwell survey?

8 **A Yes.**

9 Q Okay. We will get to that in a bit.
10 I just wanted to confirm that we're talking
11 about the same thing.

12 Are you aware that there's a current
13 issue with Site 3, about the cap at Site 3?

14 **A Yes. Generally.**

15 Q What's your general understanding
16 about that?

17 **A That some asbestos was found on the
18 site and some topsoil is being removed.**

19 Q And those would not be costs that
20 would end up being attributed to IDOT in any
21 fashion; is that right?

22 **A I can't say. I don't know enough
23 about it.**

24 Q Well, tell me what you do know

1 generally about the finding of asbestos in the
2 topsoil at Site 3.

3 **A I just did as a result of**
4 **reviewing Dr. Ebihara's deposition.**

5 Q Did you have any discussions with
6 Dr. Ebihara about that?

7 **A I have not.**

8 Q Out of curiosity, do you find it at
9 all -- I mean, as a professional environmental
10 consultant, having done apparent remediation
11 projects in the past, do you find it surprising
12 that asbestos was found in the topsoil of the
13 cap after the excavation work had taken place?

14 **A I wouldn't want to speculate as to**
15 **whether that's surprising or not. I don't know**
16 **enough about how the site is operated, how the**
17 **site is secured, what the frequency is of**
18 **security staff, all of those things can have an**
19 **impact; but it does happen from time to time.**

20 Q It does happen. So it's not an
21 unusual circumstance that a remediation takes
22 place, and you find circumstances such as this
23 where --

24 **A I didn't say it was usual. I said it**

1 **happens from time to time.**

2 Q Are you familiar with any situations
3 in your own personal experience where that's
4 happened before?

5 **A Yes.**

6 Q Could you elaborate on that?

7 **A We've had sites where open dumping**
8 **has occurred along abandoned stretches of road**
9 **and, occasionally, somebody will have to come**
10 **in and pick it up and haul it off for disposal.**

11 Q With respect to the costs for
12 Campanella's general contracting services,
13 what's your understanding about the types of
14 things that Campanella was asked to do that
15 fall within the time and materials pricing
16 arrangement, if that's the right term for it?

17 **A Well, I believe I reference them**
18 **here. Yeah, it was -- So, again, the T&M**
19 **services originated out of additional work**
20 **required by both EPA and by the utility**
21 **companies after the base bid had already been**
22 **issued, and so there was a number of efforts at**
23 **some of the clean corridor construction and**
24 **other issues associated with the relocation of**

1 the utilities and the number of tasks that were
2 needed to support that. They were all
3 described in the table and DMP's cost
4 allocation.

5 MR. MCGINLEY: What are we up to?

6 THE REPORTER: You're on Number 10.

7 MR. MCGINLEY: Okay. If you would,
8 please.

9 (WHEREUPON, Dorgan Exhibit
10 No. 10 was marked for
11 identification.)

12 BY MR. MCGINLEY:

13 Q Exhibit 10 is a group exhibit. These
14 are copies of all the invoices from Walker,
15 Wilcox and Matousek that counsel provided to us
16 yesterday.

17 Mr. Dorgan, I take it you're familiar
18 with these invoices?

19 A I am.

20 Q I would like to draw your attention
21 to a few things amongst the invoices just for
22 our own edification here.

23 If I could direct your attention to --
24 and they're Bates stamped -- well, there was an

1 original Bates stamp when these were first
2 produced to us, and then this is a subsequent
3 set with Dorgan 924 through -- or 0000924
4 through 979. So I'm just going to refer to the
5 Dorgan Bates stamp number.

6 If I could call your attention,
7 please, to Dorgan 930. Just let me know when
8 you have got that in front of you.

9 **A Uh-huh.**

10 Q There are -- I note some handwritten
11 notes on this page. In particular, I will draw
12 your attention to a time entry dated 7/07/14,
13 "Review North Shore Sanitary District easement
14 and related documents; review Action Memorandum
15 and exhibits," and next to that, handwritten,
16 there is "primary." Who wrote that? Did you
17 write that?

18 **A That's my handwriting, yes.**

19 Q And I notice also that both for the
20 7/07 entry as well as the 7/01 entry above that
21 North Shore Sanitary District is underlined,
22 and I take it that you did that, correct?

23 **A That's correct.**

24 Q And in the right-hand column, there

1 is hours apparently converted from -- for the
2 7/01 entry from .70 hours to \$273. Below, for
3 the 7/07 entry, .8 hours converted to \$312.
4 Did you do that, make those notes?

5 **A I did.**

6 Q And you were converting time spent on
7 these matters with respect to -- into dollar
8 amounts, correct?

9 **A That's correct.**

10 Q Why the North Shore Sanitary
11 District? Why were you focusing on that?

12 **A I determined that it didn't seem**
13 **reasonable that the work being done by Manikas**
14 **or the North Shore Sanitary District easements**
15 **were reasonable to be completely attributed to**
16 **this particular effort. So I was backing those**
17 **hours and those costs out.**

18 Q If I could draw your attention,
19 please, to Dorgan 934. We have here, it's an
20 invoice dated October 16, 2014; and for that
21 first entry, for 8/01/14, could you read that
22 for us, please?

23 **A Calls to AT&T and North Shore**
24 **Sanitary District. Review existing easement**

1 documents. Review and revise subrogation
2 agreements.

3 Q No. I'm talking about 934 the first
4 entry for 8/01.

5 A Oh, I'm sorry. For 8/01?

6 Q Yes, please.

7 A Meet with Tat Ebihara to discuss
8 general project issues and strategy for
9 finalizing documents and obtaining necessary
10 items from utilities. Review project documents
11 from Tat Ebihara.

12 Q And then after that, there's some
13 text that appears to be redacted, correct?

14 A That's correct.

15 Q Total amount of time spent on this
16 was 2.8 hours, correct?

17 A That's correct.

18 Q Did you -- In your analysis, did you
19 believe that 2.8 hours was a reasonable amount
20 of time spent?

21 A I did not assess reasonableness of
22 the amount of time not knowing exactly how much
23 time he spent doing it, but it didn't appear
24 extraordinary to me.

1 Q Were you -- Do you have any idea what
2 the description of legal services rendered was
3 that's been redacted out?

4 A I don't.

5 Q If I could direct your attention,
6 please, to the next page. This is Dorgan 935
7 time entry for 8/18/14, and if I could just
8 direct your attention to the top, please, that
9 first entry.

10 A Yes. For 8/18/14?

11 Q Yes, please.

12 A "Review documents relating to current
13 easement agreements and required modifications
14 on new easements."

15 Q And that really constitutes only
16 about half the entry there because the first
17 two lines and carrying on to the third line
18 have all been redacted, correct?

19 A That's correct.

20 Q And that time is attributed as 1.10
21 hours, correct?

22 A That's correct.

23 Q How would you know under the
24 circumstances whether that amount of time was

1 reasonable given how much has been
2 redacted from it?

3 **A I'm not in a position to make a**
4 **judgment as to whether it was reasonable, but**
5 **it did not appear to be unreasonable.**

6 Q Did you ever talk to Mr. Manikas
7 about any of his invoices?

8 **A No.**

9 Q Have you ever spoken with Mr. Manikas
10 at all?

11 **A No.**

12 Q Never met the guy?

13 **A Nope.**

14 Q Ever spoke with counsel about the
15 nature of the work? And by "counsel," I mean
16 Ms. Brice or anybody at Bryan Cave. Have you
17 ever spoken with anybody about Mr. Manikas'
18 billing?

19 **A Only to the extent I was trying to**
20 **understand the nature of the redacted**
21 **information.**

22 Q And what were the questions that you
23 had about the nature of the redacted
24 information?

1 **A** **Wanting to know why there was**
2 **redacted information, and it was explained to**
3 **me that there was reasons for that to remain**
4 **confidential relative to the parties that were**
5 **involved.**

6 **Q** **And what else did they tell you about**
7 **that?**

8 **A** **That was about it.**

9 **Q** **Did they go into any elaboration as**
10 **to why that information was being redacted?**

11 **MS. BRICE:** **Objection, asked and**
12 **answered.**

13 **BY THE WITNESS:**

14 **A** **No.**

15 **BY MR. MCGINLEY:**

16 **Q** **Did you feel in any way that by**
17 **redacting information that it could possibly**
18 **impede your ability to render an opinion about**
19 **these costs?**

20 **A** **No.**

21 **Q** **Why is that?**

22 **A** **Because the redacted information was**
23 **a small number of entries and a larger volume**
24 **of work. I took the extra step of addressing**

1 the North Shore Sanitary District work. The
2 number of hours assigned were not very large at
3 the time. They were small increments.

4 There was other information presented
5 for each of the entries that at least gave me
6 some sense of the work that was being
7 undertaken, and I elected to retain them as
8 part of the overall evaluation.

9 Q I see. Well, then, I would like to
10 direct your attention to Dorgan 962. This is
11 an invoice dated October 20th of 2016. Just
12 let me know when you have got that in front of
13 you.

14 A I have got it.

15 Q You would agree, would you not, that
16 both this page and the next page, which appears
17 to be part of the same invoice, 962 and 963,
18 are essentially entirely redacted, correct?

19 A Correct.

20 Q What did you do about assessing the
21 reasonableness of costs given the fact that
22 almost the entire invoice had been redacted?

23 A That's why I removed those costs from
24 the evaluation.

1 Q How did you come up with -- The \$351
2 that's listed at the top, what does that
3 signify?

4 A I believe that \$351 is the total if
5 you add up all of the individual entries at the
6 unit rate that's referenced on the bottom of
7 the invoice.

8 Q So in the instances where time
9 entries are entirely redacted, was it,
10 therefore, your practice to back out any costs
11 associated with those time entries?

12 A I believe in each instance, that's
13 what I did.

14 Q But you didn't do that with the
15 partial ones, correct?

16 A Correct.

17 Q Why is it if you don't -- and the
18 reason -- Just so we're clear about this, the
19 reason why you're backing out costs where it's
20 totally redacted is why? Why are you doing
21 that?

22 A Because I have no information to
23 assess what the scope of the work was.

24 Q So information is important to you in

1 order for you to be able to assess the
2 reasonableness of the costs incurred, correct?

3 **A Having information helps to evaluate**
4 **the costs, yes.**

5 Q So why doesn't that same principal
6 apply then with partial redactions? Because in
7 many instances, it seems as if you have taken
8 no similar deduction for costs where a time
9 entry has been at least partially redacted.

10 **A In the case of the partial**
11 **redactions, I had some information to evaluate**
12 **what was being worked on; and in some**
13 **instances, even where there was a partial**
14 **redaction, if it had to do with work relative**
15 **to the North Shore Sanitary District, I pulled**
16 **it out.**

17 So I felt I had enough information
18 that the redacted work was likely to relate to
19 the work referenced; but, for whatever reason,
20 the information was blanked out and, with that
21 understanding, I moved forward.

22 Q Did you have discussions with counsel
23 about your approach --

24 **A I did.**

1 Q -- with respect to Mr. Manikas'
2 invoices?

3 A Yes.

4 Q And what was your discussion -- what
5 did your discussions with counsel entail about
6 this issue?

7 A I explained my approach as to how I
8 was doing it to gauge whether it appeared
9 reasonable; and I thought it did, and they
10 didn't disagree.

11 Q I would like to direct your
12 attention, please, to Section 2.1.5 of your
13 report, and that is for total implementation
14 costs. This chart -- So essentially \$5,579,794
15 represents the total implementation costs for
16 all work that Johns Manville did for Site 3 and
17 Site 6, correct?

18 A That's correct.

19 Q As you sit here today, is that number
20 written in stone?

21 A No.

22 Q It's not. What would change that
23 number?

24 A If changes occur relative to some of

1 the projections that have been provided in the
2 estimates given to us by AECOM relative to the
3 long-term O&M and some of the completion costs
4 that remain to be completed.

5 This number is based upon the
6 projection of what's expected, but those
7 numbers could vary, honestly.

8 Q So let's -- Let's control for the
9 potential variability of O&M and for -- It
10 sounds like there's only some other minor
11 things that could happen, correct?

12 A That's reasonable.

13 Q So I would think it would be fair to
14 say that this number, this \$5,579,794
15 represents a pretty good idea, at this point,
16 about what the total implementation costs are.
17 Can you agree with that?

18 A I do agree.

19 Q And other than that potential for
20 some variation in O&M costs and maybe some
21 other minor work that might have to be done,
22 that number is probably the number that is in
23 play at this point, correct?

24 A Correct.

1 Q If I could turn your attention to the
2 chart that carries on under Section 2.1.5 onto
3 page 10, what's the -- The top column on the
4 left-hand side is marked "Service." What's the
5 relation between service and task bucket?

6 **A The service are the breakdown of how**
7 **the costs were tabulated by the different**
8 **companies and individuals that were doing the**
9 **work. Those costs then later get allocated out**
10 **to the task buckets.**

11 Q So the 5 -- Can we just stipulate and
12 say the \$5 million-plus number for
13 implementation costs, that number is then
14 represented in this chart because you can see
15 it in the lower right-hand column, the last
16 cell in that table; and then those costs are
17 then parsed out into the appropriate task
18 buckets, correct?

19 **A Correct. Later.**

20 Q Yes. Understood. And under the
21 column heading, "Site 3" and "Site 6," this is
22 for work that could not readily be done or
23 attributed between one site or the other,
24 correct?

1 MS. BRICE: Object.

2 BY THE WITNESS:

3 A To clarify, you're referring to the
4 column titled "Site 3" and "Site 6"?

5 BY MR. MCGINLEY:

6 Q Yes. I am. Thank you.

7 A Those are costs that both -- In this
8 particular case, DMP was unable to specifically
9 assign to either Site 3 or Site 6 because there
10 were activities that supported the work being
11 done on both.

12 Q Just out of curiosity, under "Legal
13 Services," "Site 3" and "Site 6," what work did
14 Mr. Manikas do that pertained to Site 6 or
15 touched upon Site 6?

16 A I don't know that I can answer that
17 just with recollection from what I've reviewed.

18 Q Let's turn to Section 2.2.2, "Project
19 Management and Reasonableness of Implementation
20 Costs."

21 You've testified that you haven't
22 reviewed all of these invoices that were
23 generated in the course of this project, over
24 500 invoices, correct?

1 **A That's correct.**

2 Q Second bullet point under 2.2.2, Unit
3 rates charged are competitive with local market
4 conditions. How do you know that?

5 **A Having done the spot check that I**
6 **did, I was looking for unit rates and**
7 **quantities just to see if they were generally**
8 **consistent with what I would expect them to be**
9 **given the location of the work.**

10 Q Okay. So you're looking at the
11 invoices to see what's being charged, and then
12 based upon your own personal knowledge of local
13 market conditions, that's how you're able to
14 say that unit charges are competitive and
15 reasonable vis-à-vis local market conditions;
16 is that right?

17 **A That's right.**

18 Q The bullet item "JM performed an
19 internal audit of the removal work and found no
20 irregularities with respect to the bidding
21 process, costs or invoicing for the project,"
22 did you ever see a copy of that audit?

23 **A I don't recall if I did.**

24 Q Is the sole basis for your statement --

1 I mean, you make attribution to testimony that
2 Frederick Scott Myers gave last year as being
3 part of the basis for that, but is it at least
4 possible that you saw an internal audit?

5 **A I don't recall.**

6 Q Would you have asked for something
7 like that?

8 **A Not necessarily.**

9 Q Could I ask you to, at some point
10 after you come back from whatever trip you're
11 going on, if you could go back and see if you
12 have a copy of that document?

13 **A Certainly.**

14 Q And if so, would you commit to
15 sending it to us through counsel?

16 MS. BRICE: I can represent there is
17 no such document to save everybody the time
18 and energy.

19 BY MR. MCGINLEY:

20 Q You state that "JM required its
21 vendors to provide detailed invoices." How do
22 you know that?

23 **A Based upon the review of the spot**
24 **invoices that I did look at, there was a good**

1 degree of detail; and in my discussions with
2 Mr. Peterson, he described to me how he
3 reviewed the invoices as part of his routine
4 practice and the types of things that he was
5 looking at suggesting to me that there was an
6 appropriate level of detail for an adequate
7 review.

8 Q I would like to turn your attention
9 to page 13 of the report. Could you read the
10 first paragraph underneath Section 3.1?

11 A "After tabulating the implementation
12 costs, determining which implementation costs
13 pertained to Site 3 and/or Site 6 and
14 allocating the implementation costs to the task
15 buckets, I had to determine how best to align
16 the task buckets (which represent a portion of
17 required work and associated implementation
18 costs) to the Board's finding of liability
19 which focused on boring locations."

20 Q So if I understand this correctly,
21 implementation costs get tabulated first, then
22 total implementation costs. Then they are
23 segregated out based upon which site, Site 3,
24 Site 6 or possibly combining with Site -- a

1 combined Site 3 and Site 6; is that right?

2 **A That's right.**

3 Q And then you had to determine how to
4 best align the task buckets. And, again, what
5 was involved with alignment of the task
6 buckets? How did you go about doing that?

7 **A There were seven, eight kind of key**
8 **elements of the work that costs were incurred**
9 **to implement work in those areas, and so they**
10 **took the segregated costs and began dropping**
11 **them into the task buckets based upon the**
12 **actual work that was being performed when they**
13 **could attribute it to that particular task**
14 **bucket.**

15 Q You state in the next paragraph "The
16 first step in this process was to define the
17 geographic extent of IDOT's liability." And
18 here you're coming up with a term that you then
19 used through, in part, the balance of your
20 report, "IDOT Areas of Liability."

21 I would like you, please, to go back
22 to Exhibit 7. If you could bring out those
23 figures again for us, please. On Figure 2 of
24 Exhibit 7, I would like to ask you to, if you

1 could, take this pen and please demarcate what
2 you believe to be on this map the Site 3 Area
3 of Liability because it's not actually depicted
4 on Figure 2 or Figure 1, correct?

5 **A It's not depicted as a geographic**
6 **area, but it's certainly described by the**
7 **various activities that the costs were incurred**
8 **to implement.**

9 Q I can certainly agree that it's been
10 narratively described, but what I would like to
11 see is just a visual representation of what
12 you've narratively described.

13 MS. BRICE: Well, and I would like to
14 object to the extent that's even possible,
15 given how the report was prepared and
16 various things allocated, so to the extent
17 that you can.

18 BY THE WITNESS:

19 **A I can attempt to as long as it's**
20 **understood that this is not intended to be a**
21 **defining exhibit in terms of -- but I can**
22 **generally represent it, if you would like me**
23 **to.**

24

1 BY MR. MCGINLEY:

2 Q I'm just asking you to do the best
3 job that you can under the circumstances as
4 provided.

5 **A (Witness complying.)**

6 Q What I would like you to do is write
7 down "Site 3 Area of Liability," and if you
8 could initial that.

9 MS. BRICE: I think you included 6 as
10 well as 3.

11 BY THE WITNESS:

12 **A Oh, I included 6 as well.**

13 BY MR. MCGINLEY:

14 Q Okay. Can you demarcate the
15 breakpoint between Site 3 and Site 6?

16 **A (Witness complying.)**

17 Q And could you write down where Site 3
18 is?

19 **A (Witness complying.)**

20 Q Can I look at that for one second,
21 please?

22 **A Uh-huh.**

23 Q Thank you. So it appears that what
24 you're showing us is essentially the Site 3

1 Area of Liability includes the North Shore Gas
2 Line, the clean corridor for that, correct?

3 **A Correct.**

4 Q And you've also included in the Site 3
5 Area of Liability the northeast excavation,
6 correct?

7 **A Correct.**

8 Q And you have -- Where does that go
9 to? What's the northern boundary of that? Is
10 it just the --

11 **A It would be the northern boundary of**
12 **Site 3.**

13 Q I'm not clear, actually, as to --
14 you've shown us where the North Shore Gas clean
15 corridor is, and there's a line that's there.

16 **A It comes back along the 0393 boundary**
17 **and up and over.**

18 Q So can you -- It would appear there's
19 a thin triangular area that's not part of what
20 you've defined as the Site 3 Area of Liability;
21 is that right?

22 **A Correct.**

23 Q Could you just, like, put in a hash
24 mark through that area, please?

1 **A (Witness complying.)**

2 Q And write down not part of Site 3
3 Area of Liability.

4 **A (Witness complying). I just added a**
5 **notation saying all lines are approximate.**

6 Q That's fine. Let me ask you this,
7 sir: You've included as part of the Site 3
8 Area of Liability that right-hand square of the
9 northeast excavation, which is centered around
10 B3-46, correct?

11 **A That's correct.**

12 Q Now, that's not one of the borings
13 that was referenced in the Board's December
14 2016 order, correct?

15 **A That's correct.**

16 Q So why did you decide to include that
17 into the Area 3 -- Site 3 Area of Liability?

18 **A Because of some of the early**
19 **requirements from the EPA, which required the**
20 **cleanup activities to extend beyond certain**
21 **boring locations to pick up the next reference**
22 **boring location, which, in this case, would be**
23 **B3-46.**

24 Q And for B3-45, you had previously

1 testified that you're not 100 percent certain
2 that B3-45 falls within 0393, correct?

3 MS. BRICE: Objection, asked and
4 answered.

5 BY THE WITNESS:

6 **A That's correct.**

7 BY MR. MCGINLEY:

8 Q So, in essence, what you're doing is
9 stating a broader scope of liability with
10 respect to the Site 3 Area of Liability for
11 IDOT than what the Board found in their
12 December 16, 2016 order, correct?

13 MS. BRICE: Objection.

14 BY THE WITNESS:

15 **A I would say I'm extending it based**
16 **upon the EPA requirements as it drove the scope**
17 **of the remedy for the northeast excavation.**

18 BY MR. MCGINLEY:

19 Q With respect to the North Shore Gas
20 clean corridor, which is demarcated on that
21 Figure 2, can you tell me, please, why you
22 chose to actually add that into the Site 3 Area
23 of Liability, because you would agree, wouldn't
24 you, that that's -- other than the far

1 northeastern portion, the far upper right-hand
2 portion of that clean corridor, that, for the
3 most part, that wasn't the subject of anything
4 having to do with the Board's December 2016
5 order, correct?

6 MS. BRICE: One second. I would also
7 like to object to the extent that his
8 opinions and reasoning are stated in his
9 report, so to the extent he's not
10 remembering something right now. Also, the
11 report speaks for itself.

12 BY MR. MCGINLEY:

13 Q Mr. Dorgan, could you tell us,
14 please, why you decided to include the large --
15 I mean, essentially the entire North Shore Gas
16 clean corridor even though a fair portion of it
17 is not within the areas demarcated by the
18 Board's December 2016 order?

19 A My argument was that the scope of the
20 clean corridor construction for the North Shore
21 Gas had been primarily related to the
22 conditions that were encountered on Parcel 0393
23 and at the northern terminates of the natural
24 gas pipeline; and so they ended up having to

1 create a clean corridor that went all the way
2 back to the edge of Site 6, which may not have
3 been necessary in the absence of the conditions
4 that were encountered on the Parcel 0393.

5 Q You're saying may not have been
6 necessary, correct?

7 A Correct.

8 Q So it's possible that it would have
9 been necessary regardless of those conditions
10 as you have just described them?

11 A The record reflects that that was the
12 primary driver.

13 Q But it's not the sole driver,
14 correct?

15 A I'm not sure how you would define
16 "sole."

17 Q Well, I mean, isn't it true that one
18 of the things that USEPA was concerned about
19 was the issue of having to have utility workers
20 deal with repairs and maintenance, normal
21 repairs and maintenance work, for utility lines
22 that happened to be located on and in Site 3?

23 A That's correct.

24 Q Okay. And wasn't it really a big

1 part of what led to the November 2012
2 Enforcement Action Memorandum that required
3 clean corridors for all of this, their concern
4 about potential harm to utility workers?

5 **A That's correct.**

6 Q And isn't it fair to say that the
7 risk of potential harm is great enough that
8 they took these precautions and would have
9 taken them regardless of what IDOT had done?

10 MS. BRICE: Objection. Objection,
11 form of the question, argumentative.

12 BY THE WITNESS:

13 **A I would say that would require me to**
14 **speculate on their intentions, which I prefer**
15 **not to do.**

16 BY MR. MCGINLEY:

17 Q But you're certainly in a position to
18 do it, you just prefer not to, but I'm asking
19 you to do that speculation.

20 You come here and purport to have
21 experience working with regulatory agencies.
22 So it only seems fair for us to ask you to do
23 that sort of speculative exercise.

24 **A Well, let's see if we can restate the**

1 **question to see if it's a question I can**
2 **answer.**

3 Q Isn't it fair to say that one of the
4 reasons why USEPA required the clean corridors
5 beyond anything else that IDOT may or may not
6 have been involved in in the Amstutz project
7 back in the '70s has to do with their concern
8 about protecting the health and safety of
9 utility workers?

10 **A Health and safety of utility workers**
11 **was an element of EPA's concern with the**
12 **conditions at the site, yes.**

13 Q Thank you. With respect to Site 6
14 and the Site 6 Area of Liability as you have
15 defined it, the Site 6 Area of Liability is 1S
16 through -- Boring 1S through Boring 8S,
17 correct?

18 **A That's correct.**

19 Q And the Board's December 2016 opinion
20 found IDOT liable for only 1S through 4S,
21 correct?

22 **A That's correct.**

23 Q And you've added -- And, essentially,
24 you've doubled the size of that Area of

1 Liability with your definition of the Site 6
2 Area of Liability, correct?

3 **A That's correct.**

4 Q And the basis for your having doubled
5 this is because of what?

6 **A Two-fold: I believe the Pollution**
7 **Control Board originally misinterpreted the**
8 **information that was available relative to the**
9 **work that was done on the eastern end of that**
10 **area of Site 6. Additionally, there was new**
11 **evidence generated during the construction work**
12 **that showed asbestos materials that were being**
13 **removed from the western end to 4S, continued**
14 **past 4S and went all the way out to just past**
15 **8S, and that's described in detail in my**
16 **report.**

17 MR. MCGINLEY: What are we up to at
18 this point?

19 THE REPORTER: 11.

20 MR. MCGINLEY: 11.

21 (WHEREUPON, Dorgan Exhibit
22 No. 11 was marked for
23 identification.)

24 MR. MCGINLEY: And this is going to

1 upper right-hand portion of that cross section
2 are notes 5S and 6S, right?

3 **A Yes.**

4 Q And what does 5S and 6S depict as
5 being present in the soil borings?

6 **A ACM roofing material, hard fibrous**
7 **material, raw material, insulation material**
8 **and -- In just 5S and 6S?**

9 Q That's right.

10 **A It looks like that's the main**
11 **characterization.**

12 Q And this is evidence that you
13 presented to the Board in your testimony back
14 in 2016, correct?

15 **A That's correct.**

16 Q And you told them back in 2016, you
17 testified before the Board, that you found this
18 material to be pervasive from 1S through 6S;
19 and yet the Board found, in spite of your
20 testimony, that IDOT's liability only went from
21 1S to 4S?

22 **A That may be, yes.**

23 Q And it's your testimony here today
24 that you found new evidence that led you to

1 reach the conclusion about the doubling of the
2 size of IDOT's liability in the Site 6 Area of
3 Liability; is that right?

4 MS. BRICE: Objection,
5 mischaracterizes the testimony. He said it
6 was two-fold.

7 BY MR. MCGINLEY:

8 Q At least in part, right?

9 A Correct.

10 Q Sir, how is it that there is -- How
11 can you testify here today that there is new
12 evidence when the conditions at the site have
13 been elaborately documented? Would you agree
14 with that?

15 A No. I would not.

16 Q That the conditions of the site have
17 been elaborately documented?

18 A No. I would not agree with that.
19 The principal difference being everything that
20 was known at the time of the last hearing was
21 based upon soil borings, and soil borings is
22 like taking one hole and putting it at that end
23 of the conference room and trying to assume
24 what's at this end of the conference room.

1 **What we have now is actual physical**
2 **evidence based upon the materials that were**
3 **removed and the conditions that were actually**
4 **encountered in the field, and those conditions**
5 **showed a seem of asbestos-containing material**
6 **that extended from the western edge of Site 6**
7 **all the way through and past 8S in a consistent**
8 **seem that ran at relatively consistent depths**
9 **over the course of that cross section. That**
10 **was information that was not available when my**
11 **report was written previously.**

12 Q **But at the time that your report was**
13 **written back in 2015, there had been extensive**
14 **test pitting and boring done for all of Site 6;**
15 **isn't that right?**

16 MS. BRICE: **Objection, mischaracterizes**
17 **the testimony.**

18 **BY MR. MCGINLEY:**

19 Q **I'm just asking you if, at the time**
20 **that you gave your report, there had previously**
21 **been done work by Lithy and Frick (phonetic) on**
22 **Site 6?**

23 **A Yes.**

24 Q **You're familiar with that work,**

1 right?

2 **A Yes, I am.**

3 **Q It wasn't just mere soil borings.**

4 **They were digging three-foot-wide test pits to**

5 **determine what was in the subsurface**

6 **environment; isn't that right?**

7 **A That is correct.**

8 **Q Isn't a three-foot-wide test pit -- I**

9 **mean, it certainly gives you a far better**

10 **picture of what's in the subsurface environment**

11 **than a mere soil boring, right?**

12 **A A test pit and an excavation are not**

13 **one in the same.**

14 **Q They give you -- They used a backhoe**

15 **to take out soil to ascertain what was in the**

16 **subsurface environment, correct?**

17 **A Yes.**

18 **Q And they found all the same material**

19 **in those test pits that you've depicted here in**

20 **your Exhibit 11 from the hearing that we were**

21 **talking about before with cross section A and A**

22 **prime. It shows exactly the same material,**

23 **right? Same asbestos material as in the test**

24 **pits is depicted in your cross section, right?**

1 **A No. I would not stipulate that it's**
2 **the same material, because I don't know exactly**
3 **what exactly is.**

4 **What I can tell you is, at this**
5 **point, there was a seam of asbestos that was**
6 **laid at the same time from 1S out past 4S and**
7 **all the way out to 9S. It was one seam. It**
8 **fit within the area that had to be removed as**
9 **part of the original construction effort, which**
10 **is an argument that I made in my original**
11 **report. I stand by it now.**

12 Q It was rejected.

13 **A It may have been rejected, but I**
14 **think, with the new information, there's reason**
15 **for reconsideration.**

16 Q So your intention with respect to the
17 subsequent hearing in this matter will be to
18 bring forth your new opinions about liability;
19 is that right?

20 MS. BRICE: Objection, mischaracterizes
21 his testimony.

22 BY THE WITNESS:

23 **A I don't believe it's a new opinion.**
24

1 BY MR. MCGINLEY:

2 Q It's a new opinion -- You're saying
3 it's an opinion -- All right. You're saying
4 that there's new-found evidence that was not
5 previously available to you when you came up
6 with your prior opinion, correct?

7 A Correct.

8 Q And you're saying that this new
9 evidence is of such a nature that is so --
10 apparently goes beyond the scope of all the
11 work that's previously been done, that based
12 upon this purported new evidence that liability
13 should be reopened with respect to Borings 5S
14 through 8S?

15 MS. BRICE: Objection, mischaracterizes
16 the testimony. He testified that he
17 already opined as to everything going to 8S
18 and that he disagreed with the way the
19 Board interpreted the evidence, and he
20 stands by that opinion. He also has new
21 evidence.

22 BY MR. MCGINLEY:

23 Q And the new evidence is based solely
24 on the construction work that was done,

1 correct?

2 **A That's correct.**

3 Q Did the construction work demonstrate
4 that there was anything different in terms of
5 the types of asbestos that were found at 5S
6 through 8S than had previously been known about
7 and documented, I should add?

8 **A Not having looked at the exact**
9 **descriptions from the previous work, I**
10 **concentrated on the descriptions of the work**
11 **that was just recently completed and what was**
12 **found as referenced and documented in my**
13 **report. We could go back and look at the**
14 **comparisons to the way it was described in**
15 **earlier reports. There may be similarities,**
16 **yes.**

17 Q I would like to turn your attention,
18 please, to Section 3.2.1.2, and this would be
19 about the City of Waukegan Water Line. It's on
20 page 15. Do you see what I'm referring to?

21 **A Yes, I do.**

22 Q You state in Footnote 15 "In August
23 of 2016, the line was finally located. In the
24 prior hearing, there was testimony provided

1 that IDOT had moved the line during the Amstutz
2 project."

3 Do you have a sense as to why it was
4 so difficult to find this water line? I mean,
5 it had been -- I assume that there had been
6 surveys done of subsurface features in the
7 area, correct?

8 A Yes. My theory is that, as I've
9 documented in the report, the city of Waukegan
10 was confused about where their line was; and
11 when they would be asked, they would point to a
12 certain spot where they thought that it was,
13 and that's what people were operating off of.
14 But when they began looking for it where the
15 city told them it was supposed to be, they
16 didn't find it there; and they, eventually,
17 through additional effort, eventually traced
18 where the water line was test pitted down to
19 the top of it to verify that they had its
20 location, and that's how they were subsequently
21 able to determine its routing and location on
22 the site.

23 Q Do you know -- Do you have an
24 approximate sense of where that test pit was?

1 **A** **I believe it was somewhere along the**
2 **western edge of Site 6 near where the water**
3 **line was supposed to come in and off the**
4 **property.**

5 **Q** **The western edge of Site 6?**

6 **A** **Correct.**

7 **Q** **So would that be approximately in the**
8 **vicinity of, say, 1S? Is that where you would**
9 **say that that came in?**

10 **A** **No, no. It would be on the western --**
11 **Excuse me. I'm sorry. I misspoke. It would**
12 **be the western edge of Site 3.**

13 **Q** **I see.**

14 **A** **Where the water line is now being**
15 **shown as having coming in towards the northern**
16 **boundary of that western line.**

17 **Q** **Okay. Now, I want to go back to**
18 **Figure 2 for a second. We previously talked**
19 **about -- and this is the one that shows visual**
20 **ACM being observed.**

21 **A** **I'm sorry. Figure 2 of Exhibit 7?**

22 **Q** **Of your current report, yes, please.**
23 **You previously testified that there were 17**
24 **spots depicted on Figure 2 where visual ACM was**

1 observed, correct?

2 **A Correct.**

3 Q How many of those were identified by
4 the Board as being the subject for a hearing in
5 this case going forward?

6 **A I don't recall offhand. I would have**
7 **to compare those, because the Board wasn't just**
8 **referring to visual ACM in their findings.**

9 Q You have a copy of the order right in
10 front of you. You can actually -- There we go.
11 Yes, if you could just turn to Page 22, please.

12 **A I'm sorry. This isn't it. Is this**
13 **it? That's it.**

14 Q That's it.

15 **A Okay.**

16 Q So I'm just going to read along. You
17 tell me whether these are -- these soil boring
18 locations are included in the order or not
19 included in the order. B3-38, in the order or
20 not in the order?

21 **A Not in the order.**

22 Q B3-40, is that in the order or not in
23 the order?

24 **A Not in the order.**

1 Q S3-40B, same question, in or not in?

2 A **Not in the order.**

3 Q B3-22?

4 A **Not in the order.**

5 Q B3-25?

6 A **Yes. It's in the order.**

7 Q B3-16?

8 A **Yes. It's in the order.**

9 Q B3-15?

10 A **Yes. In the order.**

11 Q B3-50?

12 A **Yes. It's in the order.**

13 Q B3-45?

14 A **Yes. It's in the order.**

15 Q But you would have to admit, it's
16 conditional, right?

17 MS. BRICE: Objection to the form of
18 the question, asked and answered,
19 argumentative.

20 BY MR. MCGINLEY:

21 Q 1S, 2S, 3S and 4S, in the order or
22 not in the order?

23 A **In the order.**

24 Q 5S, 6S 7S and 8S?

1 **A Not in the order.**

2 Q And B3-46?

3 **A Not in the order.**

4 Q So the majority of the locations on
5 Figure 2 that you have as being identified with
6 visual ACM being observed, a majority of those
7 locations are not the subject of the Board's
8 order. Would you not agree with that
9 statement?

10 **A I wouldn't agree until we do the math
11 and calculate whether it's a majority or not.**

12 Q Well, 1S, 2S, 3S and 4S, that's 4.
13 B3-25, that's 5. B3-16, that's 6. B3-15,
14 that's 7. B3-50, 8. Possibly B3-45.

15 **A I have 12 and there's 17 represented
16 on the drawing, which means the majority of the
17 locations referenced on the drawing would be
18 included in the Board's order.**

19 Q Which phone lines were abandoned on
20 Site 3?

21 **A I believe all of them.**

22 Q Can you point out on Figure 2 for us
23 where those phone lines are? I can see the
24 ones that are in -- There's two that are very

1 prominent. One that goes from the southeast
2 corner of Site 3 to the north, towards the
3 northwest corner, another one that sort of goes
4 kind east to west across Site 3, but I can't
5 really make out the third one just because
6 there's an awful lot of information on this
7 map, and it's difficult to pick them out.

8 A Understood. There's the one here to
9 the south. Obviously, you can see that one
10 comes in and then it branches off.

11 Q Right.

12 A One heads to the southeast across
13 Site 3. One runs basically parallel with the
14 southern boundary of Parcel 0393 up to the
15 point that it intersects parcel -- or Site 6.
16 There is a second that -- or this would be the
17 third in this case that lies off and goes
18 across the center and up to the northern site
19 of 0393 and runs along it parallel to the
20 boundary between 0393 and Site 6, and I believe
21 those are the -- Those are the three. There's
22 one, I think, that comes down off of Site 6 at
23 the western boundary of Site 6.

24 Q You state that because much of the

1 construction work overlapped between Site 3 and
2 Site 6, it was categorized as both Site 3 and
3 Site 6 work. Can you explain that, please?

4 **A Yeah, there were efforts that were**
5 **undertaken that, with the way they had**
6 **tabulated and charged their costs, they just**
7 **weren't able to assign it specifically to one**
8 **or the other that it had -- I think an example**
9 **might be when they relocated utilities, some of**
10 **the utilities came off of both Site 3 and Site 6**
11 **and went up onto a common pole. So when they**
12 **did the work putting the common pole in, it**
13 **would have been for work that would have**
14 **related to the two, just as an example.**

15 **Q And who was doing the tabulation of**
16 **costs? I mean, weren't you -- Wasn't the**
17 **billing from AT&T coming as a lump sum?**

18 **A AT&T costs haven't been allocated.**
19 **It's mostly the allocation to Site 3 and 6 was**
20 **in the DMP cost tabulation.**

21 **Q With respect to Section 3.2.1.3.2 of**
22 **your report --**

23 **A 3.1.3.2 --**

24 **Q It's on the top of page 18. I will**

1 spare you.

2 **A I got it. I found it.**

3 Q You write that "On site 6, there's
4 one AT&T phone line and one fiber optic line on
5 the north side of Site 6, and one telephone
6 line traversing on the south side of Site 6 and
7 running through the Site 6 Area of Liability."
8 That line was abandoned, right?

9 **A I believe all of them were, yes.**

10 Q How far east did that go?

11 **A It went to the point that the lines
12 then traverse off of Site 6.**

13 Q You can just indicate on the map.

14 **A On this map, it shows at the eastern
15 edge of the Site 6 boundary.**

16 Q Okay.

17 **A Obviously, Site 6 continues to the
18 east, but in terms of what's represented on
19 this figure.**

20 Q And do the lines continue -- Would
21 the lines have continued east?

22 **A They do. Yes.**

23 Q All the way out to probably the
24 generating station, right?

1 **A I'm not sure exactly how far they go.**

2 Q Turning your attention, please, to
3 page 19, and this is regarding the northeast
4 excavation, Section 3.2.1.5. Do you have that
5 in front of you?

6 **A I do.**

7 Q There is a sentence towards the
8 bottom, this is discussing, in part, the
9 Commonwealth Edison fiber optic line which runs
10 through -- it says: Commonwealth -- ComEd
11 fiber optic line which runs through 1S through
12 4S, B3-50 and B3-45 also runs through the
13 northeast excavation.

14 So I'm a little confused about this,
15 because I thought that B3-45 and B3-50 are
16 within the northeast excavation. So what are
17 you trying to say here?

18 **A I think I was just recognizing that**
19 **there was that utility running through what was**
20 **the northeast excavation because it's there.**
21 **It's the only one that is, at least it**
22 **traverses from one side to the other.**

23 Q Okay. So -- But in a sense, it sort
24 of reads by adding the northeast excavation and

1 the references to B3-50 and B3-45, which are in
2 the northeast excavation, that it's kind of
3 duplicative?

4 **A Right.**

5 Q Let's talk about the dewatering
6 issue. And this would be --

7 **A Page 22.**

8 Q Yes. That's right. Where was the --
9 You're dividing the cost of dewatering by
10 4 separate areas, correct, 4 separate
11 excavation zones?

12 **A Yes. That's correct.**

13 Q And to get this number, you're
14 dividing by 4 excavation areas and then
15 multiplying by 3 to get a 75 percent
16 attribution percentage to IDOT for this Site 3
17 dewatering work; is that right?

18 **A I'm not sure that's completely**
19 **accurate. What I did was I looked at the fact**
20 **that there were four aspects of the work**
21 **that -- four utilities that needed to be**
22 **removed that the dewatering was intended to be**
23 **applied to; and of that, 3 of them were within**
24 **the IDOT Area of Liability. 1 was not. So**

1 **3/4ths being 75 percent was how I arrived at**
2 **that figure.**

3 Q The IDOT Site 3 Area of Liability as
4 you've defined it, correct?

5 **A Correct.**

6 Q Not as was defined by the Board,
7 correct?

8 **A As I've referenced it in my report,**
9 **yes.**

10 Q And the North Shore Gas Line, which
11 is one of the areas that required excavation
12 and, therefore, required dewatering, there's a
13 substantial portion of that line that comes
14 nowhere near any of the areas that the Board
15 assessed IDOT liability for; isn't that also
16 correct?

17 MS. BRICE: Objection, mischaracterizes
18 the documents.

19 BY MR. MCGINLEY:

20 Q You can answer, sir.

21 **A IDOT -- or excuse me. The Board**
22 **required a clean corridor to be constructed for**
23 **North Shore Gas. To construct that North Shore**
24 **Gas clean corridor, they had to do dewatering**

1 along the entire length. I have already laid
2 out the justification and the rationale used in
3 why the NSG line falls within IDOT's Area of
4 Liability, and it's referenced in my report.

5 Q Let's turn to page 24, and this would
6 be Section 3.2.1.7.2, Site 6 Dewatering. Now,
7 the total amount for this work was \$159,000,
8 and -- \$159,250, correct?

9 A Where are you referring to?

10 Q This is page 24.

11 A I'm sorry. Yes, correct.

12 Q And you were attributing half of that
13 amount to IDOT based on the understanding that
14 dewatering was necessary on both the north and
15 south end of Site 6, correct?

16 MS. BRICE: Objection to the form of
17 the question.

18 BY MR. MCGINLEY:

19 Q You can answer to the extent you
20 understand the question, sir.

21 A I'm assuming you're asking about the
22 dewatering that took place on the north side of
23 Greenwood Avenue, on the north side of Site 6,
24 versus on the south side of Greenwood Avenue on

1 **the south side of Site 6?**

2 Q Yes. Well, first of all, dewatering
3 took place at Site 6 on both north and south
4 sides of Greenwood Avenue?

5 A **That's correct. And it's my**
6 **understanding there were independent efforts;**
7 **and as we have previously said, any of the**
8 **dewatering that took place on the north side**
9 **would not be within the IDOT attribution.**
10 **However, the work on the south side was deemed**
11 **to be. All of the dewatering work, based upon**
12 **the conversation I had with Mr. Peterson, was**
13 **for work east of 9 -- excuse me -- west of 9S**
14 **to the western edge of Site 6, which is how --**
15 **And in conversations with him, he indicated**
16 **that the effort was relatively consistent**
17 **between the two sides of the north and south,**
18 **and that's how I arrived at the 50 percent**
19 **allocation.**

20 Q Based upon that approach, that
21 \$159,250 becomes \$79,625 for the IDOT Site 6
22 Area of Liability for dewatering costs, right?

23 A **That's correct.**

24 Q If the board was to reject your

1 expansion of IDOT's Area of Liability for
2 Site 6 and limited it to only 1S through 4S,
3 would that then result in the dewatering costs
4 being halved? I mean, if they, in essence --
5 half of what they view -- If they stick with
6 their original scope of liability, does that
7 then necessarily result in having the amount of
8 money that's attributable to IDOT for
9 dewatering?

10 **A Yes.**

11 Q Is that also true, not just here but
12 in any of those instances where you're making
13 certain assumptions, for instance, let's go
14 back to Site 3 and dewatering for Site 3. If
15 the Board rejects your analysis, let's say, of
16 the North Shore Gas -- Let's say that North
17 Shore Gas is not something that the Board
18 ultimately determines IDOT is liable for, for
19 that abandonment dewatering, does that then
20 also require you to back out costs involved in
21 attributing Site 3 dewatering costs to IDOT?

22 **A It may.**

23 Q And, in fact, if -- Given the way in
24 which you're defining liability -- I mean,

1 you're opting for a more expansive approach
2 than what the Board set based on their December
3 2016 order, correct?

4 **A I have taken an approach that I feel**
5 **is reasonable given the information that we**
6 **have about the drivers for the work and the**
7 **work that was actually performed.**

8 Q But my question to you was: I
9 understand why you think that's right, but what
10 I'm saying is your approach actually results in
11 an expansion of the actual Areas of Liability
12 that would be assessed against IDOT; isn't that
13 right?

14 MS. BRICE: Objection, mischaracterizes
15 the testimony.

16 BY MR. MCGINLEY:

17 Q Can you answer?

18 **A That may be true.**

19 Q That may be true, okay. So to the
20 extent that the Board rejects some of the
21 underlying assumptions that you have made about
22 how liability should be assessed in the Site 3
23 Area of Liability, does that then necessarily
24 mean that the costs that you have attributed to

1 IDOT would end up having to be backed out?

2 **A Yes.**

3 Q And the same thing would be true of
4 the Site 6 Area of Liability, if the Board does
5 not accept your redefinition of what
6 constitutes the Site 6 Area of Liability, that
7 would have a resulting impact on the amount of
8 money that could be assessed against IDOT;
9 isn't that right?

10 **A If the Board rejects the new findings**
11 **which have been represented in my report, it**
12 **could have an impact, yes.**

13 Q With respect -- I would like to
14 direct your attention, please, to page 25 and
15 this is the portion of your report about the
16 filling and capping work that was done at the
17 site.

18 I want to direct your attention
19 specifically to the Site 3 discussion, which
20 starts at the bottom of page 25 and goes over
21 to page 26, and that's Section 3.2.1.8.1. You
22 are contending that IDOT is responsible for 83 --
23 I'm sorry -- 80 percent of site recapping
24 costs; isn't that right?

1 **A That's correct.**

2 Q As you have indicated on Figure 2,
3 you previously have drawn what you considered
4 to be the Site 3 Area of Liability assigned to
5 IDOT, right?

6 **A That's correct.**

7 Q You would have to admit that what
8 you've drawn spatially represents far less than
9 80 percent of the entire aerial space of Site 3,
10 correct?

11 MS. BRICE: Objection. This relates
12 to my earlier objection that said it could
13 not be easily depicted as to what is the
14 Site 3 Area of Liability with respect to
15 all of the opinions in his report, for this
16 exact same reason.

17 BY MR. MCGINLEY:

18 Q Let me ask you one question: They
19 had to cap all of Site 3, right?

20 **A Correct.**

21 Q And Site 3 is about 3.3 acres or
22 something to that effect?

23 **A That's approximate. Yes.**

24 Q The area that you've depicted, what

1 you have to say, just what you've marked off
2 here, okay, I understand that you have
3 different opinions about this; but just the
4 area that you've marked off of this map -- I
5 recognize that the lines are approximate, but
6 wouldn't you have to say, even with that
7 caveat, that the area of Site 3 that is beyond
8 what you've marked is -- There's only a
9 fraction of what you've said is IDOT -- Strike
10 that.

11 There's only a fraction of what
12 you've marked off on Site 3 that's actually
13 attributable to IDOT under your depiction of
14 what the Site 3 Area of Liability is, right?

15 MS. BRICE: Objection to the form.

16 BY THE WITNESS:

17 **A That's true. However, that's not the**
18 **rationale I used, which is outlined in the body**
19 **of my report.**

20 BY MR. MCGINLEY:

21 Q I understand that, but I'm just
22 asking you based on looking at things visually,
23 spatially, isn't it fair to say that the area
24 of what you've said is IDOT's responsibility,

1 that's not 80 percent of all of Site 3, right?

2 **A The area is not 80 percent of Site 3,**
3 **but again, that was not the rationale that I**
4 **used, and the rationale is outlined in my**
5 **report.**

6 Q Understood. Thank you. I think
7 we're going to take a break for five minutes.

8 MS. BRICE: And we have 40 minutes
9 left.

10 MR. MCGINLEY: Uh-huh, yep.

11 (WHEREUPON, a short break
12 was had.)

13 MR. MCGINLEY: Back on the record.

14 BY MR. MCGINLEY:

15 Q Mr. Dorgan, turning to the final page
16 of text of your report, this would be page 32
17 going onto page 33.

18 **A Uh-huh.**

19 Q Here we have table -- We have Task
20 Buckets, Sites, dollar amounts for each of
21 these items under the task bucket by the
22 various sites, and the final IDOT attribution
23 that you've made is 3,274,917. Yeah, 3,274,917,
24 correct?

1 **A Correct.**

2 **Q Is this a number that you reached**
3 **with a reasonable degree of professional**
4 **certainty?**

5 **A Yes.**

6 **Q What is your basis for saying that**
7 **you have reached it with a reasonable degree of**
8 **professional certainty?**

9 **A I believe I have outlined that in my**
10 **report, and we covered that in earlier**
11 **testimony today.**

12 **Q Okay. But I, just for the sake of**
13 **reaching a conclusion in this matter -- and**
14 **we're getting towards the end of the deposition**
15 **anyhow -- your degree of professional certainty**
16 **is based on a number of different experiences.**

17 **What is the most salient experience**
18 **that you have with respect -- From all of the**
19 **professional work that you have done, what do**
20 **you believe is the single most important aspect**
21 **of your professional experience that allows you**
22 **to reach this number, this \$3 million number**
23 **with a reasonable degree of professional**
24 **certainty?**

1 MS. BRICE: Object to the form of the
2 question and improper, you know,
3 hypothetical of some sort, but go ahead.

4 BY THE WITNESS:

5 A I would say there's no one
6 overarching skill set that allows me to render
7 an opinion saying that this is a reasonable
8 degree of professional certainty.

9 It takes all of the things that we've
10 talked about previously. It relies on the work
11 by those that were directly involved in
12 implementing the work and asking them to
13 tabulate costs.

14 I believe that the work that was
15 performed was done so in a reasonable way that
16 the methodologies that were used were standard
17 methodologies. There wasn't anything unusual
18 or on the cutting edge that was used. This is
19 all very straightforward kind of work.

20 The work that was done was done with
21 reasonable rates for the type of work that was
22 being performed. I believe they did a
23 reasonable job of allocating their costs into
24 the various sites and task buckets, and it was

1 **my job to try to line up the areas of**
2 **responsibility with the cost that they**
3 **tabulated for me, which I think I approached**
4 **fairly and arriving at the ultimate conclusion.**

5 BY MR. MCGINLEY:

6 Q The \$3,274,917 cost attribution that
7 you've made to IDOT, how certain are you about
8 that amount?

9 **A Again, I think I said that it could**
10 **vary some in either direction, but it's the**
11 **best estimate that I have at this point.**

12 Q Are you -- Fair to say that you're
13 more than 50 percent confident in that number?

14 MS. BRICE: Objection, asked and
15 answered. He already testified as to his
16 level of certainty to various things and
17 said that this number could change.

18 BY MR. MCGINLEY:

19 Q And you also stated or testified that
20 the number could go up, correct?

21 **A That's correct.**

22 Q And it could also go down, correct?

23 **A That's correct.**

24 Q So the amount that you've attributed

1 to IDOT that's set forth on Page 33 of your
2 report, this \$3 million number, that's not set
3 in stone, correct?

4 MS. BRICE: Objection, asked and
5 answered.

6 BY MR. MCGINLEY:

7 Q Mr. Dorgan?

8 **A I'm not sure how you would**
9 **characterize "set in stone." It's the number**
10 **that I've arrived at based upon the work that I**
11 **performed as documented in my report.**

12 Q You have an understanding of the
13 everyday term, "set in stone," right?

14 **A I know how "set in stone" is often**
15 **used, yes.**

16 Q Based on how that term is used, are
17 you -- do you believe that this amount that you
18 have attributed to IDOT is set in stone? It's
19 a simple question.

20 MS. BRICE: Asked and answered.

21 BY THE WITNESS:

22 **A If the question has to do with the**
23 **fact that there is pending work that still has**
24 **to be performed and that elements of this**

1 number reflect estimates for the implementation
2 of that work and that work could come in lower
3 or higher than estimated, then, yes, this
4 number could fluctuate; but as I believe we
5 testified or I testified previously, I'm not
6 expecting at least the number for the total
7 project cost to vary materially from what it's
8 at now.

9 BY MR. MCGINLEY:

10 Q Do you allow for the possibility that
11 IDOT's experts may come up with a different
12 attribution amount than what you've listed here
13 in Section 3.3?

14 A Certainly.

15 Q Do you allow for yourself the
16 possibility that you could find yourself in
17 agreement with what IDOT's expert may come up
18 with as an attribution amount for IDOT?

19 A Not knowing what he's proposing but
20 could I envision a scenario where I could be in
21 agreement, yes.

22 Q That's all I'm asking. So, yes, I
23 mean, it's possible that you could find
24 yourself in agreement with a number that IDOT's

1 expert will ultimately come up with, yes?

2 **A I've said I could come to agreement**
3 **over his methodology. Whether we're in**
4 **agreement on his number, I can't say until I**
5 **see it.**

6 Q Do you allow for the possibility that
7 IDOT's expert might come up with a lower
8 attribution amount and that you might actually
9 even agree with that assessment of a lower
10 amount? And I'm just asking you to envision a
11 scenario where that's possible.

12 **A I envision a scenario where he comes**
13 **in with a number that's lower than mine, and**
14 **we'll have to see on whether I agree with it or**
15 **not.**

16 Q But it's at least possible that you
17 might agree with it, correct?

18 **A It's at least possible.**

19 Q Thank you. Isn't it fair to say that
20 you've never been asked in your entire -- You
21 have been a professional in the environmental
22 consulting realm for over 30 years at this
23 point, right?

24 **A Uh-huh, yes.**

1 Q Isn't it fair to say that you've
2 never been tasked with an assignment quite like
3 the one that you've done in this case?

4 MS. BRICE: Objection, asked and
5 answered.

6 BY THE WITNESS:

7 A I have been tasked with assignments
8 similar to this on multiple occasions, but one
9 exactly fitting the profile of this engagement,
10 no.

11 BY MR. MCGINLEY:

12 Q You've never actually previously done
13 an assignment where you had to take costs and --
14 take costs that might have been related to an
15 entire project and back out costs and apply it
16 to only a specific area of -- or a specific
17 portion of that project, correct?

18 A Not that I recall offhand. I don't
19 want to say absolutely that that hasn't
20 happened, just that I can't recall it offhand.

21 Q And, certainly, given the
22 significance of your report, if you had
23 actually done something that was, on all four
24 corners, similar to what you're doing here

1 today with this current report, you would have
2 told us about it because you would want us to
3 know about it; isn't that a fair statement?

4 MS. BRICE: Objection, mischaracterizes
5 the testimony and argumentative.

6 BY THE WITNESS:

7 A And I disagree. No. I'm not certain
8 that I would have nor do I feel the need that I
9 should have.

10 BY MR. MCGINLEY:

11 Q After you finished your initial draft
12 of your current report, did you have anyone
13 review it?

14 A Yes.

15 Q Who?

16 A It was reviewed by counsel and by
17 representatives of Johns Manville.

18 Q And who at Johns Manville reviewed
19 it?

20 A I don't know specifically.

21 Q How do you know it was reviewed by
22 Johns Manville then?

23 A Because I know that they had had a
24 chance to review it, and there had been some

1 **comments provided based upon the draft. Again,**
2 **like I said previously, editorial in nature.**

3 Q What were the nature of the comments
4 that were provided to you by Johns Manville?

5 A **I don't recall specifically, but**
6 **there were comments where there were questions**
7 **asked about can I make this clearer or can I,**
8 **you know, change the sentences so that it reads**
9 **more like what it's intended to read; but, at**
10 **that point, the work and the material work in**
11 **terms of presenting the findings was done.**

12 Q It's fair to say -- Would you agree
13 that your final report contains a lot of math
14 and numbers?

15 A **It does.**

16 Q It does contain a lot of math and
17 numbers, right? Okay. The report also
18 contains a lot of calculations about the
19 amounts of Johns Manville's implementation
20 costs, correct?

21 A **Yes.**

22 Q A lot of calculations about how those
23 implementation costs are attributed to IDOT,
24 correct?

1 **A Correct.**

2 Q What did you do to ensure that those
3 calculations were correct? What steps did you
4 follow?

5 **A I reviewed them, and I asked a**
6 **colleague in my office if she would review them**
7 **as well and double-check my math.**

8 Q And who is the colleague in your
9 office?

10 **A Laura Craven.**

11 Q What about with respect to the work
12 that was done by Dave Peterson that formed part
13 of the basis for your report? How was that
14 information -- the charts that he provided to
15 you, do you have any understanding of how that
16 work was checked?

17 **A How his work was checked and his**
18 **tabulation?**

19 Q Yes.

20 **A I don't know.**

21 Q You don't know. So you don't know if
22 he did any sort of quality control check, if
23 you will, on the tabulations that he presented
24 to you?

1 **A Not that I'm aware of.**

2 Q What about for Mr. Ebihara, do you
3 know if Mr. Ebihara reviewed the calculations
4 that he made and provided to you that served as
5 a basis for your opinions in this report?

6 **A Yes. I know they were reviewed. The**
7 **exact steps he took, I'm unaware of what those**
8 **were.**

9 Q Did you ever think to ask him how he
10 went about checking on his numbers?

11 **A Yeah. We discussed the development**
12 **of his numbers and the development of Dave's**
13 **numbers on multiple occasions as they were**
14 **being put together and summarized and**
15 **presented; but, no, did I ask them specifically**
16 **how they cross-tabulated their numbers, I did**
17 **not.**

18 Q And did you not think it important to
19 ask them about how they, you know, ensured the
20 accuracy of their work?

21 **A There came a point in time where I**
22 **have to rely on the professionalism of their**
23 **services and their reputation and work that**
24 **they've done in the past; and I had no reason**

1 to believe that that wasn't in play with the
2 way in which they went about preparing their
3 numbers.

4 Q Do you think in an exercise like this
5 that is driven as strongly by numbers as they
6 are, did you not think it was something that
7 perhaps you should have done to double-check
8 the numbers that they came up with?

9 A No.

10 Q Why not?

11 A I didn't think it was necessary.

12 Q Because you felt that they would have
13 done that work themselves?

14 A That's correct.

15 Q In the course of providing expert
16 opinions, do you think -- what level of
17 checking or double-checking of one's work do
18 you think is a prudent practice?

19 A As a professional and an expert, I've
20 had to rely on other people's works many times.
21 You're left with a stack of documents this high
22 (indicating) that involves reams of data and
23 reams of past activities and it's impractical
24 from a scope of the work to go back and try to

1 **cross-reference and double-check every single**
2 **fact and piece of information on all of those**
3 **reports, and I would apply the same standards**
4 **in this particular instance.**

5 Q Besides this instance and these other
6 instances that you're talking about, have you
7 ever found out that some of the work that you
8 might have relied on, was provided to you by
9 people you were working with, was inaccurate?

10 **A Yes.**

11 Q What's the consequence of finding out
12 that something is inaccurate after the fact?

13 **A You evaluate its material impact on**
14 **your findings; and if adjustments are**
15 **necessary, you make adjustments.**

16 Q And that kind of experience with
17 having relied on people to provide you with
18 information, finding out that that information
19 that they've provided to you that you've relied
20 upon might have been inaccurate has never given
21 you pause for doing any kind of further quality
22 control work yourself?

23 **A No.**

24 Q You didn't even think about just

1 maybe looking at a sample of the work that was
2 done in tabulating these numbers, did you?

3 MS. BRICE: Objection. I think he's
4 testified that he did.

5 BY THE WITNESS:

6 **A I already testified. I believe I**
7 **used the term "spot check."**

8 BY MR. MCGINLEY:

9 Q I thought when you said you were
10 doing the spot check, it was just to sort of
11 figure out how the invoices were laid out to
12 kind of see how the information was put into
13 the invoice.

14 **A And the materials in the invoice.**

15 Q How extensively were you doing spot
16 checking?

17 **A Not extensively.**

18 Q How many invoices do you think you
19 looked at in order to do the spot checking?

20 **A A dozen.**

21 Q A dozen out of 500; is that right?

22 **A Uh-huh, right.**

23 Q Or more than 500 even?

24 **A That's correct.**

1 Q So a tiny percentage of the overall
2 invoices, that's what you decided to spot
3 check?

4 A I spot checked a percentage of the
5 overall invoices, yes.

6 Q So in your prior experience as a
7 consultant, have you ever been called upon to
8 assess the culpability of an owner of a
9 property versus someone who might have caused
10 pollution on a property?

11 A Yes.

12 Q Okay. Why don't you tell me a little
13 bit about that? Just give me any example that
14 you can think of. Just tell me what you did.

15 A We were retained to investigate a
16 property that had been involved in litigation
17 for many years regarding contamination at the
18 property; and our job was to come in and look
19 at all of the past history and the work that
20 was done and understand who were the parties
21 that were involved. There was an owner that
22 had operated at the site. There was an owner
23 that -- or there was an operator at the site,
24 an owner of the property, contractors that had

1 done work; and one of our jobs was to look, in
2 the universe of all the work that had been done
3 at the site, who was responsible for the
4 contamination that was present and to what
5 degree each party was responsible.

6 Q And how did you actually go about
7 figuring out that -- So it sounds like you came
8 up with a sort of percentage of attribution; is
9 that right?

10 A Yes, we did.

11 Q And how did you actually go about
12 creating that percentage of attribution
13 analysis?

14 A Similar process, looking at the
15 actual work that was done, the cost of the work
16 that was done. In this particular case, we
17 were also looking at cost of future work that
18 still had to be done, which made it a big part
19 of the overall effort because there was still a
20 lot of additional cleanup, but the cleanup that
21 was needed was being attributed to past parties
22 that had done work at the site.

23 Q Were you doing this in the capacity
24 of just being sort of a day-to-day consultant,

1 or were you doing this in the capacity of being
2 an expert witness?

3 **A** **Initially, as a consultant and then**
4 **as an expert.**

5 **Q** **Did you actually produce any sort of**
6 **work product about how your attribution came**
7 **about?**

8 **A** **We did.**

9 **Q** Did you make that report available to
10 counsel?

11 **A** **No.**

12 MR. MCGINLEY: We would like to
13 actually see a copy of that report. I
14 think we actually asked for that.

15 MS. BRICE: I don't know if it's
16 actually a confidential report. I don't
17 know anything about it.

18 THE WITNESS: We would have to
19 discuss the significance of it. It was
20 done under litigation, so whether it can be
21 released or not, we'll have to see.

22 MS. BRICE: Right.

23 THE WITNESS: There would be
24 subsequent elements of it that were done on

1 the public record that could probably be
2 provided.

3 MS. BRICE: Some of it might be
4 consulting expert privilege. So we'll
5 address it and look it.

6 MR. MCGINLEY: Because we had asked
7 for samples of his expert reports from
8 prior engagements to be produced to us; and
9 if those weren't, we'd like to actually see
10 those if those are available and not
11 covered by privilege.

12 MS. BRICE: We'll see if that's the
13 case. This is the first I've heard of it,
14 so.

15 MS. CAISMAN: We also lodged
16 objections to that request. I don't think
17 it was limited in temporal scope, which I
18 don't know that we know the year on this
19 either and a few other objections. So I
20 stand by those as well.

21 BY MR. MCGINLEY:

22 Q What party did you represent in the
23 scenario that you were just talking about about
24 attributing costs? Who was the -- Who did you

1 actually represent, the owner or the operator
2 or somebody else?

3 **A The owner.**

4 Q The owner of the property.

5 **A Uh-huh.**

6 Q And what was the nature of the
7 contamination at issue?

8 **A PCBs and PNAs primarily.**

9 Q Is this for the site in Indiana?

10 **A No.**

11 Q It's a different site, okay. Where
12 is that site?

13 **A Chicago.**

14 MR. MCGINLEY: That's all for me.
15 Thank you.

16 MS. BRICE: Okay. Give us one
17 second. I will talk to you, and then I'll
18 see if I have any questions.

19 (WHEREUPON, a short
20 break was had.)

21 E X A M I N A T I O N

22 BY MS. BRICE:

23 Q I have a question because I think
24 it's a clarification with respect to -- there

1 might have been some confusion in the question
2 that you were asking.

3 Did you do anything to ensure the
4 accuracy of what Mr. Ebihara and Mr. Peterson
5 provided to you?

6 **A Yes.**

7 **Q What did you do?**

8 **A I reviewed the document that they had**
9 **both produced tabulating their costs, comparing**
10 **between the two, making sure I understood the**
11 **costs, looking for any areas there may have**
12 **been duplicative entries, which there were,**
13 **which were subsequently corrected. I have not**
14 **independently reviewed every piece of**
15 **underlying information that worked into the**
16 **tabulations that I was given.**

17 **Q What happened if you found something**
18 **that didn't look right?**

19 **A I communicated with one or both of**
20 **the parties to make sure I understood what the**
21 **discrepancy was; and if it was something that**
22 **was explainable, we moved on; and if it was**
23 **something that needed to be corrected, it got**
24 **corrected.**

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MS. BRICE: No further questions.

MR. MCGINLEY: That's fine. Thank
you.

FURTHER DEPONENT SAITH NOT.....

1 STATE OF ILLINOIS)
) ss:
2 COUNTY OF C O O K)

3 I, Peggy A. Anderson, a Certified
4 Shorthand Reporter in the State of Illinois do
5 hereby certify:

6 That previous to the commencement of
7 the examination of the witness, the witness was
8 duly sworn to testify the whole truth
9 concerning the matters herein;

10 That the foregoing deposition
11 transcript was reported stenographically by me,
12 was thereafter reduced to typewriting under my
13 personal direction, and constitutes a true
14 record of the testimony given and the
15 proceedings had;

16 That the said deposition was taken
17 before me at the time and place specified;

18 That the said deposition was
19 adjourned as stated herein;

20 That I am not a relative or employee
21 or attorney or counsel, nor a relative or
22 employee of such attorney or counsel for any of
23 the parties hereto, nor interested directly or
24 indirectly in the outcome of this action.

1 IN WITNESS WHEREOF, I do hereunto set
2 my hand this 6th day of August, 2018.

3
4
5 



6 _____
7 Peggy A. Anderson
8 Certified Shorthand Reporter
9 License No. 084-003813

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EXHIBIT 2

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In The Matter of:)
)
 JOHNS MANVILLE, a Delaware)
 Corporation,)
 Complainant,) PCB No. 14-3
) (Citizen Suit)

vs.)
)
 ILLINOIS DEPARTMENT OF)
 TRANSPORTATION,)
 Respondent.)

The discovery deposition of **STEVEN L. GOBELMAN**, called by the Complainant for examination, taken pursuant to Notice, the provisions of the Illinois Code of Civil Procedure, and the Rules of the Supreme Court of the State of Illinois, before Mary Ann Casale, a Certified Shorthand Reporter for the State of Illinois, taken at 161 North Clark Street, Suite 4300, Chicago, Illinois, on the 2nd day of October, 2018, at 9:33 a.m.

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312.332.7900

I N D E X

<u>WITNESS</u>	<u>EXAMINATION</u>
STEVEN L. GOBELMAN	
Examination By Ms. Brice	4

E X H I B I T S

<u>NUMBER</u>	<u>MARKED</u>
GOBELMAN EXHIBITS	
Exhibit No. 1	5
Exhibit No. 2	6
Group Exhibit No. 3	35
Exhibit No. 4	89
Exhibit No. 5	99
Exhibit No. 6	110
Exhibit No. 7	142
Exhibit No. 8	143
Exhibit No. 9	153
Exhibit No. 10	165
Exhibit No. 11	165
Exhibit No. 12	165

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On behalf of the Respondent.

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(Witness sworn.)

STEVEN L. GOBELMAN,
 called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. BRICE:

Q. Good morning, Mr. Gobelman

A. Morning.

Q. Could you please state your name for the record.

A. Steven Gobelman.

Q. And your current employer?

A. Andrews Engineering, Inc.

Q. And where is that located?

A. Springfield, Illinois.

Q. You have had your deposition taken before, as we all know, correct?

A. Yes.

Q. So, rules of the road, please just let me finish my question before you answer it. If you don't understand a question, feel free to ask me to restate it, if it's confusing. If you need to take a break, feel free to take a break.

A. Okay.

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1 Q. Have you been deposed since the last
2 deposition taken in this case?
3 A. No.
4 Q. Have you served as an expert in any form
5 since you served as an expert in this case?
6 A. No.
7 MS. BRICE: Okay. I'm going to mark
8 for the record Deposition Exhibit 1.
9 (Gobelman Exhibit No. 1 marked for
10 identification.)
11 BY MS. BRICE:
12 Q. Mr. Gobelman, do you recognize this
13 document?
14 (Witness peruses document.)
15 THE WITNESS: Yes.
16 BY MS. BRICE:
17 Q. And what is it?
18 A. It's my expert rebuttal report.
19 Q. And what are you trying to achieve in
20 preparing an expert rebuttal report in this case?
21 What is your objective?
22 A. The objective is to have opinions on
23 whether or not the cost allocation that was done in
24 the original report was accurate and appropriate.

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1 that you are rebutting today in your expert report,
2 Deposition Exhibit 1?
3 A. Correct.
4 Q. Do you have any dispute as to
5 Mr. Dorgan's qualifications to offer the opinions
6 contained in his report?
7 A. I didn't look at that. I don't have any
8 reason to believe that there's any issues.
9 Q. Okay. So just recapping. So I want to
10 make sure I understand what you're rebutting.
11 You agree with Mr. Dorgan as on the
12 amount of the costs that were actually incurred; is
13 that correct?
14 A. I assume that the costs incurred by JM
15 was the cost that was incurred; that they wouldn't
16 pay anything more than what was occurred.
17 Q. Okay. But I'm just trying to establish
18 that you're not disputing that.
19 A. No.
20 Q. Are you disputing that the costs laid
21 out in Mr. Dorgan's report were actually paid?
22 A. No.
23 Q. Okay. Are you disputing that the costs
24 set forth in Mr. Dorgan's report that were incurred

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1 Q. Okay. And what opinions do you plan to
2 offer on that hearing in this case?
3 A. My opinion is that the allocations that
4 were done in Mr. Dorgan's report weren't accurate
5 and appropriate for how it was done, and so I
6 provided my view of what I considered to be
7 accurate and appropriate.
8 Q. Okay. Anything else?
9 (Witness peruses document.)
10 THE WITNESS: No. I think that would
11 cover it.
12 BY MS. BRICE:
13 Q. So I just want to make sure I
14 understand, and I think -- actually why don't we
15 mark Mr. Dorgan's report as Deposition Exhibit 2.
16 (Gobelman Exhibit No. 2 marked for
17 identification.)
18 BY MS. BRICE:
19 Q. Do you recognize this document,
20 Mr. Gobelman?
21 (Witness peruses document.)
22 THE WITNESS: Yes.
23 BY MS. BRICE:
24 Q. And is Mr. Dorgan's report the report

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1 and paid were reasonable?
2 A. No.
3 Q. And I think you agree, just double
4 checking, with his methodology of placing the costs
5 into task buckets; is that correct?
6 A. Say that again.
7 Q. I think you agree the with his -- the
8 method that he used to put the costs into various
9 task buckets; is that correct?
10 A. Yes.
11 Q. And you used the same task buckets that
12 he utilized?
13 A. Yes.
14 Q. If you can look at the exhibits to
15 Mr. Dorgan's report, the -- Let's start with
16 Exhibits B. And I'm just trying to nail down here
17 what you're disputing and not disputing.
18 So I take it from what you said that
19 you're not -- Well, the résumé is one thing.
20 Exhibit B, the AECOM cost tabulation
21 correspondence, there is nothing in here that you
22 are disputing? And I will state for the record
23 this is not -- this is just putting things into
24 task buckets and explaining the narrative

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1 description of the invoice cost to JM.
 2 A. Correct. I'm not disputing.
 3 Q. Okay. How about Exhibit C, which is the
 4 material from Mr. Peterson concerning the same
 5 issues of costs?
 6 (Witness peruses document.)
 7 THE WITNESS: I'm not disputing those
 8 costs.
 9 BY MS. BRICE:
 10 Q. Okay, great.
 11 And D, the Manikas invoice table, are
 12 you disputing this table in any way?
 13 (Witness peruses document.)
 14 THE WITNESS: E?
 15 MR. MCGINLEY: D.
 16 THE WITNESS: No.
 17 BY MS. BRICE:
 18 Q. And I take it the same answer, as you're
 19 not disputing E which are payment records; is that
 20 correct?
 21 A. Correct.
 22 Q. Okay. Great.
 23 But what you are disputing is Exhibit F,
 24 right, the --

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1 BY MS. BRICE:
 2 Q. You can answer the question.
 3 A. I know.
 4 I dispute that -- that there isn't an
 5 accurate map that show these things. And I don't
 6 know the basis from which he drew this.
 7 Q. Okay. Other than that. Is there
 8 anything that you're disputing about the accuracy
 9 of this document?
 10 MR. MCGINLEY: Objection; vague and
 11 ambiguous.
 12 (Witness peruses document.)
 13 MR. MCGINLEY: Susan, just so we're
 14 clear, you're asking about the accuracy of
 15 "this document" being Figure 3, Figure 4
 16 or --
 17 MS. BRICE: I said Figure 3 in the
 18 question, yeah.
 19 THE WITNESS: Oh, Figure 3 in question
 20 only?
 21 BY MS. BRICE:
 22 Q. Well, it's going to -- I'm going to have
 23 to ask the same question --
 24 A. I thought you said 3 and 4. That's why

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1 A. Yes.
 2 Q. -- the cost allocation attribution
 3 tables? Okay.
 4 A. Correct.
 5 Q. Perfect. I'm glad we got that all
 6 sorted out.
 7 A. We're done.
 8 Q. Almost.
 9 Other than what's expressly stated in
 10 your report, are there any other aspects of
 11 Mr. Dorgan's report that you are disputing?
 12 A. Only as it relates to the -- how the
 13 costs were allocated.
 14 Q. Okay. If you can turn to Figures 3
 15 and 4 of Mr. Dorgan's report.
 16 (Witness peruses document.)
 17 BY MS. BRICE:
 18 Q. Are you there?
 19 A. Yeah.
 20 Q. Are you disputing anything concerning
 21 the accuracy concerning Figure 3 in Mr. Dorgan's
 22 report?
 23 MR. MCGINLEY: Objection; vague and
 24 ambiguous.

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1 I was --
 2 Q. Oh, I'm sorry.
 3 So if you're answering as to both
 4 Figure 3 and 4, that's fine -- I mean, let me try
 5 and short-circuit this.
 6 I think my understanding is you believe
 7 that the location of the northern boundary of
 8 Site 3 is further north, is that correct, than it
 9 is on Mr. Dorgan's, at least Figure 1; is that
 10 right?
 11 MR. MCGINLEY: I'm sorry.
 12 Figure 1 now?
 13 MS. BRICE: Well, that's the one that
 14 he talks about all the time in his report.
 15 He doesn't talk about Figure 2 or 3 in his
 16 report.
 17 THE WITNESS: So you want me to look at
 18 1? I'm confused.
 19 BY MS. BRICE:
 20 Q. Okay. In Figure 1, in Dorgan Figure 1,
 21 my understanding is -- and we'll get into detail on
 22 this -- is that your predominant problem with
 23 Figure 1 is that you believe the northern boundary
 24 of Site 3 is actually located further to the north;

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1 is that correct?

2 A. Well, my representation of my figures

3 hadn't -- the boundary of the northern area of

4 Site 3 is -- I used the fence line that's

5 associated with it.

6 Q. Sure.

7 A. I didn't represent whether it was

8 northern -- I didn't compare to determine whether

9 or not that line was north of that. To me it was a

10 meaningless -- it's meaningless to the process of

11 where the line is or isn't as far as whether it's

12 north of there or not.

13 Q. It's meaningless in the --

14 A. I don't think it -- I don't think it

15 gives -- it doesn't have any function.

16 Q. Okay.

17 A. I never looked at and compared whether

18 or not his line is accurate or not. I didn't

19 compare that process.

20 Q. Okay. So what are you disputing about

21 Figure 1?

22 A. The main dispute that I have with

23 Figure 1 and any of the figures that I don't have

24 there is no information that shows where -- how

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1 said?

2 A. And the source material, how did they

3 come up with it --

4 Q. Okay.

5 A. -- just because it's in their system...

6 Q. Okay. Would that be the same issue with

7 respect to Figure 3 and Figure 4?

8 A. Yes.

9 Q. And no other specific problems with

10 respect to Figure 3 or Figure 4?

11 (Witness peruses document.)

12 THE WITNESS: No. I don't notice

13 anything.

14 BY MS. BRICE:

15 Q. Okay. Great. Thank you. And we'll get

16 back to all of that.

17 All right. So I want to switch topics.

18 What expertise are you relying on in

19 offering these opinions?

20 A. Well, my experience in dealing with

21 evaluating costs on highway authority agreements

22 that I have done dealing with my work with EPA.

23 Q. Have you ever done a CERCLA cost

24 evaluation -- pardon me. Let me rephrase that.

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1 those lines were drawn and how it's tied to

2 anything.

3 Q. Okay. Let's -- I can represent that

4 this came from AECOM's materials in its original

5 CAD drawings off of everything.

6 So if I tell you that, does that resolve

7 your problem with Figure 1?

8 A. No.

9 Q. No.

10 Why?

11 A. Because it doesn't represent what was --

12 in overlying this with the surveys with other

13 things in the final report that shows what the GPS

14 coordinates are. So the corners, they don't

15 represent -- they don't all match up, so they

16 should all match up if they're all accurate --

17 Q. Okay.

18 A. -- if it's the same -- so -- because

19 it's the same numbers. So when they don't match

20 up, then something's not tied together.

21 Q. Okay. We'll get to that later.

22 But your problem with Figure 1 is he

23 doesn't identify the source material within which

24 he used to create the figure? Is that what you

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1 Do you have any experience doing cost

2 allocations under CERCLA or State law?

3 A. Not specifically regarding State

4 allocation, right. I'd say no.

5 Q. Do you have any experience in allocating

6 costs as between two particular parties?

7 A. Yes.

8 Q. In the context of a legal dispute?

9 A. In the context of legal documents.

10 Q. Okay. I understand that because,

11 obviously, when you're doing highway authority

12 agreements you're giving people costs. I'm talking

13 about the in the context of a legal dispute.

14 Do you have any experience in allocating

15 costs to one party with respect to liability is

16 allocated this much liability versus another party

17 is allocated this much liability?

18 A. Not in a court setting.

19 Q. In any other setting?

20 MR. MCGINLEY: Objection, asked and

21 answered.

22 THE WITNESS: In context with dealing

23 with other legal documents --

24

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1 BY MS. BRICE:
 2 Q. Okay. I'm not talking about highway
 3 authority agreements. I'm talking about legal
 4 disputes.
 5 When you say court setting, to me that
 6 means a very specific thing. And maybe not to you.
 7 So I mean in a legal setting.
 8 Do you have any experience doing that in
 9 a legal setting?
 10 A. No.
 11 Q. Can you tell me what the Gore factors
 12 are?
 13 A. No.
 14 MR. McGINLEY: Objection; relevance.
 15 BY MS. BRICE:
 16 Q. No?
 17 A. No.
 18 Q. Do you have any idea what I'm talking
 19 about when I say the Gore factors or what that
 20 relates to?
 21 MR. McGINLEY: Objection; relevance.
 22 THE WITNESS: Not at this particular
 23 time.
 24

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1 expertise in dealing with allocations in this
 2 context?
 3 A. It dealt with different types of dispute
 4 resolutions and how to deal with cost allocations
 5 and disputes.
 6 Q. It --
 7 A. Well, I mean, it talked about cost and
 8 how you deal with costs and negotiating costs.
 9 Q. What were some of the methods that they
 10 told you to -- they explained?
 11 A. I don't remember offhand. That was a
 12 long time ago --
 13 Q. When?
 14 A. -- that that occurred.
 15 Q. Okay. And so these were negotiating
 16 costs between who?
 17 A. It would -- in dealing with -- at that
 18 time it was the class dealing with CERCLA issues.
 19 Q. And what year was this?
 20 A. Early '90s I would say.
 21 Q. Okay.
 22 A. I don't remember at this point.
 23 Q. Can you explain -- can you give me any
 24 examples of how courts have -- methods that courts

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1 BY MS. BRICE:
 2 Q. Do you have any experience in preparing
 3 CAD drawings yourself?
 4 A. Minimal.
 5 Q. Okay. Minimal?
 6 A. Minimal.
 7 Q. Could you explain that?
 8 A. Well, I have played with CAD on my
 9 computer and stuff like that when I'm dealing with
 10 simple stuff.
 11 Q. Don't you generally have to take classes
 12 to learn how to use CAD?
 13 A. I don't have a CAD license.
 14 Q. Do you have any experience in creating
 15 surveys?
 16 A. Not creating.
 17 Q. In your expert report you say:
 18 While at IEPA, I attended
 19 continuing education seminars.
 20 This course provided information
 21 on negotiations, negotiating for
 22 the government, dispute
 23 resolution techniques.
 24 What does that have to do with your

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1 have used to allocate costs among potentially
 2 responsible parties?
 3 A. No.
 4 Q. Did you look into this?
 5 A. No.
 6 Q. Have you ever done any presentations or
 7 written any articles on past cost allocation
 8 analysis similar to what's being done in this case?
 9 A. No.
 10 Q. Other than what's listed on your CV and
 11 your report, do you have any other experience
 12 that's relevant to the opinions you're offering her
 13 today?
 14 A. No.
 15 Q. What did you do to prepare your report?
 16 A. I reviewed Mr. Dorgan's report. I
 17 reviewed the information that was provided with
 18 what he referenced and stuff that was provided
 19 previously on the older reports that were done in
 20 the past -- in the last setting. I took his table
 21 that he was using to calculate cost, and then
 22 looked at the impacts associated with the board
 23 rulings and allocated what I thought was a
 24 reasonable approach to assessing the cost.

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1 Q. Okay. Did you visit the site?
 2 A. No.
 3 Q. Did you go look and see if there's
 4 actually a fence there?
 5 A. No.
 6 Q. Did you discuss with anyone at IDOT or
 7 the AG's office with respect to whether or not a
 8 fence is located currently at the site?
 9 A. No.
 10 Q. Did you interview anyone in preparing
 11 your report?
 12 A. No.
 13 Q. Did you talk to anyone at IEPA or IDOT
 14 or USEPA?
 15 A. No.
 16 Q. Did you keep any notes at all with
 17 respect to preparing your report?
 18 A. Other than what was provided.
 19 Q. And when you say "what was provided,"
 20 you're talking about the, sort of, notebook that
 21 there's some redactions --
 22 A. Right.
 23 Q. -- in there?
 24 A. Yes.

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1 little unclear as to how it's working.
 2 How are they paying for this work to
 3 Andrews Engineering? Is it on an hourly basis? Is
 4 there a contingency fee? Is there something
 5 different about it?
 6 A. It's just an hourly fee.
 7 Q. And did they pay Andrews Engineering for
 8 your testimony in the first hearing and the work
 9 that you did at the first part of this hearing?
 10 A. I believe at that time I had switched
 11 jobs at the hearing.
 12 When was the hearing? Was that December
 13 of '15.
 14 Q. June. The hearing was in June.
 15 A. June of --
 16 Q. You had just switched, I believe.
 17 A. June of '15?
 18 MS. CAISMAN: '16.
 19 THE WITNESS: Yes.
 20 BY MS. BRICE:
 21 Q. And before that you were working for
 22 IDOT, correct?
 23 A. Prior to that, yes.
 24 Q. And when you were doing the work for

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1 Q. Have you talked to anyone who was -- who
 2 is currently or formerly with the Illinois
 3 Pollution Control Board since the last hearing?
 4 A. No.
 5 Q. Who is your client in this matter?
 6 A. The Illinois Department of
 7 Transportation.
 8 Q. And what are your duties as an expert --
 9 MR. MCGINLEY: Objection; vague and
 10 ambiguous.
 11 BY MS. BRICE:
 12 Q. -- in this case?
 13 A. To provide my opinions on what's
 14 provided.
 15 Q. Anything else?
 16 A. No. I think that covers it.
 17 Q. Who's paying for your work?
 18 A. The Illinois Department of
 19 Transportation.
 20 Q. And are they paying you or are they
 21 paying Andrews Engineering?
 22 A. They're paying Andrews Engineering.
 23 Q. And can you describe that arrangement
 24 with me? I know we have a contract, but I'm a

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1 IDOT at the beginning of the first phase of this
 2 matter, were you getting paid in any way or
 3 compensated?
 4 MR. MCGINLEY: At what point in time?
 5 MS. BRICE: Prior to leaving IDOT.
 6 THE WITNESS: I was only compensated on
 7 my salary, based upon nothing more.
 8 BY MS. BRICE:
 9 Q. Okay. Since IDOT is your client, who
 10 ultimately decides what goes into your expert
 11 report?
 12 A. I do.
 13 Q. And who ultimately decides what you say
 14 at the hearing in this matter?
 15 A. I do.
 16 Q. Did you look at any invoices prior to
 17 preparing your report?
 18 MR. MCGINLEY: Objection; vague and
 19 ambiguous.
 20 BY MS. BRICE:
 21 Q. There were tons of invoices that were
 22 produced with respect -- Let me rephrase.
 23 IDOT asked for all of the invoices
 24 relating to costs incurred in this case, and we

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1 provided them.
2 Did you look at any of those invoices?
3 A. Yes.
4 Q. How many?
5 A. I did not count the number of pages, but
6 I pretty much scanned through -- went through all
7 the information that was provided.
8 Q. And how many invoices were there?
9 A. There was --
10 Q. Do you have an estimation?
11 A. I have no clue. There were lots of
12 them.
13 Q. Did you read them in any detail?
14 A. Only a few.
15 Q. And why? Why did you pick a few to look
16 at?
17 A. Just to see what they contained.
18 Q. Did you look at any documents from
19 Campanella?
20 A. I believe so.
21 Q. Do you recall which ones?
22 A. I don't remember which ones at the time.
23 Q. Do you recall whether or not you saw a
24 Campanella contract?

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1 Q. And do you recall when that would have
2 occurred?
3 A. It would have been probably at the
4 beginning of -- after looking at Mr. Dorgan's
5 report sometime in that area.
6 Q. Okay. And since that time, December of
7 2016, did you go back and look at the various EECA
8 documents at all?
9 A. Yeah, because I used some of the
10 information in putting mine together, I believe.
11 Q. Okay. Do you recall -- other than maybe
12 some exhibits did you read through all of the EECA
13 documents and the comment on the EECA documents?
14 A. I don't know if I read completely
15 through it all. I just re-familiarized myself with
16 it.
17 Q. So I want to talk a little bit about
18 Site 3 first, especially ELM, right.
19 They did some of the work on the EECA,
20 correct?
21 A. Correct.
22 Q. And how did they sample?
23 A. A lot of it was test pits, and then
24 there was -- I believe there was some borings

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1 A. I saw pieces of contracts throughout the
2 whole thing. I can't remember whether it was an
3 actual -- it was a Campanella one or not.
4 Q. Did you look at any photographs of the
5 site work?
6 A. Unfortunately, yes.
7 Q. Which ones?
8 A. I don't know, about 10,000 of them.
9 Q. You looked at every single photograph?
10 A. Unfortunately.
11 Q. Okay. What conclusions did you draw
12 from looking at the photographs?
13 A. I don't know if I actually drew a
14 conclusion. I was mainly looking at to see what
15 types of work was going on in the area in question.
16 Q. Okay. Are you planning to offer any
17 opinions based upon your review of the photographs?
18 A. No.
19 Q. Did you read the enforcement action
20 memorandum that was issued in 2012 prior -- between
21 the hearing date -- I'm sorry, between the interim
22 order date and today, which was December of 2016?
23 A. I believe I looked at it and scanned
24 through it again.

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1 associated with it, too.
2 Q. And were these spaced in a particular
3 way, these test pits and borings?
4 A. Without seeing it -- I mean, I may
5 confuse it with other things, but most of the time
6 there was some structure to the sampling
7 methodology.
8 Q. Okay. But as you sit here, you don't
9 recall what that was?
10 A. Without looking at it.
11 Q. If ACM was detected in a boring, how
12 much of the area around the boring did USEPA assume
13 to be contaminated?
14 A. Well, typically I think there was a
15 number of figures that represented different
16 methodology of determining the extent, but in the
17 most cases it went to the next cleanest boring.
18 Q. Okay. Can you explain that a little bit
19 more?
20 A. Well, if a boring was -- if a boring is
21 impacted and the next boring in another direction
22 is not impacted, then it would be assumed that the
23 impacts were -- unless there was some other
24 information that gave -- corroborated clean or

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1 dirty, that dirt -- the impacts would go all the
 2 way to the clean boring.
 3 Q. All right. And what if the boring next
 4 to it was not clean?
 5 A. If the next boring next to it is not
 6 clean, then -- then it's still a part of -- you
 7 sort of assume halfway between is an extent, but
 8 the extent can still continue to the next boring
 9 until you get to a clean --
 10 Q. What remediation work did USEPA require
 11 with respect to utility corridors on Site 3 and 6
 12 in the EAM?
 13 A. The final thing was they wanted a clean
 14 corridor that the utilities would be in.
 15 Q. And did it matter if there was where the
 16 ACM -- sorry. Scratch that.
 17 If the ACM was only located on part of
 18 the utility corridor, what did USEPA require for
 19 the rest of the corridor?
 20 A. USEPA assumed that the entire areas were
 21 impacted or potentially impacted, so they required
 22 a clean corridor throughout the entire area.
 23 Q. And was this true in all instances?
 24 A. I guess I don't understand what you mean

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1 bibliography are those cited.
 2 Q. Right. I'm just trying to understand.
 3 Are there other things you looked at
 4 that -- You said you looked through the invoices
 5 and you said --
 6 A. Right.
 7 Q. -- a few other things.
 8 Can you think of anything else that you
 9 looked at in preparing your report that's not, you
 10 know, attached to your report or referenced in your
 11 report?
 12 A. I try to make a point to look through
 13 everything that was submitted to me, so there was
 14 like 40,000 pages of stuff.
 15 Q. But did you look at everything?
 16 A. I believe I did.
 17 Q. When did you first start working on your
 18 report?
 19 A. First started working -- actually for
 20 the report was right after I got Mr. Ergan's (ph.)
 21 report.
 22 Q. Okay. But I saw in the invoices there
 23 was work that was done back in January of 2017.
 24 What were you doing then?

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1 "all instances."
 2 Q. Did USEPA apply that rule to all of the
 3 utility corridors on 3 and 6, as far as you know?
 4 A. Yes.
 5 Q. Did you review any depositions in
 6 preparing your report?
 7 A. Yes.
 8 Q. Which ones?
 9 A. Mr. Dorgan's, Peterson's, Ebihara's, and
 10 I don't think I ever completed, but I -- most of
 11 the Campanellas, what, Susan and -- I forget what
 12 her last name is Zordic (ph.) or Zorgan (ph.) or
 13 something like that.
 14 Q. Okay. But not Mr. Manikas?
 15 A. I think I looked through Manikas. I'm
 16 not sure -- All of them that I had, so I'm trying
 17 to put together which ones I had.
 18 Q. Why didn't you complete the Campanella
 19 one?
 20 A. It was mostly a time constraint.
 21 Q. Are all the documents reviewed listed in
 22 your bibliography of your report or are there
 23 others?
 24 A. The only thing that's listed in my

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1 A. I was just looking at, based upon the --
 2 it was right after the board ruling, just to see
 3 what those impacts -- how that -- what that
 4 affects.
 5 Q. Okay. And we can get to this later.
 6 But there was a, I think -- I can't remember his
 7 name, but there was someone who was doing some CAD
 8 work for you on -- listed on those invoices. And I
 9 don't believe we have any documents from that
 10 person or emails from that person or anything --
 11 any figures that he was putting together at that
 12 point in time.
 13 Did he put together some CAD figures for
 14 you?
 15 A. He put together CAD figures, yes.
 16 Q. Okay.
 17 A. But they became part of the continuing
 18 working document that was finalized. There was no
 19 separate drafts or separate issues.
 20 Q. So in January you began working on CAD
 21 figures, January of 2017?
 22 A. In a -- Yes.
 23 Q. And what were you doing in January?
 24 What were the CAD figures in January 2017?

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1 A. Just looking at how the board ruling and
2 how that allies in with the utilities and the
3 impacts.
4 Q. And you don't have any emails that
5 contain copies of those CAD figures?
6 A. I produced all the emails that I had.
7 MS. BRICE: I'd ask maybe we can go
8 back and make sure there aren't any from
9 January of 2017 or February of 2017 relating
10 to the person who was working on that.
11 MR. MCGINLEY: That would be Mike
12 Nguyn.
13 MS. BRICE: Mike Nguyn.
14 MR. MCGINLEY: N-G-U-Y --
15 MS. BRICE: Oh, no. This is a
16 different guy.
17 MR. MCGINLEY: Okay.
18 THE WITNESS: Oh, Ryan Curtis.
19 BY MS. BRICE:
20 Q. That guy.
21 A. That guy, yeah.
22 Q. Were you emailing with him about this
23 like you did with Mike Nguyn?
24 A. I assume so, but I provided all the

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1 That was kind of the figure that was worked on.
2 Q. That was dated in April.
3 A. Is it?
4 Q. Yeah.
5 A. That was the working figure.
6 Q. Okay.
7 A. Curtis left, and then Mike Nguyn picked
8 it up from that point.
9 Q. Okay. So the original figure is the one
10 that has a little bit of red on it?
11 A. Yeah, yeah, yeah, yeah, yeah.
12 MS. BRICE: Just for purposes of having
13 a clean record, let me see if I can pull this
14 out.
15 Okay. I don't have a Bates
16 number -- Yes, I do, sorry. It's SG003754.
17 Can we mark as Group Exhibit 3.
18 (Gobelman Group Exhibit No. 3 marked
19 for identification.)
20 BY MS. BRICE:
21 Q. So if you can turn to SG003754, do you
22 see that?
23 A. 754?
24 Q. Yeah.

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1 emails that I had.
2 Q. Did you delete those emails?
3 A. I typically don't delete emails.
4 Q. Okay. So can we just please -- it's
5 Ryan Curtis.
6 A. Right.
7 Q. Maybe we can spell his name and maybe we
8 can figure that out. Okay.
9 So that were his CAD drawings -- what
10 did they look like? What were on them?
11 A. They were similar to what -- the final
12 representation that I provided in my figures.
13 Q. Okay. So let's open up your report and
14 go to Gobelman 1, which is Gobelman Figure 1.
15 Do you see that?
16 A. Yes.
17 Q. Can you tell me how the work Mr. Curtis
18 was doing is different from what I'm looking at
19 here on Gobelman Figure 1?
20 A. In fact, I think -- now that I remember,
21 there is a figure that was provided to it as part
22 of an email that was -- that didn't have the
23 background. It was just a schematic sketch and it
24 had some like coloring looking at percentages.

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1 Is this the document you're talking
2 about --
3 A. Um.
4 Q. That's Mr. -- is his name Curtis or
5 Ryan? I'm sorry.
6 A. Ryan Curtis.
7 Q. -- (Continuing) Ryan Curtis was working
8 on in January?
9 A. I think the Figure 757, which they told
10 me that is more representative of --
11 Q. Okay. Great.
12 A. -- of the figure that we were kind of
13 working off of because at that point the waterline
14 was below the --
15 Q. Yeah, but this one's dated June 2018,
16 and the one I showed you was dated April. So it
17 had to be the earlier one. I'll represent for the
18 record this the earliest figure I could find.
19 A. Right. Yeah, yeah. They sort of got
20 blended all together, so it's...
21 Q. Can you tell me how this figure from
22 April 2015, SG003754, is different from Gobelman 1
23 in your report?
24 (Witness peruses document.)

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1 THE WITNESS: I think the essence of
 2 the difference is the boring placements in
 3 sort of the alignment of the -- of Site 6
 4 because it was just sort of roughed-in.
 5 BY MS. BRICE:
 6 Q. Okay. Can you explain both those --
 7 Let's break those down.
 8 The boring placements, what do you mean
 9 by that?
 10 A. The figure was just --
 11 Q. Figure 1 you're saying?
 12 A. Figure 1 was just a PDF of what was
 13 previously provided or in the files on how the site
 14 was laid out.
 15 Q. Okay. And when you say "previously in
 16 the files," where did that originate?
 17 A. I think this originated from either the
 18 work plan or the final report --
 19 Q. Okay.
 20 A. -- because it has the stationing -- the
 21 lance alongs -- but the easterns and northern
 22 depicted on it.
 23 Q. And where do those come from, those
 24 easterns and northern?

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1 it lays out.
 2 Q. Okay. And you dispute the boring
 3 locations on this final report; is that correct?
 4 A. Without having it overlaid on to mine,
 5 yeah, I don't know necessarily if it's similar or
 6 different or...
 7 Q. Well, I think you talk a lot about that
 8 in your report --
 9 A. Right.
 10 Q. -- right, you know, that the boring
 11 locations are -- once you move the site up --
 12 Site 3 boundary up the boring locations necessarily
 13 move; isn't that right?
 14 A. No.
 15 Q. No? Okay.
 16 The distances though between the site
 17 boundary and boring location changes?
 18 A. No.
 19 Q. No?
 20 If you move the Site 3 border 10 feet
 21 north, you're telling me the distance between B345
 22 and that boundary is not different? It's the same
 23 length?
 24 A. Everything is tied together, so if you

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1 A. Well, it's part of the State plane
 2 coordinating system that they survey in and they
 3 mark, and it represents that particular spot.
 4 Q. Okay. So these are State markings; is
 5 that right, generally?
 6 A. Yeah.
 7 Q. So it's your testimony that this
 8 Figure 1 from April 2018 is -- came from either the
 9 final report --
 10 A. I would suspect it came from the final
 11 report since it's showing that the waterline is up
 12 by the right of way line where the work plan would
 13 have headed 50 feet south of that.
 14 Q. Got it. Okay.
 15 And so what -- you said something about
 16 the boring locations being different.
 17 What's different about the boring
 18 locations?
 19 A. Well, I don't know -- these boring
 20 locations and how they're laid out here were just
 21 based upon what was showing on the -- the figures
 22 that I had provided, and I didn't necessarily after
 23 later realize there wasn't necessarily an accurate
 24 depiction of what the site orientation was and how

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1 move the northern boundary up 10 feet, you're also
 2 moving the southern boundary up 10 feet. And
 3 everything associated within is locked in, so
 4 everything moves ten feet.
 5 Q. Exactly. That's my point. It's moving
 6 from where it's depicted on this figure.
 7 A. Everything would have to move.
 8 Q. Right.
 9 A. Nothing is spatially misrepresented
 10 then.
 11 Q. Right. Okay.
 12 And you also said something about the
 13 location of Site 6 and Site 3 and that that was
 14 something else that was different.
 15 Can you explain that to me?
 16 A. Regarding this figure?
 17 Q. This figure, and compared to Gobelman 1.
 18 A. Well, I think the thickness of Site 6
 19 was just -- we just I think used a random
 20 thickness, not depicting that -- that -- what
 21 thickness between the roadway and the edge of
 22 Site 3 were 6s.
 23 Q. Can you see, sort of -- I'm going to
 24 point to it right here (indicating). It's this

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1 hatched area right here that is above the gray
 2 colored-in area.
 3 A. Site 6 hatched area?
 4 Q. Yes.
 5 A. Yes.
 6 Q. What is that?
 7 A. That's just that -- the area at that
 8 time we were looking at, based upon the board
 9 rulings, what the potential extent of the area
 10 defined by the board.
 11 Q. Okay. So that's what you were trying to
 12 accomplish in this document was try and identify
 13 the areas defined by the board?
 14 A. Um.
 15 Q. I'm just trying to understand.
 16 A. Yes. In essence, yeah.
 17 Q. So --
 18 A. It wasn't necessarily the same
 19 interpretation that was made in the final thing,
 20 but it was just a --
 21 Q. Understood.
 22 And that's where -- what I'd like --
 23 A. -- graph of issues.
 24 Q. That's what I'd like to get to, but I'm

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1 it was due.
 2 Q. Okay. And prior to that time, had you
 3 ever shown them any other draft of -- or any
 4 portion of your working draft, shall I say, in any
 5 way, shape, or form?
 6 A. No.
 7 Q. And how about IDOT, had you ever shown
 8 IDOT any portion of your working draft in any way,
 9 shape, or form prior to two to three days I guess
 10 is your testimony before the draft was completed?
 11 A. No.
 12 Q. Did anyone assist you in preparing your
 13 report other than Mr. Nguyn and Mr. Curtis?
 14 A. No.
 15 Q. Did anyone ever give you any comments on
 16 your report?
 17 A. Only grammatical.
 18 Q. And who was that?
 19 A. I believe the Attorney General's Office
 20 gave me grammatical fixes as we were going through
 21 it, looking at it. And then I believe our admin,
 22 ^ Lana Johnson, had some grammatical changes.
 23 Q. Okay. Did anyone at Andrews other than
 24 the two people that I've mentioned assist in

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1 going to stay on track, and then we'll come back to
 2 this.
 3 How many drafts of your report did you
 4 put together?
 5 A. Just the one that -- the working that
 6 became final.
 7 Q. Okay. But there was a working draft
 8 that, I'm sure, you shared with someone --
 9 A. It was just a --
 10 Q. -- at some point in time?
 11 A. -- a draft -- the only thing that was
 12 ever shared in draft form was the version that went
 13 to our admin to final -- put it together.
 14 Q. Okay. So you never shared a draft with
 15 the Illinois Attorney General's office?
 16 A. I never shared a paper draft.
 17 Q. How about on a WebEx or an electronic
 18 draft?
 19 A. Only provided them in a meeting before
 20 it was completed. I showed them on a computer
 21 personally of what the draft was going to look
 22 like -- what the final was going to look like.
 23 Q. And what was that?
 24 A. It was like two days, three days before

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1 preparing your report?
 2 A. No.
 3 Q. How did you decide what your opinions
 4 were going to be?
 5 A. They were decided based upon reviewing
 6 the information.
 7 Q. Okay. Did you ever discuss what your
 8 opinions might be with the Attorney General's
 9 Office?
 10 A. I believe we might have had phone
 11 conversations that I might have told what my plans
 12 were.
 13 Q. Okay. Let's talk about those.
 14 How many phone conversations?
 15 A. I don't know, I mean, a lot of it was
 16 just phone conversations on the status of where
 17 we're at.
 18 Q. Right, but I'm talking about your
 19 opinions.
 20 A. It might have been two, maybe three, I
 21 guess. I don't know.
 22 Q. And how long did those conversations
 23 last?
 24 A. Maybe 30 minutes.

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1 Q. Did they ever last longer than that?
 2 A. I don't know. I didn't track time.
 3 Q. Actually, you do track time.
 4 A. Well, I do track time. But, I mean, I
 5 didn't track time of the actual phone calls. I
 6 mean...
 7 Q. Okay. And what did you discuss in those
 8 phone conversations about your potential opinions?
 9 A. I believe we discussed my approaches of
 10 what I was going to do, what I was planning to do.
 11 Q. Okay. And what did you tell them?
 12 A. That I was looking at this as a --
 13 dealing with the cost allocations using percents of
 14 impacts versus the area.
 15 Q. And why is that? Why did you decide to
 16 use percents of impacts?
 17 A. To me it would seem to be an appropriate
 18 way of looking at things as far as if there's a
 19 specific area that the board has ruled that IDOT is
 20 liable for, then IDOT should only be accounting for
 21 that area that's impacted within their area.
 22 Q. And what did Attorney General's Office
 23 think of this?
 24 A. I don't think they ever had it. But

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1 Q. Can you give me an example, please?
 2 A. Not -- I don't remember them. I mean, I
 3 don't know, what we discussed, I mean as far as
 4 actual questions.
 5 Q. Well, when did you have this meeting,
 6 this morning?
 7 A. No.
 8 Q. When was it?
 9 A. Yesterday.
 10 Q. And you don't remember anything --
 11 A. Well, other than just in general.
 12 Q. -- about the line of question- --
 13 A. It was a general...
 14 Q. Okay. What were some of the general
 15 topics?
 16 A. Dealing with what they might ask -- what
 17 things you might ask regarding the different
 18 sections of different things.
 19 Q. Okay.
 20 A. It wasn't much of anything.
 21 Q. Can you give me an example?
 22 A. That you'll probably ask a lot of
 23 questions regarding the base map creation.
 24 Q. Okay. Anything else?

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1 they just said, It's fine, whatever you think is
 2 appropriate.
 3 Q. And how about -- Did you consider any
 4 other approaches other than looking, as you
 5 described it, as percent of impacts?
 6 A. No. I don't think I came up with any
 7 other approaches.
 8 Q. And so why did you -- so you didn't
 9 consider any other approach and rule it out is what
 10 you're saying?
 11 A. Well, I looked at maybe -- Dorgan had --
 12 Mr. Dorgan had his approach, and I ruled it out.
 13 Q. Sure. Understood. But I mean other
 14 than that.
 15 A. I don't -- I don't think I had any other
 16 approaches.
 17 Q. I imagine you met with the Attorney
 18 General's Office to prepare for today's deposition;
 19 is that correct?
 20 A. Yes.
 21 Q. And what did you talk about,
 22 specifically?
 23 A. Just potential line of questioning that
 24 I might get asked on this.

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1 A. No.
 2 Q. Did you come up here with Mr. Dougherty?
 3 Did you guys travel together?
 4 A. No.
 5 Q. How certain are you of the opinions in
 6 your report?
 7 A. Very certain.
 8 Q. Are you 100 percent certain like you
 9 were last time?
 10 A. 100 percent certain within a reasonable
 11 degree of scientific --
 12 Q. Okay. What does that mean?
 13 A. I'm pretty confident that my approach is
 14 accurate.
 15 Q. Okay. So give me a percentage of
 16 certainty.
 17 A. You want to go 100 percent, I'll go
 18 100 percent with you.
 19 Q. Okay. So there's no room for doubt that
 20 your opinions are incorrect or inaccurate in any
 21 way?
 22 A. The approach is correct.
 23 Q. But I'm asking about your opinions and
 24 all of your opinions. And so the approach is

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1 this -- I guess you're calling it percent of impact
2 approach. I'm talking about the all the opinions
3 in the report.

4 Are you 100 percent certain that they're
5 accurate?

6 A. I'm 100 percent certain that they're
7 accurate based upon the information that's in the
8 reports that I relied on in coming up with the full
9 area of impacts.

10 Q. Okay. What degree of certainty is
11 required for experts?

12 A. Within a scientific certainty.

13 Q. At Andrews Engineering I recall from the
14 last hearing that most of your work is for IDOT.

15 Is that still the same?

16 A. A lot of my work is reviewing IDOT but
17 not all of that. I mean, I have multiple other
18 private clients.

19 Q. Okay. And what percentage of your work
20 do you do for IDOT?

21 A. I would suspect it's probably somewhere
22 50 percent, 60 percent, I guess, maybe.

23 Q. Okay. And do you get compensated for
24 work that comes in from a particular client from

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1 Do you consider -- whose client are
2 they?

3 A. I suspect they would be the president's
4 client because he was the one that had the
5 contracts -- started the contracts with IDOT.

6 Q. But do you believe that your bonus is in
7 any way impacted by your work with IDOT?

8 A. No, I don't think so.

9 Q. No. Well, you're going to have more
10 hours, right, aren't you, if you're working on IDOT
11 work?

12 A. Yeah. But it would be billable hours,
13 yes, to IDOT, yes.

14 Q. Anything else?

15 A. That's -- No.

16 Q. What was your reaction to the board's
17 opinion when it was issued?

18 A. Somewhat disappointed.

19 Q. Why?

20 A. Well, other than -- that -- that they
21 felt that IDOT shouldn't have been liable.

22 Q. Anything else?

23 A. No.

24 Q. Was there anything in the decision that

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1 Andrews? For example, like in a law firm if you
2 bring in a client you get a bigger piece of pie
3 than if someone else brought in the client.

4 Do you get a portion -- some form of
5 compensation for having that relationship with IDOT
6 and bringing in that work?

7 A. No.

8 Q. So you're just on a fixed salary?

9 A. And bonus.

10 Q. Okay. And what's involved in your
11 bonus?

12 A. I believe it's based upon billability,
13 being how high a percentage are you billable in --
14 in being profitable in your -- in your management
15 of projects.

16 Q. Okay. So profitable.

17 Does it take into account the work that
18 you brought in and how much that is adding to the
19 value of the firm?

20 A. I guess -- I don't...

21 Q. Do you consider IDOT to be your client
22 at Andrews?

23 A. No.

24 Q. No.

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1 stood out to you?

2 A. I can't say anything stood out more than
3 any other thing in the ruling.

4 Q. How did you receive the board's December
5 15th order?

6 A. Well, I know it was emailed to me, but I
7 might have also looked on the Illinois Pollution
8 Control Board website.

9 Q. And did you provide any comments to IDOT
10 with respect to the board's opinion?

11 A. Nothing written.

12 Q. On the phone?

13 A. I believe there was a phone
14 conversation, I think, after it occurred.

15 Q. Okay. And what were your comments?

16 A. I don't recall off the top of my head
17 what they were. They were just basically what
18 was -- what the impacts were, the borings that
19 we're being responsible for. We just talked about
20 that.

21 Q. Do you remember any questions that were
22 posed to you by the IDOT attorneys?

23 A. No, I don't remember any.

24 Q. Do you remember anything specifically

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1 that you told them?
2 A. No.
3 Q. Okay. Let's go back to Exhibit 1,
4 Mr. Dorgan's report.
5 MR. MCGINLEY: It's Exhibit 2 actually.
6 MS. BRICE: I'm so sorry.
7 Mr. Gobelman's report. I do this all the
8 time. I apologize.
9 MR. MCGINLEY: So do you want his
10 report or Mr. Dorgan's report?
11 MS. BRICE: I want his report.
12 BY MS. BRICE:
13 Q. If you could turn to Section 5.1 of the
14 report, base map creation.
15 A. Mm-hmm.
16 Q. Here you say that you had to create a
17 base map in order to assess costs.
18 Why is that?
19 A. Well, when I looked at the maps that
20 were in Mr. Dorgan's report, and then my original
21 thought was that we would use the figures that were
22 in the final report that actually gave me northern
23 and easterns points of the corners. And then in
24 Mr. Dorgan's report, he had a survey that was

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1 submitted to USEPA?
2 A. Yes, I would assume it did, yes.
3 Q. What is your point you're trying to make
4 here in Section 5.1?
5 A. In essence, the point is that without
6 having a base map that I could depend upon, I
7 created one, in essence, from scratch based upon
8 the information from various reports because the
9 rest of my dealings was going to be based upon that
10 base map and I needed to have it as accurate as I
11 thought it could be.
12 Q. Did you go back and look at the AECOM
13 remedial work plan figures and see if they lined
14 up?
15 A. I believe we looked at a number of
16 figures that over time had been, sort of, overlaid
17 or we tried to use even from the beginning of the
18 hearings in creating our original map based upon
19 Mr. Dorgan's map, and none of it ever lined up to
20 any degree of accuracy. So everything was always
21 skewed one way or another.
22 Q. Is the map that you used in Hearing 1,
23 the first part of the hearing, is it different from
24 Gobelman 1?

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1 conducted on the site. And I said, Great, that
2 would even be better.
3 But when putting all those -- looking at
4 that, we discovered that none of them lined up;
5 that there was a skewed system in how Site 3 was
6 looking.
7 Q. Okay. And who is "we"?
8 A. Well, Mike Nguyn and CAD was trying --
9 we were trying to figure out together. And he was
10 like, None of these -- which one do you want to go
11 with because none of them are the same.
12 Q. Whose idea was it to compare the final
13 report and the Atwell survey?
14 A. Well, I put -- I had -- I didn't because
15 I told him -- I told him to put the -- use the
16 Atwell survey because I figured that was the most
17 accurate and then compare it to what the point in
18 the final report were on the corners of Site 3 and
19 they didn't line up.
20 Q. What made you suspicious? Why would you
21 think that they wouldn't line up?
22 A. Well, it wasn't suspicion. I just
23 wanted to make sure everything was accurate.
24 Q. Well, hadn't this document been

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1 A. Yes, I would say it is, because in the
2 original one I just took the figures that were in
3 the original map and modified them, not creating
4 anything new but just modifying that original
5 Dorgan's report's figures.
6 Q. But as you said here today you cannot
7 tell me if you actually looked at the AECOM Version
8 4 remedial work plan and -- to see if it lined up?
9 A. Um...
10 Q. If it's not --
11 A. Yeah --
12 Q. -- on your figure --
13 A. -- it's not on my figure. It wasn't the
14 one that we used as real using, but it's -- it was
15 probably in our system but just didn't utilize it
16 because it wasn't -- it was the work plan and not
17 the final report.
18 Q. Okay. So you don't know if it lines up
19 or not?
20 A. No, not specifically, right.
21 Q. If you can turn to Gobelman 1, please.
22 And I have this handy dandy magnifier because I
23 have a hard time reading it, so let me know if you
24 need it.

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1 So this is the Figure 1 that we have
 2 been referring to, correct?
 3 A. Yes.
 4 Q. And it has got a -- it doesn't have a
 5 Bates number, but it's dated -- Does it?
 6 MS. CAISMAN: Not in the report.
 7 MS. BRICE: Yeah. It's dated August
 8 2018.
 9 BY MS. BRICE:
 10 Q. So if you can go over to your notes on
 11 the side...
 12 A. Mm-hmm.
 13 Q. ... actually, on the legend, you say:
 14 Approximate Site 3 boundary
 15 and approximate right of way.
 16 Why do you use the word "approximate"?
 17 A. Because the representation of the area
 18 defined by Site 3 is based upon the fence line that
 19 was created, and so therefore it's assumed that the
 20 fence line is something outside of Site 3, not
 21 necessarily representing the actual boundaries of
 22 Site 3.
 23 Q. Okay. So now I'm really confused
 24 because I thought you were -- said earlier that the

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1 blue line?
 2 A. I don't know. Without scaling it off, I
 3 would say it's probably maybe 5 feet.
 4 Q. Okay. And then below that you've got a
 5 red line that says, approximate Site 3 limit Figure
 6 Dorgan report.
 7 Do you see that?
 8 A. Yes.
 9 Q. And how far is that from the black line,
 10 would you say, approximately?
 11 A. Somewhere between 10 and 15 maybe.
 12 Q. Okay. And the green line, I think, is
 13 coextensive with the red line on that northern
 14 boundary, is that correct -- So the same -- because
 15 it doesn't show up, but it seems to follow the red
 16 line almost everywhere.
 17 So I'm trying to see if it's --
 18 A. Yeah. I would say on the northern
 19 boundary, the green and the red are the same line.
 20 Q. Okay. Got it.
 21 So which one of these are you saying is
 22 the Site 3 boundary?
 23 A. What I am saying is that I'm using my
 24 fence line drawing of the Site 3 as being the

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1 fence line was demarcating the boundaries of
 2 Site 3.
 3 Is that --
 4 A. The fence line is demarcating that
 5 somewhere inside that fence line of Site 3, it's --
 6 whether it's accurate that the boundary of Site 3
 7 is actually on the fence line, there's no
 8 information to say that.
 9 Q. Okay.
 10 A. I'm just making that as an assumption,
 11 and I'm making it that Site 3 is the fence line.
 12 Q. Okay. Let's turn to Exhibit 2 in the
 13 same document which is further toward the back, and
 14 it's dated August 2018.
 15 Do you see that?
 16 A. Mm-hmm.
 17 Q. So then there's -- you have your line,
 18 approximate Site 3 boundary as shown on Gobelman
 19 Figure 1. Then I have beneath that in blue,
 20 approximate Site 3 limit of the Atwell document.
 21 Do you see that?
 22 A. Yes.
 23 Q. And how many feet generally are between
 24 that boundary of the -- at the fence line and the

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1 Site 3 that I'm using in my base map.
 2 Q. Okay. But you don't know for sure that
 3 that is the Site 3 boundary, correct?
 4 A. The assumption that I am making is that
 5 the fence encompasses Site 3.
 6 Q. Encompasses is different from being on
 7 the Site 3 boundary, though.
 8 A. It can be on the Site 3 boundary. I
 9 don't know. There's nothing to say how the fence
 10 line was -- was the fence line put on the actual
 11 line of Site 3 or not.
 12 Q. Okay. So you really don't know?
 13 A. (Shaking head.)
 14 Q. Have you ever attempted to create a map
 15 of your own to delineate features and boundaries
 16 when one has already been plotted and approved by
 17 USEPA?
 18 A. Could you repeat that?
 19 Q. Yeah.
 20 Have you ever attempted to create your
 21 own map to delineate features and boundaries on a
 22 property when USEPA has already approved a map
 23 where those features and boundaries have been
 24 placed?

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1 A. No.

2 Q. What's the proper methodology for
3 creating a base map?

4 A. To accurately depict what's on the site
5 or accurately depict what's there.

6 Q. I know.
7 But how do you do it, like physically?
8 What are the steps that you do to create a base
9 map?

10 A. Well, depending on the process of what
11 you're looking at, it could be looking at property
12 boundaries, legal descriptions, if it's a full
13 property. If it's not a full property, and it's
14 just a portion of a site, then it would have to be
15 with going out there and surveying or using some
16 GPS to mark boundaries or mark a line or something
17 like that, layout.

18 Q. Are you saying that the board's interim
19 order was wrong because it relied upon maps that
20 had an incorrect Site 3 boundary?

21 MR. MCGINLEY: Objection; misstates the
22 witness's testimony.

23 MS. BRICE: It's a question.

24 THE WITNESS: No.

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1 not a boring is 5 feet off or 10 feet off, it
2 doesn't necessarily change -- would have changed
3 the board's ruling.

4 Q. Okay. But you're saying the evidence
5 that they were relying on was not correct, is that
6 right, the maps?

7 MR. MCGINLEY: Objection;
8 mischaracterizes the witness's testimony.
9 BY MS. BRICE:

10 Q. Based upon your opinion in this report,
11 your current report, you're saying that the maps
12 the board was using to render its opinion were not
13 accurate?

14 A. If you're utilizing my base map, then
15 yes, those maps would -- I would have deemed them
16 as being inaccurate.

17 Q. Okay. How did you create this base map,
18 and step by step? I'd really like to know, like,
19 how did you create it?

20 A. Provided in the report, Appendix D --

21 Q. D?

22 A. D as in dog.
23 So as we had discussed, coming up,
24 looking at everybody else's lines that didn't

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1 BY MS. BRICE:

2 Q. No. You're not saying that it's wrong.
3 So the maps that the board used to
4 render its decision were correct?

5 A. I'm not saying that either.

6 Q. Okay. So what are you saying?

7 A. What are you asking?

8 Q. You know, you're saying that the maps
9 that the board used to render its opinion, you
10 disagree with those maps, right?

11 A. At this time I disagree that the maps
12 may not be truly representative of the actual...

13 Q. So then do you disagree with the board's
14 opinion that was based, in part, on those maps?

15 A. No.

16 Q. No.
17 How can you reconcile that?

18 A. Because the board's ruling is based upon
19 the maps as they apply. It's relative but it -- to
20 what was provided to them, so --

21 Q. Right. But now you're saying those maps
22 are wrong.

23 A. I'm saying that those maps necessarily
24 didn't represent the actual location, so whether or

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1 match, I decided to look at -- well, then can I
2 create something that I would at least be
3 comfortable with in allocating costs to.

4 So the first step is that I decided that
5 we would use the Google image that showed the final
6 layout of the site, in that it depicted the fence
7 line, and looking at that fence line as the area
8 depicted in -- for Site 3, with some modifications
9 that had to be done to it.

10 Q. Okay.

11 A. And then looking then back into the old
12 reports on how Site 3 was laid out in the
13 original -- in some of the original investigations
14 and seeing -- utilizing that base map line, how
15 it -- how does it work with the other, older stuff.

16 Q. Okay. So with the Google image itself,
17 you just went on to Google and pulled off the
18 anymore?

19 A. Yeah. We found that Google had updated
20 their system to get a more recent map than what we
21 were using prior in the original hearings' maps.

22 Q. And then what did you do? Did you give
23 that to your CAD guy? I'm just trying to
24 understand like procedurally how this is created?

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1 A. Well, my CAD person found when he was --
2 when we were putting this together, he was pulling
3 up the new image -- he pulled up a new image when
4 he was trying to create this map because that's
5 what we normally do on all our maps. We have a
6 Google image behind it as the base to show what the
7 land surface looked like.

8 So he came to me and said, Hey, did you
9 know there was a new image which is different from
10 the ones we were using before.

11 And he showed it to me, what that image
12 looked like. And I said, Well, then let's just go
13 with -- let's see if we lay out the fence line, how
14 that lays into everybody else's lines.

15 Q. Where are the Google images that you
16 were using before?

17 A. The CAD system has access to the Google
18 imaging, so they can -- when he does these maps he
19 pulls up the Google images, Google Earth or
20 whatever you want to, you know --

21 Q. Okay. But at one point he was using
22 different images?

23 A. He was using an older -- what at that
24 time was an older image because it wasn't -- I

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1 the Atwell report versus the AECOM final report,
2 versus your site boundary based upon the fence
3 line, correct?

4 A. Yes.

5 Q. You're saying these don't line up?

6 A. Yeah. None of them -- yeah, they --

7 Q. So you're saying they're inconsistent?

8 A. Correct.

9 Q. So how can you reconcile creating a base
10 map using all of these documents that have inherent
11 inconsistencies based upon your opinion with
12 respect to their borders?

13 A. That's what lead me to create my own
14 base map.

15 Q. I know.

16 But how can you reconcile that?

17 A. Well, I reconciled it with looking at
18 whether or not when I started looking at the older
19 information was it somewhat consistent with the
20 information of the older field work that was done.

21 Q. But how do you justify using conflicting
22 documents to build one map?

23 A. Well, I'm not utilizing their depiction
24 of Site 3 and building my Site 3.

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1 don't know if it was a 16 or a 17 image that was in
2 the system. That was the most recent.

3 Q. Did you produce that image?

4 A. No, I think they were produced -- I
5 can't remember if it was produced on the older -- I
6 don't know if -- yeah, the maps we used weren't
7 using a Google image behind them, so -- but it was
8 in the original map as its base in the CAD system.

9 Q. You say on the map here that you used a
10 Google image, an IDOT ^ right of way legal
11 description, a Site 3 location derived from the
12 AECOM removal action work plan, Revision 2, and
13 grid and water line locations derived from the
14 AECOM final report, Figure 2.

15 Do you see that?

16 A. Yes.

17 Q. Now, let's go back to Exhibit -- the one
18 where you're comparing the blue and the green and
19 the red. I think it's Figure -- it's in the
20 appendix. You're right. It's Exhibit 2.

21 Do you see that?

22 A. Yes.

23 Q. So on this document you're saying that
24 the Site 3 boundaries are different, if you look at

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1 Q. Well, you are. You say that you were
2 using the AECOM document, and you're using the
3 final work plan to build your Site 3. You say it
4 right there in your notes.

5 A. On Figure 1?

6 Q. Yes.

7 A. Yes.

8 Q. Right.

9 So how do you justify using conflicting
10 documents to create the same map?

11 MR. MCGINLEY: Objection. I think that
12 misstates his testimony.

13 THE WITNESS: It doesn't -- I'm not
14 utilizing in my Figure 1 what they depicted
15 in my Exhibit 2 as being how they were
16 representing. I wasn't utilizing them.

17 BY MS. BRICE:

18 Q. But you say on Figure 1 you are
19 utilizing them, so we'll just leave it at that.

20 Okay. Let's go to the -- I want to
21 go -- Actually, for one second, let's go to the
22 Atwell survey, which is on Dorgan Exhibit 2. I
23 think it's on F. It's at the very end, perhaps the
24 very last document, G. It is G?

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1 Okay. How did you use the -- Well,
 2 first of all, let me go back.
 3 You say in your report that you assume
 4 that the Atwell survey is correct, right?
 5 A. In my original thought process, yes, I
 6 would assume that the survey would have been
 7 accurate.
 8 Q. Well, you say that in your report
 9 actually.
 10 A. Yeah.
 11 Q. You say that you assume that the Atwell
 12 survey is correct as to the location of Site 3; is
 13 that right?
 14 A. Yes.
 15 Q. And did you talk to anyone at Atwell to
 16 understand their sources for the information
 17 plotted on the survey?
 18 A. No.
 19 Q. Okay. And how did you use the Atwell
 20 survey in Gobelman 1?
 21 A. Well, it was utilized as -- in lining up
 22 all the other -- with other things, corroborate
 23 those locations. It gave me easterns and
 24 northern. And then in determining what the actual

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1 Q. So you're disputing the accuracy of the
 2 Atwell survey that you say in your report you
 3 assume is correct?
 4 A. I assumed going into it that it was
 5 correct.
 6 Q. But you say it in your report --
 7 A. That --
 8 Q. -- that you assumed it was correct.
 9 A. -- I assumed it was correct --
 10 Q. So with --
 11 A. -- until we evaluated it.
 12 Q. But it can't be both ways. You say in
 13 the report you assumed it was correct and now
 14 you're saying it's not correct but you didn't say
 15 that in your report.
 16 So is it accurate or not accurate, the
 17 Atwell survey?
 18 A. I'm saying that I assumed it in my first
 19 process in dealing with the report -- in coming up
 20 with my base map I was giving you my process. I
 21 assumed it was accurate. But I believe it doesn't
 22 appear accurate in some areas. At least it doesn't
 23 line up with the other information.
 24 Q. It doesn't line up with your fence line?

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1 points were at the corners of Site 3, I was
 2 utilizing the other figure that was in the final
 3 report that gave the corners northern and easterns.
 4 And that's what caused the confusion of -- that
 5 they don't line up.
 6 Q. But when you go to your exhibit isn't it
 7 true that the Atwell survey does not line up with
 8 your fence line? It's actually south of your fence
 9 line?
 10 A. I agree.
 11 Q. So which one is right? Is the Atwell
 12 survey right or is your fence line right?
 13 A. I have no opinion on which one I
 14 think -- there was an error in this survey that we
 15 couldn't figure out whether it was skewed or
 16 missing that it didn't have the right spacing that
 17 was defined by in the final report that the corners
 18 were -- looked like they were GPS'd in. These are
 19 the corners of Site 3 with these northering and
 20 these easterns. And they do not match up on the
 21 eastern side of this boundary for those corners.
 22 There is a skewed system. And because of that I
 23 created the survey -- I didn't create -- I created
 24 my ^ base map using the ^ fence line as the site.

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1 A. It doesn't line up with the final report
 2 figure.
 3 Q. Okay. But it also doesn't line up with
 4 your fence line; does --
 5 A. It never -- It was never meant to -- my
 6 fence line figure was never meant to match up
 7 perfectly with the Atwell survey.
 8 Q. Well, of course not, but you were trying
 9 to depict -- your fence line is trying to depict
 10 Site 3 boundaries, correct?
 11 A. My base line was to create a figure that
 12 I could be comfortable with laying out the rest of
 13 the site in, and the best representation that we
 14 have is the physical visual of the fence line.
 15 Q. Okay. So since the Atwell survey is now
 16 incorrect -- I'm -- How did you use the Atwell
 17 survey at all, or do you not use the Atwell survey
 18 in your report in coming up with Gobelman 1?
 19 A. I utilized it only in putting together
 20 how things looked compared to other figures that
 21 were created to try to get them to line up.
 22 Q. But look at Gobelman 1. I think you say
 23 you used the Atwell survey to put in 0393?
 24 A. I believe it's probably a note that just

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1 went along with all the figures.
 2 Q. Yeah, but that note is in there on your
 3 report?
 4 A. Yes.
 5 Q. Did you use the Atwell survey to plot
 6 0393?
 7 A. To plot 0393?
 8 Q. Correct?
 9 A. No.
 10 Q. No.
 11 Then why do you say that in here?
 12 A. I think it lined up with the Atwell but
 13 I originally had done it through the grant of
 14 public highways.
 15 MR. MCGINLEY: Susan, we have been
 16 going an hour and a half.
 17 Do you think we can take a
 18 few-minute break?
 19 MS. BRICE: Sure.
 20 (Brief recess.)
 21 BY MS. BRICE:
 22 Q. Okay. So, as I understand it, we were
 23 just talking about the different boundaries of
 24 Site 3, and you said you tried to confirm your

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1 Q. So it's your understanding that that in
 2 and of itself is a State plane coordinate?
 3 A. It's a coordinate of where that point
 4 is.
 5 Q. Did it come from the State or did it
 6 come from GPS?
 7 A. I assume it was GPS'd in.
 8 Q. And who would have done that?
 9 A. I would assume whoever put the map
 10 together; I mean, whether it was, you know, AECOM
 11 or Peterson or whoever the at the time.
 12 Q. And so there's -- in all four corners,
 13 we see those coordinates, correct?
 14 A. Correct.
 15 Q. And below it on the northeast there's
 16 this in 2083 -- it's either a comma or a .100.
 17 Do you see that?
 18 A. Yes.
 19 Q. And what is that?
 20 A. That is the coordinate line for -- that
 21 northern-ing line for that grid.
 22 Q. And where did that come from? Is that
 23 the State plane coordinates?
 24 A. Yeah. It's representing that place,

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1 assumption by looking at Figure 2 of the final
 2 report, which is I believe in Exhibit D of your
 3 report. And it's JM0040322.
 4 Do you have that there?
 5 A. Yes.
 6 Q. Okay. So I have a couple questions
 7 about this.
 8 You said -- You have been talking about
 9 the grid coordinates for the four corners.
 10 Where are the grid coordinates for the
 11 four corners on this document?
 12 A. The northern and easterns are arrowed in
 13 on each corner.
 14 Q. Okay. So that's the 2083127.1 north and
 15 122 -- sorry, 1122790.3E, east; is that correct?
 16 A. That is the coordinate for the
 17 northeast --
 18 Q. Okay. So these are GPS coordinates?
 19 A. -- corner.
 20 They're State plane coordinates, I
 21 believe --
 22 Q. You think that --
 23 A. The northern and the easterns, as far
 24 as --

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1 that area in the State plane survey -- not a survey
 2 but...
 3 Q. Okay. And you say that you compared the
 4 Atwell survey to this survey; is that correct?
 5 A. Yes.
 6 Q. And how did you do that?
 7 A. We overlaid one on top of the other.
 8 Q. Manually?
 9 A. I believe we took the Atwell survey and
 10 laid in where Site 3 was and then he just entered
 11 the coordinates for the corners and then -- and
 12 looked to see how they lined up to the Atwell.
 13 Q. Okay. So -- But this isn't a manual
 14 over- -- I'm not fully understanding.
 15 Someone is doing this on CAD?
 16 A. CAD, yes.
 17 Q. Okay. So take me through the steps of
 18 what he did exactly.
 19 (Witness peruses document.)
 20 THE WITNESS: Well, I'm not sure which
 21 way it went. I know we had the figure of --
 22 that final report figure that had the
 23 corners.
 24

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1 BY MS. BRICE:
2 Q. This one (indicating) --
3 A. Yeah.
4 Q. -- JM0040322?
5 A. Right.
6 Q. Okay.
7 A. So I know we entered into the CAD system
8 to see how it laid out in representation of --
9 because we already had the figure of Mr. Dorgan's
10 in the system.
11 Q. Yeah, but I'm not talking about
12 Mr. Dorgan.
13 A. I know. I know
14 Q. I'm talking about the topographic
15 survey, the Atwell survey.
16 A. And then in looking -- and then we then
17 put in because the -- because the northern-ing and
18 easterns are there, we put that in there also and
19 overlaid it.
20 Q. Back up.
21 You said first that you took this
22 document, and I want to know exactly how he did it.
23 And we might have to take his deposition because if
24 you don't know then -- you know, this is pretty

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1 that?
2 A. You just call them up and you just lay
3 one on top of the other.
4 Q. Okay. And then what did you do next?
5 A. We looked at seeing what -- how they
6 were -- how they lined up because if they -- they
7 had to be tied to the ground somehow. If not, you
8 just got spatially things moving around. So tying
9 it to the ground of the coordinate system is what
10 we sort of tried to tie them into.
11 Q. Does the Atwell survey have GPS
12 coordinates?
13 A. It gives you the --
14 Q. In the four corners, are there GPS
15 coordinates on the Atwell survey?
16 A. No.
17 Q. Is there a more reliable way to
18 determine property boundaries than this, sort of,
19 manual overlay in CAD?
20 MR. MCGINLEY: Objection; vague and
21 ambiguous.
22 THE WITNESS: Well, if he had the -- I
23 mean, in dealing with full properties, you
24 have legal descriptions that define the

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1 important.
2 How did you overlay this document and
3 the Atwell survey document? Do you know?
4 A. We had a PDF figure and then put it in.
5 Q. What PDF figure?
6 A. Well, I think there was PDFs that we
7 had -- We took a -- we had the paper, you know, and
8 so we created a PDF. They got it as a PDF, and so
9 cutting it out and then giving it to him to put --
10 overlay to use and scale based upon those
11 coordinates.
12 Q. Okay. But then how does he overlay that
13 on top of the Atwell drawing in CAD?
14 A. (No response.)
15 Q. Do you know?
16 A. I believe we looked at the coordinates
17 of the layout and saw that they didn't match up to
18 that, and we overlaid those lines.
19 Q. Yeah, I --
20 A. Because it gives the boundaries and how
21 it's laid out.
22 Q. Right.
23 But how do you overlay these two
24 documents in CAD? What is the methodology in doing

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1 property's boundaries. You can GPS them in
2 in taking corners and running a line down,
3 determining what they are.
4 BY MS. BRICE:
5 Q. Okay. Did you do that here? Did you
6 go --
7 A. No.
8 Q. -- actually go out to the site and GPS
9 it?
10 A. No.
11 Q. Can you cite me to any source that says
12 this is the reliable method of overlaying maps and
13 coming up with grid coordinates?
14 A. To me it's standard practice with how
15 we've done business in any other property.
16 Q. Okay. Is there a book or something that
17 might explain to me how this works?
18 A. I have no idea if there is a book on it.
19 Q. How did you ensure that the scaling and
20 dimensions on the two figures were the same?
21 A. We utilized the grade system out there.
22 The eastern and northern grit system and sort of
23 tried to get them to line up right, get them
24 together.

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1 Q. Right. But that doesn't deal with
2 scale. You've got PDFs, and you've got scales that
3 are different on two different maps.
4 So how did you take into account the
5 scale? How did you deal with that?
6 A. CAD takes care of the scale in the
7 system itself. If the map had a scale --
8 Q. Understood, but these are two different
9 scales off of the PDFs.
10 A. It doesn't matter. It's still to scale.
11 Q. Okay. So you somehow accounted for
12 that?
13 A. It accounts for the scale.
14 Q. Okay. Where is the northern fence
15 boundary on the Atwell survey?
16 A. I don't believe it depicts the fence
17 line.
18 Q. But it does depict the fence line over
19 to the right, does it not, chain-link fence with
20 ^ barbed wire?
21 A. I don't believe that's the fence line of
22 the -- that's bounding Site 3. That's the fence
23 line that's -- to the adjacent property.
24 Q. Oh. So you don't think the fence line

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1 A. Well, there are no grid coordinates on
2 his Figure 1.
3 Q. I know, but you say that. I don't.
4 A. I said they don't match up to the grid
5 coordinates of the other surveys.
6 Q. Okay. So how did you figure that out?
7 A. Taking this figure and then scaling it
8 into the other figures and overlaying it.
9 Q. Okay. And overlaying them.
10 And how did you -- what's your reference
11 point knowing that you're placing this in the right
12 spot? This doesn't have the -- these State plane
13 numbers on it; does it?
14 A. No.
15 Q. So what are you using as your reference
16 point?
17 A. At that time we were utilizing --
18 because this figure is the sort of same figure
19 that's always been in the system, so it's
20 already -- it was already represented in there, so
21 we just pulled it up based upon -- and sort of
22 lined up based upon the locations of the borings
23 and the ^ right of way line that was depicted.
24 Q. The right of way line?

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1 is shown on this survey? Is that what you're
2 saying?
3 MR. MCGINLEY: Objection; asked and
4 answered.
5 BY MS. BRICE:
6 Q. Okay. Would it be ordinary for a fence
7 if there is a chain-link fence for it to be placed
8 on the plot of topographic survey?
9 A. Yes.
10 Q. Let's move to -- you also say the
11 coordinates of the Atwell survey don't match with
12 Mr. Dorgan's Figure 1, Appendix C. Okay. So let's
13 just take a quick look at Mr. Dorgan's Figure 1
14 from Appendix C.
15 And can you explain to me how you came
16 to that conclusion?
17 (Witness peruses document.)
18 THE WITNESS: Okay. So would you
19 repeat your question again?
20 BY MS. BRICE:
21 Q. Sure.
22 You say the grid coordinates on Dorgan 1
23 do not match the Atwell survey. And I want to know
24 how you arrived at that conclusion.

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1 A. Yes.
2 Q. So the borings on which map and the
3 right of way line on which map?
4 (Witness peruses document.)
5 THE WITNESS: Well, we...
6 (Witness peruses document.)
7 THE WITNESS: I don't know if I can
8 explain it --
9 BY MS. BRICE:
10 Q. That's fine.
11 A. -- easily.
12 This figure is -- it was in to assist --
13 Q. Which figure?
14 A. The Figure 1.
15 Q. Dorgan 1?
16 A. Dorgan's Figure 1, which was the
17 original layout in his previous reports.
18 When you look at how those points and in
19 laying this in to State plane coordinates in laying
20 in the corners, they didn't line up.
21 Q. But there's no State plane coordinates
22 on this document.
23 A. But it's represented in a position on a
24 map.

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1 Q. What's the reference that you -- Well,
2 you would agree you need to have a similar
3 reference point in order to compare different
4 maps --
5 A. Mm-hmm.
6 Q. -- right? Okay.
7 THE COURT REPORTER: Is that a yes?
8 THE WITNESS: Yes. Sorry.
9 BY MS. BRICE:
10 Q. And with respect to comparing the Atwell
11 to the final report, you used the State plane
12 coordinates, correct?
13 A. Yes.
14 Q. So where is the reference point with
15 respect to this document? How did you -- there's
16 no State plane coordinates so where is the
17 reference point?
18 A. Well, we -- when scaling it into the
19 system, it doesn't come up to be the same size as
20 the other people's -- the other figures. It's a
21 different. It lays in differently.
22 Q. You can't tell me where the reference
23 point is, correct?
24 A. How this reference point for this

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1 Q. JM0044 -- 4- -- Isn't it JM0040322,
2 sorry.
3 A. Okay.
4 Q. Other than the locations of the
5 coordinates, is there anything else about this
6 figure that you're disputing?
7 A. I don't believe so, anything.
8 Q. Okay. In your report -- and we're going
9 back to Section 5.1 -- you say that you created a
10 map utilizing current existing conditions.
11 Why was it important to use current
12 existing conditions?
13 MR. MCGINLEY: Objection; misstates the
14 testimony.
15 MS. BRICE: Okay. I'll actually read
16 it. Let me find it.
17 First full paragraph on Page 4:
18 Based on the inconsistent
19 location of Site 3 I created a
20 site map utilizing current
21 existing conditions.
22 BY MS. BRICE:
23 Q. Do you see that?
24 A. Yes.

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1 figure?
2 Q. Yes.
3 A. No. There is no reference point to it.
4 Q. So therefore there's no reference point
5 with respect to the comparing it to the other two
6 figures, so you're not really -- Okay. Got it.
7 Okay. Let's go back to your report,
8 Exhibit 1. I think I'm looking for the Appendix C.
9 Right. And I'm looking for Exhibit 1 on Appendix C
10 on your report.
11 A. Okay.
12 Q. And this is the document that you are
13 relying on to say that the four corners do not
14 match up, correct?
15 A. Correct.
16 Q. Okay.
17 A. Well, that the sites aren't consistent,
18 laid out.
19 Q. And then let's go back here -- Sorry.
20 There's a lot of documents.
21 Go back to Appendix D.
22 And this is the final report figure that
23 you used, the JM004022?
24 A. Which figure?

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1 Q. Okay. Why? Why use current existing
2 conditions?
3 A. I used the current conditions meaning
4 that the area -- 2018 aerial showing the fence line
5 as the starting point for the base.
6 Q. Why? I mean, how is that relevant to
7 the location of ACM from ELM in 1999, the current
8 existing conditions?
9 A. Well, in utilizing that base as a
10 starting point, then I went to compare the ELM map
11 to the base that is created from the fence line and
12 found that the dimensions were pretty close to the
13 dimensions that they measured off on the western
14 edge and southern edge of Site 3.
15 Q. Okay. But that's not my question.
16 My question is: How are the current
17 existing conditions relevant to the location of ACM
18 in 1999?
19 A. "The current conditions," meaning the
20 fence line, is relative -- that that is the
21 perceived area containing Site 3.
22 Q. How are the current conditions relevant
23 to the work that was done in 2016 and 2017?
24 A. That the fence line contains -- it is

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1 bounded by the work that was done for Site 3.
 2 Q. All right. Let's go to the Google map.
 3 MS. BRICE: And we're going to mark
 4 this as the next exhibit.
 5 (Gobelman Exhibit No. 4 marked for
 6 identification.)
 7 BY MS. BRICE:
 8 Q. All right. This document was given to
 9 us yesterday by counsel.
 10 Is this the Google map that you used for
 11 purposes of preparing Gobelman 1?
 12 A. I believe it is, yes.
 13 Q. Okay. And where are -- Where's the
 14 reference point on this map for purposes of
 15 comparing it to the other maps?
 16 A. There is no comparisons made on this
 17 map. It's the Google image.
 18 Q. Right.
 19 But how is -- So, don't you, on Exhibit
 20 2 in Appendix C compare your fence line to the
 21 Google image?
 22 MR. MCGINLEY: Excuse me.
 23 You're talking about
 24 Mr. Gobelman's report?

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1 Q. Okay. But it's not on this image?
 2 A. No, it's just an image of Google Earth
 3 of that area.
 4 Q. Understood.
 5 But what's the reference point that you
 6 used here?
 7 A. In Exhibit 1 -- or 2, I mean?
 8 Q. In Exhibit 2, what's the reference point
 9 you used to compare those four different lines?
 10 A. The reference point was the layout, the
 11 overlay of those individual figures --
 12 Q. Right.
 13 But that's --
 14 A. -- to each other.
 15 Q. But that's not the reference point that
 16 you have to start from.
 17 You said you have to start from the same
 18 reference point.
 19 A. You have to have it reference some way.
 20 Q. Okay. And how did you do that?
 21 A. Well, the other figures, two of the
 22 figures have the northern and easterns that lined
 23 up.
 24 Q. But this doesn't, right?

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1 MS. BRICE: Correct. Mr. Gobelman's
 2 report, Exhibit 2, Appendix C.
 3 MR. MCGINLEY: Can we have a second so
 4 he can pull it up?
 5 MS. BRICE: Of course.
 6 (Witness peruses document.)
 7 THE WITNESS: Regarding Exhibit 2?
 8 BY MS. BRICE:
 9 Q. Yes.
 10 A. Okay. What --
 11 Q. So you're comparing on this Exhibit 2
 12 the different site boundaries, correct?
 13 A. On Exhibit 2, yes.
 14 Q. Okay. And the site boundary for the --
 15 that you were using for the fence line is coming
 16 off the Google image, correct?
 17 A. Correct.
 18 Q. And so what's the reference point here
 19 to be able to compare those lines off the Google
 20 image because there's no State plane numbers on
 21 this Google image; are there?
 22 A. Not listed.
 23 Q. Okay.
 24 A. It's embedded into the system.

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1 A. Which one?
 2 Q. The Google image.
 3 A. It's not showing. It's embedded.
 4 Q. You mention in your report that the
 5 fence line -- or you can see it here on Gobelman
 6 Exhibit 2 from the appendix. The fence line on the
 7 northeast and the northwest area are not -- you
 8 know, are, sort of, cut off or actually come in,
 9 correct?
 10 A. (No response.)
 11 Q. How would you explain that to me? How
 12 did you interpret this northern fence line boundary
 13 given the fact that it is not consistent across the
 14 northern boundary. The fence is not aligned with
 15 the point -- I'm sorry. That his was a terrible
 16 question.
 17 Let's look at Exhibit 2. Your fence
 18 line is -- take the northwest corner, right? Your
 19 fence line is up to the north but then the actual
 20 fence is below the red line, correct?
 21 A. Correct.
 22 Q. Okay. So how did you come about
 23 figuring that was the northwest corner proper --
 24 A. The --

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1 Q. -- the fence line?

2 A. The fence line in the northwest corner

3 dropped below the -- down the slope of the

4 embankment. But the figures and everything else

5 shows that Site 3 actually is a 90-degree corner.

6 So all I did was extend the northern line and

7 western line so that they meet to encompass what

8 Site 3 has been defined as.

9 Q. So it seems like from your earlier

10 testimony -- and tell me if I'm right -- that you

11 believe that the northern boundary of Site 3 is

12 between 10 and 15 feet north of where it was

13 plotted by the final report and Mr. Dorgan; is that

14 correct?

15 A. The area that I am -- The fence line is

16 10 to 15 feet north of their lines, yes.

17 Q. Right, but the fence line is what you

18 are using in your report as the Site 3 boundary,

19 correct?

20 A. Correct.

21 Q. Is a Google image a source reasonably

22 relied upon by experts in the surveying field to

23 map a definitive property boundary?

24 A. I don't know, but I would say it's

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1 variation in topography in your mapping and

2 plotting?

3 A. I didn't.

4 Q. Okay. So we're going to go back to

5 Gobelman 1. And I'm still slightly confused as to

6 how you put in Parcel 0393 on here. But let me ask

7 you one question.

8 You teed it off of this base map; isn't

9 that correct? So when you plotted 0393, you used

10 Gobelman 1 as the base source?

11 A. I utilized the highway -- the grant for

12 public highway legal description and figure --

13 Q. Understood.

14 A. -- to lay out that.

15 Q. And I get that. And we can get to that.

16 But you plotted it on Gobelman 1, right?

17 So the base that you were plotting it on was based

18 on Gobelman 1 which uses the northern boundary as

19 the fence line; is that correct?

20 A. Yes, I plotted it on Figure 1, yes.

21 Q. Okay. Why did you use the legal

22 description?

23 A. On the basis that I thought it would be

24 the most accurate way depicting what the boundaries

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1 probably not definitive without other information.

2 Q. Do you know what angle this Google image

3 was taken from?

4 MR. MCGINLEY: Objection; vague and

5 ambiguous.

6 THE WITNESS: No.

7 BY MS. BRICE:

8 Q. Do you know what height?

9 A. No.

10 Q. Do you know at what degree of -- I'm

11 going to say zoom, but I don't know if that's the

12 right word, what degree of focus --

13 A. No.

14 Q. How did you come up with the scaling on

15 this document?

16 A. Scaling is based on the CAD document.

17 It's based on the -- the Google image also has a

18 scaling aspect.

19 Q. Okay. Is Site 3 completely flat?

20 A. It wasn't before. I wasn't out there.

21 Q. Google image doesn't take into account

22 varying elevations; does it?

23 A. No.

24 Q. So how did you account for this

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1 were to make sure it lined up right.

2 Q. Are you an expert in legal descriptions?

3 MR. MCGINLEY: Objection; vague and

4 ambiguous.

5 BY MS. BRICE:

6 Q. Are you an expert in reviewing legal

7 descriptions and plotting the location of property

8 boundaries based upon legal descriptions?

9 MR. MCGINLEY: Objection; compound.

10 THE WITNESS: I wouldn't -- not

11 necessarily say I'm an expert, but I have

12 done it.

13 BY MS. BRICE:

14 Q. Just walk me quickly through the steps

15 that you used based upon the legal description,

16 what you did here.

17 A. Well, I mean, there was a known from the

18 original 70 plan sheets that Station 7 was the

19 eastern edge of the right of way. And then looking

20 back at the -- and then going back to the point at

21 the beginning from the legal description what was

22 at the intersection of Sands (ph.) or whatever it's

23 called now and Greenwood, from that point measuring

24 it off.

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1 Q. How? With what?
 2 A. In CAD. It's distance and bearing.
 3 Q. Okay. And then you said you also used
 4 the as-built drawings.
 5 Why?
 6 A. Because they lined up -- gave me a
 7 functionality of where -- dealing with Station 7
 8 and how it lays out because it sort of ties in
 9 other things.
 10 Q. Did you check whether your conclusion
 11 that Station 7 along Greenwood is at the eastern
 12 edge of 0393 with the Atwell survey?
 13 A. The final depiction was compared to the
 14 other depictions that we had of 0393 and it seemed
 15 consistent to what the other ones showed.
 16 Q. But you didn't check with the Atwell
 17 survey?
 18 A. I can't specifically say what I checked
 19 it with, which specific documents.
 20 Q. So where you plot the borings is pretty
 21 important to your opinion, right?
 22 A. I -- It's important, yes.
 23 Q. And you say that the borings from
 24 Gobelman 1 came from ELM15, which is JM00565 in

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1 we just talked about to plot your borings?
 2 A. It was the best map that I could find
 3 that had the locations of those borings.
 4 MS. BRICE: Could you please mark that
 5 document.
 6 (Gobelman Exhibit No. 5 marked for
 7 identification.)
 8 BY MS. BRICE:
 9 Q. So I'm handing you what's Exhibit 66-57
 10 from the first hearing, JM004711, which is a
 11 depiction of the borings on Site 3; is it not?
 12 A. Yes.
 13 Q. And this is not a draft; is it?
 14 A. It doesn't say draft.
 15 Q. Okay. Why didn't you use this document
 16 as opposed to ELM15 to plot the borings on
 17 Gobelman 1?
 18 (Witness peruses document.)
 19 THE WITNESS: I believe that my
 20 assumption was these were the same as what
 21 was in the draft.
 22 BY MS. BRICE:
 23 Q. Oh.
 24 Have you checked that?

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1 Appendix D of your report, correct?
 2 A. Yes.
 3 Q. This is a draft document, correct?
 4 A. Um.
 5 Q. It says draft --
 6 A. Yeah.
 7 Q. -- does it not?
 8 A. Yes.
 9 Q. And it also says approximate boring
 10 locations down there on the left; does it not?
 11 A. Yes.
 12 Q. And you say in your report that this
 13 figure contradicts your base map as to the length
 14 of the western and southern boundaries, right?
 15 A. Yeah. It's not exact, yes.
 16 Q. So why did you use this for the Site 3
 17 borings?
 18 A. Well, I -- I would assume that my
 19 boundaries would be a little bit larger than --
 20 than what was depicted because I'm using a fence
 21 line and not the actual site.
 22 Q. I'm sorry. I don't think that answered
 23 the question.
 24 Why did you use ELM15, given everything

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1 A. I can't remember when I checked it.
 2 Q. You did check it? You actually checked
 3 it?
 4 A. I don't remember.
 5 Q. So going back to AMM15, how did you
 6 actually plot these borings on to your base map?
 7 A. I measured -- scaled off of the ELM --
 8 the one that's in my report, making the assumption
 9 that the eastern -- western edge of Site 3 is the
 10 same as their western edge.
 11 Q. So you actually -- did you do this in
 12 CAD or was this an overlay?
 13 A. It was -- The markings were done in CAD
 14 based upon a dimension that I provided him.
 15 Q. But did you actually snap distances or
 16 did you do something different?
 17 A. We, I guess, snapped distances based
 18 upon distance from the western edge to that spot
 19 and from the north down.
 20 Q. You say that the distance between the
 21 northern site boundary of Site 3 and B345, so we're
 22 going -- you say this on ELM is 19.7 feet?
 23 A. Yes.
 24 Q. And you -- how did you measure that snap

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1 distance?
2 A. I measured it based on scale.
3 Q. On scale.
4 So not snap distance?
5 A. Correct. They measured, and then they
6 placed it on the report based upon --
7 Q. But you didn't do it yourself? Somebody
8 else did it?
9 A. The measurements?
10 Q. Yes.
11 A. I measured.
12 Q. You measured it. Okay.
13 So you used a scale or you used a snap
14 distance or what did you do? What --
15 A. I used a scale.
16 Q. A scale like one of these --
17 A. Well, an engineer scale. And based upon
18 the actual scale that's on the map, you can
19 calculate distances.
20 Q. Okay. And then did you go to Gobelman 1
21 and plot that distance from the northern boundary
22 as depicted on Gobelman 1, 19.7 feet down? Is that
23 what you did?
24 A. Yes. Then CAD -- went down and marked

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1 western edge of Site 6 is 419 feet.
2 Q. Based upon what map?
3 A. Based upon this figure.
4 Q. But this figure goes to -- oh, that is
5 1S. Sorry. I can't see.
6 Okay. And you placed the northeast
7 excavation I think, I believe, somewhat on this
8 document; is that correct?
9 A. (No response.)
10 Q. The location of the northeast
11 excavation, is that based off this document?
12 A. Yes.
13 Q. Okay. Do you know whether this document
14 actually depicts what was done in 2016 and '17 at
15 the northeast excavation, the area that was
16 actually disturbed?
17 A. I don't know if it exactly did. It
18 seemed to line up to what the other reports had.
19 Q. You say you that plotted the Nicor,
20 North Shore Gas, and the water line based on the
21 final report; is that correct?
22 A. Yes.
23 Q. How did you account for the fact that
24 the final report coordinates were different from

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1 the location that I gave him.
2 Q. And that was 19.7 feet, correct?
3 A. Whatever was stated in the report.
4 Q. Okay. You say that B345 falls three
5 feet outside of 0393.
6 Which map is that based off of?
7 A. Based --
8 Q. Is that off of Gobelman 1?
9 A. Yes.
10 Q. Okay. Okay. If you go to your
11 Exhibit -- Appendix D, and we've got I think
12 it's -- I don't have the right -- actually -- I'm
13 looking at JM004753. Is this -- and I think this
14 is Exhibit 6699. Yes, it is.
15 And this is the document you say you
16 used to measure 1F through 9F; is that right?
17 A. Yes.
18 Q. Okay. And how were those samples taken?
19 A. I believe a majority of them were test
20 pits.
21 Q. You say the distance from 1F to 9F is
22 419 feet.
23 How did you calculate this?
24 A. It's the distance between 9S and the

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1 your map?
2 A. I didn't necessarily account for it. I
3 mean it lays in there what the -- from all the
4 other utility lines that we just laid in that
5 utility line.
6 Q. Right. But your map is 10 to 15 feet
7 further north than the final report, the northern
8 boundary, correct?
9 A. If you look at either -- whatever
10 Exhibit D the 40322, which is the utilities
11 corridors --
12 Q. Mm-hmm.
13 A. -- it shows that the -- the Nicor Gas
14 runs east/west across the site lies just about
15 slightly north of but within their boundaries of
16 northern-ing 2083000. And if you look at my base
17 map, that is exactly where it lies also, it lies at
18 northern 2083000.
19 Q. Where is that on your base map? I'm not
20 seeing the number.
21 A. My base map, Figure 1, does not have the
22 utilities marked.
23 Q. Okay. So -- all right. Let me ask this
24 question.

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1 Since you said earlier that -- Let's
 2 just say it's 10 to 15 feet further north of the
 3 southern boundary.
 4 And you said that that moved everything
 5 up, right --
 6 A. Um.
 7 Q. -- earlier?
 8 A. I said if it was moved up, everything
 9 would move up --
 10 Q. Right.
 11 That would --
 12 A. -- together, right.
 13 Q. -- include the location of the
 14 utilities, right? They would be moving up 10 to 15
 15 feet from where they were on Mr. Dorgan's map; is
 16 that correct?
 17 A. Yes.
 18 Q. What were USEPA's reasons for selecting
 19 the remedy that it chose?
 20 A. To make sure that any future work on the
 21 utilities would have a clean portal to work in
 22 without having to worry about work and safety
 23 issues with dealing potential asbestos within the
 24 corridor of the utility.

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1 BY MS. BRICE:
 2 Q. At the time of the EAM?
 3 A. I was trying to think. 9 only went down
 4 a foot, and I can't remember if it had something or
 5 not. But I think most of the east was relatively
 6 clean.
 7 Q. At that point in time or always?
 8 A. Well, I'd have to look at the figures. I
 9 can't remember. I only looked at -- I was only
 10 dealing with Site 6 as it relates to IDOT.
 11 Q. Okay. What is your method for defining
 12 the areas of liability?
 13 MR. MCGINLEY: Objection; vague and
 14 ambiguous.
 15 THE WITNESS: The areas of liability
 16 were based upon the board's ruling of which
 17 borings IDOT was responsible for.
 18 BY MS. BRICE:
 19 Q. Okay. But when you say "boring," are
 20 you talking about just asbestos directly beneath
 21 that boring or what are you talking about?
 22 A. That boring and how it -- how it's
 23 represented to the rest of the borings around it.
 24 Q. Meaning what? Can you expand on that,

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1 Q. Okay. Anything else?
 2 A. To make sure that site was properly
 3 capped so that they wouldn't have any issues from
 4 wind blown and other issues like that.
 5 Q. Did visible ACM play a role?
 6 A. I believe all ACM played a role.
 7 Q. And how -- How so -- Well, you know, let
 8 me ask a different question.
 9 Do you dispute that at the time of the
 10 enforcement action memorandum no ACM had been found
 11 east of 8S, yet EPA required an entire North Shore
 12 Gas clean corridor?
 13 THE COURT REPORTER: I'm sorry. The
 14 EPA required?
 15 MS. BRICE: Sorry, bad question.
 16 BY MS. BRICE:
 17 Q. In the EAM do you dispute that at the
 18 time of the EAM, no ACM had been found east of 8S?
 19 MR. MCGINLEY: Objection. The document
 20 speaks for itself.
 21 THE WITNESS: I believe that -- Well,
 22 I'd have to look at the map to make sure. I
 23 thought there was something east of 8S.
 24

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1 please?
 2 A. Well, A, it's defined within the right
 3 of way so we don't go outside the right of way on
 4 Site 3. And then if -- if you -- if the -- the
 5 limits would be based upon how -- if you would
 6 looked at, the limit would be a dirty boring going
 7 to a clean boring that you would take the level all
 8 the way to that clean boring. If, like, in Site 6
 9 you have -- you don't have that scenario where the
 10 boring that you're liable for, the next boring to
 11 the east is also contaminated, then my assumption
 12 was that you went halfway between those two
 13 borings.
 14 Q. And what about depth? I mean, how did
 15 that factor into anything?
 16 A. Depth didn't factor in because it was
 17 whatever was remediated.
 18 Q. Right. But sometimes it varied, right?
 19 Sometimes you to dig down five feet; sometimes you
 20 had to dig down two feet.
 21 How did that impact your analysis?
 22 A. It didn't impact the analysis. There is
 23 a potential that you've excavated areas and
 24 pavement in twice in certain areas because

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1 utilities and other excavations went through. And
 2 I chose to assume that the excavated costs, even if
 3 they were duplicative, didn't get into that rabbit
 4 hole, so to speak.
 5 Q. Okay. So you didn't look at volume
 6 because you assumed we were duplicating costs?
 7 A. No. I didn't look at -- I didn't look
 8 at -- I just looked at the area in which things
 9 which things were excavated, not the areas that
 10 were technically -- appeared to be excavated
 11 multiple times, although probably weren't.
 12 Q. Right.
 13 But do you have -- as you sit here, do
 14 you have any reason to dispute that there was
 15 double counting on the part of Mr. Dorgan for
 16 excavation in one area versus another?
 17 A. I think it's a mechanism of how the
 18 allocations were made in putting them into their
 19 buckets.
 20 Q. Right.
 21 But do you have any evidence that there
 22 was any double counting --
 23 A. No.
 24 Q. -- by Mr. Dorgan?

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1 an unpermitted waste disposal
 2 operation, and illegally
 3 disposing of waste.
 4 Do you see that?
 5 A. Yes.
 6 Q. Is that referring to Parcel 0393?
 7 A. It doesn't specifically state that.
 8 Q. Okay. I'll represent for the record
 9 that it is referring to Parcel 0393, okay?
 10 Assuming it is relating to 0393, what is
 11 the board saying here?
 12 MR. MCGINLEY: Objection; calls for
 13 speculation.
 14 BY MS. BRICE:
 15 Q. To the extent you understand.
 16 A. That the board believed that IDOT placed
 17 asbestos material as part of their fill material in
 18 the reconstruction of Greenwood Avenue.
 19 Q. It's not saying that IDOT is liable for
 20 waste on 0393 because it continues to control the
 21 parcel area?
 22 MR. MCGINLEY: Objection. The document
 23 speaks for itself.
 24 THE WITNESS: It just states that

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1 Sorry?
 2 A. No.
 3 MS. BRICE: Can we take a break.
 4 MR. MCGINLEY: Sure.
 5 (Brief recess.)
 6 (Gobelman Exhibit No. 6 marked for
 7 identification.)
 8 MS. BRICE: We're back on the record.
 9 BY MS. BRICE:
 10 Q. Mr. Gobelman, I placed in front of you
 11 what is the Illinois Pollution Control Board's
 12 December 15, 2016 order.
 13 Have you read this order? I believe you
 14 testified you read it at one time.
 15 A. Yes.
 16 Q. I'd like to direct your attention to the
 17 third paragraph and in particular the last sentence
 18 of the third paragraph. It says:
 19 IDOT also continues to
 20 control a parcel south of
 21 Greenwood where asbestos waste is
 22 located. IDOT therefore violated
 23 the act by causing or allowing
 24 open dumping of waste, conducting

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1 they've -- they're in violation of the act
 2 regarding causing or allowing it to be there.
 3 BY MS. BRICE:
 4 Q. Okay. Let's just go to Page 13. Three
 5 lines down:
 6 By continuing to control the
 7 portion of Parcel 0393 falling
 8 within Site 3, IDOT continues to
 9 allow ACM waste in the soil.
 10 Do you see that?
 11 A. Yes.
 12 Q. And they're tying IDOT's liability to
 13 controlling Parcel 0393; is that correct?
 14 MR. MCGINLEY: Objection; the document
 15 speaks for itself.
 16 THE WITNESS: They're stating that the
 17 Parcel 0393 falls within Site 3.
 18 BY MS. BRICE:
 19 Q. Okay. And the second part is that IDOT
 20 continues to allow ACM waste in the soil --
 21 MR. MCGINLEY: Same objection.
 22 BY MS. BRICE:
 23 Q. -- on Parcel 0393; is that right?
 24 A. Yeah. There's ACM material within the

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1 soil within 9393 -- 393, not 9393.
 2 Q. You say on Section 5.2 that you disagree
 3 with Mr. Dorgan's interpretation of the IPCB
 4 defined area of responsibility to include Parcel
 5 0393.
 6 Why?
 7 A. Where are you at in my report?
 8 Q. Page 5, 5.2, last paragraph.
 9 A. Because Mr. Dorgan interpreted that the
 10 board ruling was for the entire 393 right of way
 11 where the board specifically stated that it's only
 12 associated with the borings that they laid out in
 13 the ruling.
 14 Q. That's your interpretation of it,
 15 correct?
 16 A. Yes.
 17 Q. Okay. Let's go to your report and
 18 Figure 3 that we've got here. I can't tell, but
 19 I'm asking: Do you agree that the Waukegan water
 20 line on Site 3 is located within 0393?
 21 A. That's how it was depicted in the final
 22 report that that's where it lies. It lies in or on
 23 the boundary.
 24 Q. Right.

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1 A. I don't believe it was known at the
 2 time, the exact location.
 3 Q. Do you know where they thought it was
 4 located?
 5 A. I believe based upon the work plan and
 6 the final report it stated that it was roughly
 7 50 feet south of where they found it.
 8 Q. 50 feet south of where they found it?
 9 A. The original -- well, originally it's 50
 10 feet south. The original location they thought it
 11 was is roughly 50 feet south of where it actually
 12 is.
 13 Q. Okay. You say here on Page 5 of your
 14 report that this is 5.2 on the second -- the last
 15 sentence:
 16 Making the extent of the
 17 eastern edge of Parcel 0393
 18 removes arguments of the location
 19 of BP45 given the difference
 20 between my location and
 21 Mr. Dorgan's location as 4.7 feet
 22 and the location of B345 as
 23 scaled off a map and the exact
 24 location was not identified.

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1 But this is Gobelman 1, so --
 2 A. That's how --
 3 Q. -- based off of Gobelman --
 4 A. That's how I depicted it on the report.
 5 Q. So you believe it's located entirely
 6 within 0393, the line, on Site 3?
 7 A. I didn't necessarily make that
 8 interpretation in my report. In the line, it shows
 9 it's either in or on or -- the boundary.
 10 Q. Do you agree that USEPA required JM to
 11 address ACM involved with the Waukegan water line?
 12 A. I believe they required them to address
 13 a clean corridor for any utility that was to remain
 14 in the site.
 15 Q. And costs were incurred with respect to
 16 the water line?
 17 A. I would assume so.
 18 Q. And was it known at the time of the
 19 hearing that the Waukegan water line was located
 20 entirely within 0393 on Site 3?
 21 A. Say that again.
 22 Q. Was it known at the time of the hearing,
 23 the last hearing, that the Waukegan water line was
 24 located entirely within 0393 on Site 3?

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1 What are you saying here?
 2 A. One of the board ruling was IDOT's
 3 liability was based upon the location of B43- -- or
 4 B45 in that if it -- in essence, that if it lied
 5 within the IDOT's right of way 393, then IDOT would
 6 be liable for that particular boring. And if it
 7 lied outside it technically wouldn't be liable for
 8 it. And my approach to this was that it didn't
 9 matter whether it was inside or outside as far as
 10 the allegation was concerned.
 11 Q. Why is that?
 12 A. Because I looked at this as an exercise
 13 of not arguing over dollars and cents but of
 14 general numbers in that if I were to make an
 15 argument that IDOT is not responsible for 4393,
 16 therefore, then the extent of the liability in that
 17 area would go back some distance to the west to
 18 reflect that somewhere between B350 and B345 would
 19 be the extent within the right of way of IDOT's
 20 liability.
 21 But if you look at the process at which
 22 I allocated the cost, that's only a difference of
 23 maybe 5, 10 percent of the cost associated with
 24 whatever is going to go through that area that

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1 would be affected. And I didn't think it was worth
2 my time dealing with that -- that concept of -- it
3 was just as easy just to say IDOT will take all the
4 liability to the edge of their -- to the farthest
5 east to that area as opposed to spending hours
6 fighting over where the line should be drawn
7 between the two and whether or not the argument
8 between Dorgan and my report of saying who actually
9 has the actual location written of where B345 is.

10 Q. Okay. Are you saying B345 is an IDOT
11 area of liability or not?

12 A. In the way I have it depicted as
13 technically outside of IDOT's liability.

14 Q. But are you including it in --

15 A. But I am including it in the area that
16 would have been associated with it as if it was in
17 as part of IDOT's liability to the extent, the
18 eastern extent of the right of way.

19 Q. Okay. You claim that IDOT's responsible
20 from 1S to 4S on Site 6, right?

21 A. I don't claim that. That's what the
22 board claims.

23 Q. Okay. But you argued that Mr. Dorgan
24 said IDOT is also responsible for 5S to 8S, which

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1 trying to --

2 A. I'm just -- My point was that Detour
3 Road A didn't have material placed in there.

4 Q. Do you have any evidence to rebut the
5 statements made by Mr. Peterson concerning the
6 consistency of asbestos to 1S to 8S?

7 A. No.

8 Q. Okay. Let's look at Figure 3 again in
9 your report.

10 Why is the reason that you didn't
11 include the water line -- what is the reason for
12 not including the water line in the IDOT
13 attribution?

14 A. Because according to the board we were
15 only liable for up through B25 and I have marked on
16 there what is B326 was not included, which was
17 also -- didn't detect asbestos but the board didn't
18 include that in its ruling so, therefore, the water
19 line lies farther west than B26 is and so,
20 therefore, it's outside of what the board ruled.

21 Q. Okay. If the board did rule that IDOT
22 is liable for all of 0393, the water line would be
23 attributed to IDOT; is that correct?

24 MR. MCGINLEY: Objection; calls for

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1 you disagree with --

2 A. Correct.

3 Q. -- right?

4 And, as I understand it, your point is
5 based upon the fact that what the board said was
6 that if IDOT used fill for Detour Road A that
7 contained ACM, that fill was removed at the end of
8 construction? Is that your point? And so
9 therefore there was no ACM left?

10 A. There was no -- my point has always been
11 there was no ACM placed there in regards to the
12 detour road. And I believe the board's ruling in
13 the way they ruled was 1 through 4 has to do with
14 the embankment -- what they argued was -- the
15 argument was is that the embankment work of
16 Greenwood Avenue has nothing to do with the --
17 Detour Road A.

18 Q. Okay. So your rebuttal is based upon
19 the Detour Road A; is that right? I'm just trying
20 to understand it.

21 A. My rebuttal is that the board ruled that
22 1S through 4S is what IDOT is liable for.

23 Q. Okay. But when you explain it in your
24 report, you talk about the Detour Road A. I'm just

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1 speculation.

2 THE WITNESS: If the board ruled that
3 IDOT was responsible for all the right of way
4 within 393, then IDOT would be liable for a
5 portion of the water line that ran through
6 its area.

7 BY MS. BRICE:

8 Q. Why would it only be liable for a
9 portion of the water line that runs through its
10 area?

11 A. Because the corridor was 25 feet wide,
12 and a portion of that 25 feet runs outside of the
13 right of way.

14 Q. Okay. But that's based upon Gobelman 1,
15 correct?

16 A. That's based on how it's depicted in my
17 figure, yes.

18 Q. Figure 4, please.

19 What work was done with respect to the
20 utilities, the AT&T lines?

21 A. I believe the utilities had to be
22 removed or abandoned, those utilities.

23 Q. Who did that work?

24 A. I believe the utility did it.

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1 Q. Okay. Anything else?
 2 MR. MCGINLEY: Objection; vague and
 3 ambiguous.
 4 BY MS. BRICE:
 5 Q. Was there any other work done with
 6 respect to the AT&T utilities that you know of?
 7 A. They had things on hold, but I don't
 8 know specifically at this second.
 9 Q. Did they do any excavations?
 10 A. I can't remember sitting here whether or
 11 not there was excavation. I thought there were.
 12 Q. You used linear feet, right?
 13 A. Correct.
 14 Q. Why?
 15 A. To give the ratio between what was
 16 actually the footage of the length within the
 17 entire site, reverses, what was associated with the
 18 borings that IDOT was liable for.
 19 Q. Okay. If there were -- we'll save that.
 20 And what was wrong with Mr. Dorgan's
 21 approach?
 22 MR. MCGINLEY: Objection; vague and
 23 ambiguous.
 24

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1 there's portions of how the lines lay out that may
 2 not necessarily be outside. It's just taking a
 3 two-thirds multiplication off the total cost, not
 4 accounting for how it lays.
 5 Q. Let's took B326 here, okay, on your map.
 6 Is that one -- sorry.
 7 Which one was the one that was -- B326,
 8 does it have asbestos in it or not?
 9 A. It was -- it did not have asbestos when
 10 they did it.
 11 Q. It did not have asbestos in it.
 12 So did -- B315 had asbestos in it,
 13 though; didn't it?
 14 A. Yes.
 15 Q. Okay. And B315 is a 50 by 50 foot grid,
 16 is it not, in the way it was sampled?
 17 A. Yes.
 18 Q. Do you depict that 50 by 50 foot grid on
 19 here?
 20 A. Only in the ones that are shown.
 21 Q. That's 50 by 50 feet?
 22 A. I believe so.
 23 Q. Did you actually scale that off?
 24 A. Yeah, I believe that's how they were put

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1 BY MS. BRICE:
 2 Q. Okay. Mr. Dorgan had an approach to
 3 dealing with AT&T lines that you disagreed with.
 4 Why was it wrong?
 5 A. I disagreed with that the concept of
 6 that -- if a line touched IDOT's right of way or
 7 anywhere associated with IDOT, that it
 8 automatically 100 percent of the work associated
 9 with those lines got IDOT'S liability -- is charged
 10 as IDOT's liability.
 11 Q. And why? Why do you believe that?
 12 A. Why do I believe what?
 13 Q. What justification do you have for that
 14 reason?
 15 A. Because these reports lay out that there
 16 were two lines in, one line out, so IDOT is
 17 responsible for two-thirds of the cost.
 18 Q. Right.
 19 But why if it doesn't touch anything
 20 else, are you -- why is this touching point a
 21 problem?
 22 A. Because it's -- it's not taking into the
 23 fact that it doesn't account for what the board
 24 ruled as IDOT's liability, and it accounts that

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1 on there.
 2 Q. Your intention was at least for it to
 3 covered 50 by 50 feet?
 4 A. It was the intention that it would cover
 5 the spacing between the borings was 30 feet.
 6 Q. Right. But it's a square, 50 by 50
 7 feet.
 8 A. No.
 9 Q. No?
 10 A. No -- I mean it in the placement of the
 11 borings. There was a boring to the outside of the
 12 right way of that was 50 feet --
 13 Q. Understood. Understood.
 14 So are you saying that USEPA did not
 15 require them to excavate an entire 50 by 50 foot
 16 area if there was an ACM found within that 50 by 50
 17 foot grid?
 18 A. No. I don't believe they required them
 19 to excavate in that manner.
 20 Q. And given the way that Gobelman 4, which
 21 is based on Gobelman 1, is depicted, fewer of the
 22 AT&T lines go through Parcel 0393 than they do on
 23 Dorgan 1; isn't that correct?
 24 A. I don't know. I'd have to compare it.

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1 I used the AT lines were based upon Dorgan's lines
2 because that's the only map I found had the lines
3 marked.

4 (Witness peruses document.)

5 THE WITNESS: Yeah. I would say yeah,
6 that's up with the lines. He showed more
7 lines that were inside the right of way than
8 mine do.

9 BY MS. BRICE:

10 Q. So I do want to talk about utility ACM
11 soils excavation. You don't have any figure on
12 this.

13 Why is that?

14 A. Excuse me.

15 Q. You don't have a figure that relates --
16 You have figures that relate to all of the other
17 task buckets or a lot of them. You don't have a
18 figure that relates to utility ACM soil excavation.

19 Is there a reason?

20 A. I believe -- Let me take a look at
21 this -- those were based upon -- the allegations
22 were based upon the percentage of the other task
23 buckets.

24 Q. What type of excavation work was

1 A. I believe it varies. There was some
2 variance in the width and that, based upon the --
3 where they can excavate.

4 Q. Okay. So given that there was variation
5 and material removed, why didn't you use volume to
6 determine liability?

7 A. There was no away of depicting what the
8 actual volumes were through those areas.

9 Q. Did you look through all the documents?

10 A. Best I could look through all the
11 documents, yes.

12 Q. Would volume of the excavation been a
13 reasonable way to assess IDOT liability for soils
14 and utility excavation?

15 A. That would be a reasonable way if you
16 had the volume for everything and the specific
17 volume was for the area within IDOT's liability,
18 defined and marked, yes.

19 Q. Would it be more appropriate than linear
20 feet?

21 A. I don't know if "more appropriate" is
22 the right way of saying it. It's equally
23 equivalent.

24 Q. So you have this 197 linear feet.

1 involved in Site 6; do you know?

2 A. Um.

3 Q. All of Site 6?

4 A. My understanding that created a clean
5 corridor no matter what for the entire site.

6 Q. For the whole northern boundary of
7 Site 6 and the whole southern boundary of Site 6?

8 A. Yes. I believe they did excavation
9 associated with that, yes.

10 Q. So clean corridors the whole way?

11 A. I believe so, yes.

12 Q. And let's just take 1S through 9S -- Or
13 let's take, yeah, 1S through 9S.

14 Do you know how deep the excavation was?

15 A. Not off the top of my head. I thought
16 it was somewhere around 4 to 5 feet or something
17 like that.

18 Q. Okay. Do you know how wide it was?

19 A. The width went to the edge of pavement
20 and then it -- to the edge of -- you know, to the
21 Site 3 area.

22 Q. Okay. Did it vary in depth at different
23 points in time along Site 3 -- along Site 6, 1S
24 through 9S?

1 That's from the western -- the western
2 edge of Site 6, is that correct, all the way to the
3 middle of 4S?

4 A. Um.

5 Q. No, sorry. That's not right.

6 How did you come up with the 197 linear
7 feet?

8 A. (No response.)

9 Q. Actually, let me help you.

10 A. I'm trying to figure where you're at.

11 Q. You calculated the total feet, correct,
12 for the north side and the south side of 6, right?

13 A. Yes.

14 Q. And that's because you said that there
15 was -- and that you came up with 5470, right?

16 A. Correct.

17 Q. And then you measured 1S through 4S to
18 get up to 197; is that right?

19 A. I just measured the length that the line
20 was in 6, between that -- that would have been
21 allocated between 1 and 4. It wasn't the number
22 you gave. It was only 47 in Site 6.

23 Q. What page are you on?

24 A. 8; 6.3.2.

1 Q. It says 197 linear feet.
 2 A. Oh, I thought you were still talking
 3 about the utility. I'm sorry. I thought you were
 4 still with the telephone line.
 5 Q. No, no, no. We were talking about the
 6 utility and the soils excavation, and we talked
 7 about the length of Site 6 on the north side and
 8 the south side and the clean corridors, right?
 9 A. Right. There's 196 from the edge of --
 10 from the western edge of Site 6 to the halfway
 11 point between 4S and 5S.
 12 Q. Okay. Okay. Did you account the common
 13 fiber optic line at all?
 14 A. No.
 15 Q. Why not?
 16 A. It wasn't in the task budget that
 17 Mr. Dorgan used and so it's, in essence, I assume,
 18 accounted for in the utility excavation.
 19 Q. Okay. We're going to go to North Shore
 20 Gas, Figure 5, and Page 9 of your report to keep us
 21 on track.
 22 A. Uh-huh.
 23 Q. Okay. As I understand this, this --
 24 Actually, I think we already covered that.

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1 A. Because it falls outside of the right of
 2 way.
 3 Q. Here you seem to be using square feet?
 4 A. Area.
 5 Q. Area. Okay.
 6 Is that volumetric area because it's a
 7 clean corridor or something else?
 8 A. No. I used area to represent the
 9 25 foot width that the corridor had to be.
 10 Q. And why did you not do that with respect
 11 to other areas and use linear feet? Why was that
 12 more appropriate here?
 13 A. Because it was a larger excavation, and
 14 it wasn't clear on the telephone what type of
 15 excavation they did or abandonment in place, some
 16 of it was. So there wasn't necessarily a 25 foot
 17 corridor in place for the AT&T lines.
 18 Q. Northeast excavation. Let's look at
 19 that.
 20 What work was actually done here?
 21 A. They excavated a larger area in depth in
 22 this particular area.
 23 Q. Sorry. What are you referring to?
 24 A. I don't know. I thought we were

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1 Why did JM have to create a clean
 2 corridor for North Shore Gas on Site 3?
 3 A. They had to create a clean corridor for
 4 whatever utility was going to be placed or
 5 potentially placed.
 6 Q. Notwithstanding there was ACM anywhere?
 7 A. My interpretation of what they're
 8 referring to is it had nothing to do with the ACM
 9 or where it was located. It's that because of
 10 the -- there was a potential that a clean corridor
 11 had to be created.
 12 Q. Why did you consider none of site -- the
 13 North Shore Gas line on Site 3 to be attributed to
 14 IDOT?
 15 A. I'm sorry. You lost me on that.
 16 Q. Okay. So we're on Figure 5?
 17 A. Yes.
 18 Q. You've got red.
 19 Do you see that?
 20 A. Yes.
 21 Q. And you gave that a zero allocation is
 22 my understanding?
 23 A. Yes.
 24 Q. Okay. Why?

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1 referring to the northeast excavation.
 2 Q. I am, but larger area and depth --
 3 A. Well, that square -- rectangular area
 4 they had to excavate a specific area to remove
 5 asbestos-containing material.
 6 Q. Okay. Do you know what they actually
 7 did or how much they actually excavated?
 8 A. Volume-wise, no, I don't know how much
 9 volume they removed.
 10 Q. Would volume be an appropriate basis to
 11 determine IDOT liability with respect to the
 12 northeast excavation...
 13 A. Um.
 14 Q. ... if you had that information.
 15 A. It could be equivalent to what I did,
 16 yes.
 17 Q. Do you know if the excavation varied in
 18 depth along the locations?
 19 A. I believe they had it depicted like in
 20 thirds in one of the figures. In, I think, one of
 21 the sections was not as deep as the other ones.
 22 Q. Do you remember which one that is?
 23 A. Not exactly. I -- which one was deeper.
 24 Q. Okay. Did you account for the fiber

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1 optics line that runs through the northeast
2 excavation here at all?
3 A. No.
4 Q. Okay. I want to talk about dewatering,
5 which is on Page 11.
6 Can you describe your approach here?
7 A. I used the same approach that Mr. Dorgan
8 did in his report.
9 Q. Exactly.
10 A. Well, based upon my allocations in the
11 process.
12 Q. Can you explain your allocations?
13 (Witness peruses documents.)
14 THE WITNESS: Well, as stated in 671, I
15 took what I had calculated as IDOT's
16 responsibility for the defined area by
17 pollution control board in Site 3 which was
18 103,462 by the total cost to complete the
19 work for the Nicor, North Shore Gas, the
20 Waukegan water line, and the northeast
21 excavation, which was 661,585, which came up
22 to percentage of 15.6.
23 BY MS. BRICE:
24 Q. Right.

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1 Q. Okay. Is there anything else that you
2 did different with respect to Site 6 as compared to
3 Site 3?
4 A. Well, it was a different -- I used the
5 same calculating method that Mr. Dorgan did in his
6 report for Site 6. It's different than how he
7 calculated Site 3.
8 Q. Okay. Understood.
9 Sites 3 and 6, as I understand it, you
10 used the exact same process, Mr. Dorgan did, you
11 just had different numbers?
12 A. Correct.
13 Q. Okay. Where did you get -- why are you
14 getting -- I assume you're giving IDOT a zero
15 percent liability for the ramp work because you
16 don't think they're responsible for 0393; is that
17 right?
18 A. That far west, correct.
19 Q. Where did you come up with this on
20 Figure 7 that the ramp work was done this far west?
21 It's depicted on Figure 7 of your report. What's
22 the source of that?
23 A. The source of that is also depicted on
24 the final dealing with the storm limits, and it's

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1 But aren't you taking a percent of a
2 percent here? You did this first -- there's an
3 earlier calculation to get to the 103, and then you
4 compared that to the total cost for all four lines.
5 Why is that the right way to do it?
6 A. I believe this is the exact same
7 approach that Mr. Dorgan did, and he calculated the
8 costs what he believed was the -- attributed to the
9 board -- his interpretation of what the pollution
10 control board had for Site 3. He came up with that
11 number of what he thought was IDOT's responsibility
12 for in Site 3, and he divided it by the same number
13 which was the other -- the three excavations.
14 Q. Okay. So let's look at -- so that was
15 Site 3. Let's look at Site 6.
16 Did you do anything different with
17 respect to Site 6 or did you do the same thing?
18 A. I did the same thing, except I utilized
19 the number that is associated with 1S through 4S
20 where Mr. Dorgan used -- he included the area
21 associated with 1S denied.
22 Q. Okay.
23 A. And never calculated actual linear feet
24 of the impacted area.

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1 in the final -- it's depicted also on the Google
2 Earth map of where it lays out because they had to
3 do it because they could not get into those areas
4 because it was too wet, and they're afraid with
5 erosion and stuff like that, the water that they
6 put in a ramp stone base so that it would be more
7 stable in that area.
8 Q. Okay. So what you're depicting here
9 is -- I'm confused, as to what you said it was
10 depicted on.
11 A. Well, it showed that the -- the stone
12 limits were shown on the --
13 Q. Okay.
14 A. -- 40322. It's also shown in the Google
15 Earth map when you look at -- what it looks like
16 the day, you can see the stone halfway covered up
17 with water. The final report talks about the ramp
18 had to be placed in there because of the water
19 issues in that particular area.
20 Q. Okay. So the ramp work you're talking
21 about is placing this stone ramp; is that correct?
22 A. Yes.
23 Q. Okay. Got it.
24 Filling and capping. Why did you

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1 disagree with Mr. Dorgan's approach?
 2 A. For Site 3, the difference is is that I
 3 only take into borings associated with IDOT's
 4 liability and taking that all the way to the first
 5 clean boring, and I believe Mr. Dorgan took
 6 basically the entire right of way as our liability.
 7 Q. Okay. So that's what you disagree with
 8 is that he used the entire right of way?
 9 A. Yes. I only depicted the borings that
 10 we were liable for.
 11 Q. Okay. Is there anything else that you
 12 disagree with in his approach with respect to
 13 filling and capping?
 14 (Witness peruses document.)
 15 THE WITNESS: Yes. He took those
 16 areas -- the five buckets for excavation that
 17 IDOT was liable for the entire area. And
 18 what I did is I just calculated what -- the
 19 area based upon our area, based upon the
 20 total area.
 21 BY MS. BRICE:
 22 Q. Okay. Is it true that there are
 23 portions of Site 3 where ACM was not required to be
 24 removed?

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1 Q. Okay. So you say that the whole area is
 2 3.1 acres, right?
 3 A. Correct.
 4 Q. My question is pretty simple.
 5 Was ACM excavated out of all of those
 6 3.1 acres?
 7 A. I don't recall at this time.
 8 Q. So it could have been or it couldn't
 9 have been -- I mean -- Sorry.
 10 But it could have been?
 11 A. I didn't figure that into -- I didn't
 12 figure the ACM into my area of calculation.
 13 Q. Okay. Let's just say ACM wasn't removed
 14 out of all of the areas.
 15 Would that make a difference in how you
 16 calculated it?
 17 A. I don't believe it would change because
 18 it's dealing with capping the entire site, and so
 19 the entire site was capped whether ACM was removed
 20 or not.
 21 Q. But what were the drivers for causing
 22 the entire Site 3 to be capped?
 23 A. That in most of the site either surface
 24 or subsurface there was ACM found.

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1 A. ACM, per se, wasn't necessarily
 2 completely removed. So that's why they installed a
 3 cap on the system. But the entire area had some
 4 part of excavation done to it.
 5 Q. The entire, however many acres? The 3.1
 6 acres, all of it was excavated?
 7 A. To me it looked like there was
 8 disturbance on -- in all the areas when they had --
 9 when they had to put the cap in.
 10 Q. Right, right, right.
 11 But I'm talking about because of
 12 locations of ACM was the entire area excavate- --
 13 Was ACM excavated out of all 3.1 acres?
 14 A. Wait a minute.
 15 3- --
 16 Q. Well, you say 3.1 acres.
 17 A. Of dealing with the --
 18 Q. Of Site 3.
 19 A. 3.1 area is of the right of way, not of
 20 the entire site.
 21 Q. I'm looking at Site 3. So let's not get
 22 confused. Let's go to Page --
 23 A. All right. You're right. You're right.
 24 You're right, 3.1. I was confusing my sites.

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1 Q. And was that along the utilities or
 2 where?
 3 A. It was everywhere.
 4 Q. So there was ACM everywhere excavated?
 5 A. I don't recall specifically today
 6 whether or not there was actual excavation to
 7 remove all ACM from the entire site. I just know
 8 that the site was completely capped, and that's the
 9 basis upon the comparison of the areas. The
 10 capping of the site area compared to the area that
 11 IDOT's liable for.
 12 Q. Did the board make any finding that
 13 anyone other than IDOT was liable for ACM at
 14 Site 3?
 15 A. I don't believe that was a subject to
 16 the ruling.
 17 Q. Okay. Site 6.
 18 What was wrong with Mr. Dorgan's
 19 approach on Site 6?
 20 A. He took the approach that a -- based
 21 upon the number of utilities that were on Site 6
 22 whether on the north or to the south that IDOT
 23 would be liable for -- since two of the utilities
 24 were on the southern end and two were on the north

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1 end, that IDOT is responsible for all of it
 2 associated with the southern end, 50 percent. And
 3 in my approach was to take actually what was IDOT's
 4 responsibility for the specific area of the borings
 5 that were impacted.
 6 Q. And in coming up with your number
 7 like -- with respect to the utilities, I think this
 8 is the same. Let me just double check.
 9 Yeah, this is the same 5470 linear feet
 10 number, so the calculation that you used for soil
 11 utilities would be the same here, right?
 12 A. Same approach, right.
 13 Q. I think that on general site preparation
 14 you agreed with Mr. Dorgan's approach.
 15 Am I right about that? You just had
 16 different numbers?
 17 A. Yes. And how he calculated it is the
 18 same way I calculated it.
 19 Q. Okay. Same for health and safety?
 20 A. Yes.
 21 Q. And the same for EPA oversight?
 22 A. Yes.
 23 Q. And the same for costs for legal support
 24 services, right?

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1 documents?
 2 A. Yes.
 3 Q. Did you ask people at Andrews to look
 4 for these documents since some of the questions
 5 relate to documents in their possession?
 6 A. I believe I asked the people who
 7 invoiced to make sure I had the right invoices in
 8 our computer system that was billed out.
 9 Q. Okay. What about anybody else?
 10 A. I don't believe I asked anybody else for
 11 anything.
 12 Q. Did you ask Mike Nguyn for his emails?
 13 A. I had all his emails.
 14 Q. Well, did you ask him for his -- the
 15 copy of his emails?
 16 A. No, I did not do that.
 17 MR. MCGINLEY: Just for the record, his
 18 name's Nguyn. It's pronounced
 19 Win (ph.). It's a Vietnamese name, but
 20 that's the general --
 21 MS. BRICE: Really?
 22 (Gobelman Exhibit No. 8 marked for
 23 identification.)
 24

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1 A. Yes.
 2 Q. Are you aware whether the IDOT or AG's
 3 office has any plans to have anyone else dispute
 4 the costs in this case?
 5 A. I have no idea.
 6 Q. Okay.
 7 MS. BRICE: Can we mark this, please.
 8 (Gobelman Exhibit No. 7 marked for
 9 identification.)
 10 BY MS. BRICE:
 11 Q. Before I ask about that, just one
 12 question.
 13 Did anyone else write any portions of
 14 your report?
 15 A. No.
 16 Q. You were the only person that wrote it?
 17 No one wrote a sentence or a paragraph or anything?
 18 A. No.
 19 Q. Okay. I've handed you what's entitled
 20 Notice of Filing and Service.
 21 Have you seen this document before? And
 22 we are at Deposition Exhibit 7.
 23 A. Yes.
 24 Q. Did you personally look for all of these

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1 BY MS. BRICE:
 2 Q. Okay. I have marked Deposition
 3 Exhibit 8, legal contract services, in front of
 4 you.
 5 Do you recognize this?
 6 A. Yes.
 7 Q. Is this contract specific to the work
 8 that you have done on this case?
 9 A. It's the contract that I'm covered under
 10 for this case, yes.
 11 Q. Is there any other work with IDOT that's
 12 covered under this contract?
 13 A. None that I am working on.
 14 Q. Is there any that you are aware of?
 15 A. There is no other work being done under
 16 this contract other than for this.
 17 Q. That was my question. Okay.
 18 If you can turn to -- So SG0021, you can
 19 see Curtis Ryan's doing a lot of work in January of
 20 2017.
 21 Do you see that at the top?
 22 A. Yes.
 23 Q. Okay. CAD edits, new figure, surface
 24 edits and figure edits for Steve G.

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1 What's he doing here? Why is he doing
 2 surface edits and to what?
 3 A. That was where we were looking at the
 4 original figures that you had showed before, of
 5 playing them in there and seeing how it relates to
 6 the board's ruling.
 7 Q. Right. But he's editing them.
 8 A. Well, based upon what I told him to edit
 9 on it.
 10 Q. Okay. What did you tell him to edit?
 11 A. I have no idea being it's over a year,
 12 year and a half ago, 19 months ago.
 13 Q. Okay.
 14 A. Because it would be that he put
 15 something in there, and I didn't like or thought he
 16 misinterpreted what I said, so I had him edit it
 17 to -- to what I wanted it to show.
 18 Q. Does he still work for Andrews?
 19 A. No.
 20 Q. Where does he work now?
 21 A. I have no idea.
 22 Q. When did he leave?
 23 A. I think last -- summer of '17, I think.
 24 Q. When he says surface creations, what

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1 ever change your methodology at all with respect to
 2 approaching IDOT's cost liability?
 3 A. Yeah. I think there were some changes
 4 in how I had -- from the original thought process
 5 to the end.
 6 Q. Okay. What were those?
 7 A. I think originally I was doing more of a
 8 linear based, and then I changed in some of the
 9 areas according to the pipeline as being area
 10 based.
 11 Trying to think if there's any other
 12 issues that have changed with. I think that's the
 13 only one that pops in my mind that I know I changed
 14 my approach on.
 15 Q. When did you do that?
 16 A. The change in the approach?
 17 Q. (Nodding.)
 18 A. I don't know. Once I really started
 19 working on my rebuttal I think is when I finally
 20 made that change looking that way.
 21 Q. And why did you make the change from
 22 linear to area?
 23 A. Because I think it was more accurate in
 24 depicting the true volume or the area as being

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1 does that mean?
 2 A. I don't know what he put in as far as
 3 his notations in this thing, I assume we were
 4 dealing with the maps -- the figures we were
 5 creating and editing how I wanted the surface
 6 depicted.
 7 Q. Okay. Go further down you've got:
 8 Gobelman developing IDOT's
 9 cost liability.
 10 At this point in January of 2017, what
 11 was your -- what were you doing and how were you
 12 viewing IDOT's cost liability?
 13 A. I was just looking at IDOT's cost as it
 14 relates to the board's ruling.
 15 Q. Understood.
 16 A. I'm not looking at actual costs but
 17 actually looking at percent of the areas type stuff
 18 of looking at how -- what approach would lay out as
 19 far as -- because I had no clue at that time what
 20 the costs were, but it was --
 21 Q. Okay.
 22 A. -- but it was the area being depicted in
 23 the figures.
 24 Q. So from January of 2017 forward, did you

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1 depicted as -- as related to just a linear
 2 distance, in essence, allocated more costs to IDOT.
 3 Q. There is an entry down here, 1/3/2017.
 4 It says meeting coordination.
 5 What's that about?
 6 A. I suspect it was a -- I suspect it was
 7 probably a phone call that I had that was dealing
 8 with the meeting as far as the scheduling all this
 9 stuff.
 10 Q. Which phone call?
 11 A. I suspect it was probably the phone call
 12 that I had that I was dealing with, the meeting as
 13 far as the scheduling of all this stuff when it was
 14 going to happen.
 15 Q. Which phone call?
 16 A. I suspect it was probably a phone call.
 17 Q. With --
 18 A. With the AG's.
 19 Q. If you look at SG00041 --
 20 Got it?
 21 A. Yes.
 22 Q. -- (Continuing) it says:
 23 Status update with client on
 24 February 1, 2018.

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1 Who was that with?
2 A. The AG's.
3 Q. Okay. On SG00047, do you see that?
4 A. Yes.
5 Q. Okay. There is -- now we've got Mike
6 Nguyn.
7 There's, sort of, three things up there.
8 There's site map. There's revised figure and
9 quantities, revised figured and quantities.
10 What he is changing with revised figures
11 and quantities?
12 A. Well, as we were working on the base map
13 and then how I wanted the quantities based upon the
14 distances, you know, where I wanted him to start
15 the line and stop the line, so who's revising those
16 quantities --
17 Q. Quantities? They're not really --
18 A. Well, he put quantities, but he put
19 the -- it's the distances, the area, that acreage,
20 that's a quantity.
21 Q. At one point did you ever have
22 everything done with areas --
23 A. No.
24 Q. -- instead of linear feet --

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1 A. Yes.
2 Q. Is this the first time you adjusted this
3 site limit?
4 A. I think that's where we were looking at,
5 the checking different sites that we had in the
6 system from previous and then overlaying and seeing
7 whether or not they were accurate -- how they laid
8 up against each other.
9 Q. So this was the first time that you did
10 that?
11 A. I can't say that's the first time.
12 That's the first time it's noted, I guess.
13 Q. Who is Lana Johnson?
14 A. Our admin person.
15 Q. Did you ever meet with the AG here in
16 Chicago with respect to your rebuttal report?
17 A. Only, like I said, days before it was
18 due.
19 Q. Just once?
20 A. Once, yes.
21 Q. A couple days before?
22 A. Yes.
23 Q. Did you ever meet with IDOT or anyone --
24 I mean, I know IDOT's down in southern -- or mid

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1 A. No.
2 Q. No.
3 At one point did you ever have anything
4 done with areas other than the North Shore Gas
5 line?
6 A. I think I looked at -- one point, looked
7 at this sort of overall, taking the entire area of
8 Site 3 and the entire area of IDOT's responsibility
9 in Site 3 in looking at and comparing the
10 percentages of those, looking at the percent of
11 IDOT's liability that way.
12 Q. You mean area-wise?
13 A. Just area-wise, yeah.
14 Q. Is there anything else that you fooled
15 around with and just sort of experimented with and
16 looking at?
17 A. No. I mean -- No. I can't think of
18 anything.
19 Q. On SG00051 --
20 A. Okay.
21 Q. -- we have Mike Nguyn doing borings,
22 property, and site limit adjustment checking
23 multiple datas from different sources.
24 Do you see that?

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1 Illinois, but --
2 A. Be careful.
3 Q. -- did you ever meet with anyone at IDOT
4 up here with respect to your rebuttal report?
5 A. No.
6 Q. Okay. SG00059. Mike Nguyn is doing a
7 lot of things. There's one that says revised areas
8 and pipe links. This is 8/20/2018. So I imagine
9 not very long ago.
10 What was happening?
11 A. I assume I had some fixes that I wanted
12 done to the various figures. At some point we were
13 doing it all on one -- we were doing everything on
14 to one figure, one exhibit or whatever you want to
15 call it, and there was a point in which it got --
16 to me it was just confusing; that it would be
17 better to represent each bucket or each utility
18 line that we're discussing on separate figures.
19 Q. So you don't remember specifically?
20 A. No.
21 Q. Okay. Who is Ken Liss?
22 A. President of the company.
23 Q. I'm not going to mark this. I'm just
24 going to hold it up. It's something you produced.

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1 It says acquiring liability and avoiding it at the
2 same time.
3 Did you put together this --
4 A. Yes.
5 Q. And what was the message you were trying
6 to deliver with this document?
7 A. It was just a presentation. I believe
8 it was for the transportation research board summer
9 meeting one time on dealing with IDOT acquiring
10 right of way in trying to avoid the management of
11 soil.
12 Q. Was that done after the hearing in this
13 case?
14 A. No.
15 Q. This is before the hearing in this case?
16 A. Yes.
17 Q. And it was not produced previously?
18 A. No. I don't believe there was something
19 about presentations before.
20 (Gobelman Exhibit No. 9 marked for
21 identification.)
22 BY MS. BRICE:
23 Q. I'm presenting to you something that was
24 produced to us that starts SG000508.

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1 A. It has nothing to do with this case or
2 these issues.
3 Q. Second page, it has November 2016, \$685,
4 IDOT map.
5 What's that?
6 A. I'm not sure. I think it's 685,000, I
7 think. I'm hard at reading my own writing, too.
8 Q. Well, is this a call with Evan, Ellen,
9 me.
10 And who's that other person?
11 A. Evan and Ellen.
12 Q. But what's next to it?
13 A. Next to it.
14 Q. It's like me and Gillian or something?
15 MR. MCGINLEY: No. It's Evan --
16 THE WITNESS: Evan McGinley.
17 MS. BRICE: Oh, sorry. My bad.
18 BY MS. BRICE:
19 Q. So you think that's 685,000 IDOT map?
20 A. I have no idea. Not sure.
21 Q. Okay. There's five bullet points.
22 What is this outlining?
23 A. I don't remember at this time what it's
24 outlining.

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1 Can you tell me what this is?
2 A. It's copies of my logbook for a
3 description I guess is what it is.
4 Q. And the first entry is dated what?
5 A. February 28th of '17.
6 Q. I'd like to ask for the copies of your
7 logbook that go back to January of 2017 because he
8 was doing work in January of 2017 according to all
9 sorts of documents.
10 A. I gave you everything that I had in my
11 logbook back from the date that you had in the
12 thing from the board ruling. This is the first
13 entry that has something in it.
14 MS. BRICE: We can at least double
15 check.
16 MR. MCGINLEY: Sure. That's fine.
17 BY MS. BRICE:
18 Q. Can you tell me what that says at the
19 very end? It says something at 3:00?
20 A. I think we were setting up a call. He
21 was calling me to state that they were going to
22 have a call. He'd like to have a call tomorrow.
23 Q. Oh, tomorrow.
24 Why are these things blacked out?

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1 Q. Could that IDOT statement be saying IDOT
2 responsibility, R-E-S-P, period?
3 A. It could. I'm hard at reading my own
4 writing.
5 Q. Okay it says: Facts. Then it says:
6 2 million, I'm thinking, Site 3.
7 Is that what that says?
8 A. It could say that.
9 Q. Then does that next thing say facts?
10 A. Your guess is as good as mine.
11 Q. Okay. What is it, contamination -- what
12 does it say -- contour, something foresights.
13 A. Right, yes. Something for sites. I
14 suspect it's meeting contaminations and -- not sure
15 what the other word is.
16 Q. So is this sort of like outlining a
17 report possibly?
18 A. No; my just random notes as we're
19 talking. It's not doodling. But it's random
20 thought process while talking on the phone.
21 Q. Is this something that someone's telling
22 you or are these things that you're thinking about
23 and telling them?
24 A. It could go either way.

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1 Q. Okay. Turn the page. You've got --
 2 That, I believe, at 6 says: 25, clean corridor,
 3 Nicor. And then 7 looks like it says fart, but I
 4 don't think it does.
 5 A. I think facts or something like that,
 6 factual, something like that maybe.
 7 Q. Okay. 8: Any other cost, Site 6,
 8 Site 3.
 9 Is that what that says?
 10 A. Yes.
 11 Q. A fact witness, is that what that is
 12 says?
 13 A. I suspect that's what it would say.
 14 Q. Then I think it says cost sharing PRPs;
 15 is that right?
 16 A. Right.
 17 Q. And then it says fact again?
 18 A. Right.
 19 Q. And it says completed work? Yes, no,
 20 something.
 21 What does that say?
 22 A. Then Nguyn.
 23 Q. Then Nguyn.
 24 And it says cost -- what does it say

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1 Q. And then what does the rest of that say?
 2 A. Looks like something -- like all. I
 3 don't know if that's supposed to be a "the" or
 4 something, that they incurred. Problem of docs,
 5 maybe, removal from site, remediation site,
 6 investigation, weights and manifest.
 7 Q. Why are you talking about weights and
 8 manifests?
 9 A. Just -- I suspect just thinking about
 10 the information or whether or not there was
 11 manifests.
 12 Q. And could go to volume issues --
 13 A. Volume issues, yeah.
 14 Q. Okay. 512, kind of halfway down, there
 15 is the word cost.
 16 If you can just read the rest of that
 17 for me.
 18 A. That's: Cost something doc -- documents
 19 or lots. Jennifer, bank no longer at bond or bank
 20 or something.
 21 Q. What does that have to do --
 22 A. I have no idea.
 23 Q. Okay.
 24 A. Interest in extent of which defining

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1 after that?
 2 A. Investigate, investigation.
 3 Q. 1-45?
 4 A. 1 to 4S, Site 6.
 5 Q. Site 3?
 6 A. And then Site 3 just Bs, not nearly
 7 putting down the boring numbers.
 8 Q. Okay. And then facts.
 9 And so does looking at this now give you
 10 any more information about what that conversation
 11 was about?
 12 A. I suspect we were going through the
 13 board ruling.
 14 Q. Okay. But you don't know?
 15 A. No, I don't.
 16 Q. Go back for one second.
 17 Do you know why on Page 8, which is 509,
 18 you say November 2016?
 19 A. I don't know.
 20 Q. Let's go back to Page 9, which is
 21 SG00510.
 22 It looks like production doc; is that
 23 right?
 24 A. Okay. Yeah.

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1 docs or -- I'm not sure what a --
 2 Q. Adjusting?
 3 A. I don't know. Total cost for Site 3
 4 and 6 property maybe, proportionate maybe.
 5 Q. On 514 there's something that says:
 6 Foundational cost document, question cost
 7 documents, good/bad cost.
 8 What you are intending to say by
 9 good/bad costs?
 10 A. I have no clue.
 11 Q. Then it says walk through security
 12 billing process? Is that what it says?
 13 A. Scrutiny in billing process.
 14 Q. Okay.
 15 A. Maybe.
 16 Q. Okay. Next page it says contact Ellen.
 17 Who is --
 18 A. Continued, Evan.
 19 Q. Evan, sorry.
 20 Who is general contractor, who works for
 21 who, Monday call.
 22 Is that what it says?
 23 A. Yes.
 24 Q. Okay. So then we're on 00517.

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1 On 419 it looks like a call with Evan,
 2 report would, what?
 3 A. Think we were...
 4 Q. It looks like board opinion was wrong?
 5 A. Yeah. Underneath it says board opinion
 6 was wrong. I think we were talking about at that
 7 time Dorgan's -- his report that he thought the
 8 board's opinion was wrong. I'm not sure what the
 9 date of it -- I assume that's...
 10 Q. Could it be that you guys were saying
 11 the board opinion was wrong?
 12 A. Well, that wouldn't be Dorgan's report
 13 either, so I'm not sure.
 14 Q. Okay. Next page, on 518, Evan,
 15 Manville, AG, debt Campanella Construction on
 16 Monday, question, what cost and cutting out of
 17 3, 6.
 18 Is that what it says?
 19 (Witness peruses document.)
 20 THE WITNESS: I think that's saying
 21 that, but cost and cutting out of Site 3
 22 and 6.
 23 BY MS. BRICE:
 24 Q. What does that mean?

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1 What does that mean?
 2 A. That I thought his cost attributes were
 3 a simple approach.
 4 Q. Okay. Then it says something cleaned
 5 similar narrative or something?
 6 A. Draft -- looking at it, clean, simple
 7 narrative.
 8 Q. Okay. Transcript early next week.
 9 Meeting Tuesday, go over report?
 10 A. Where are you at?
 11 Q. Next page.
 12 Is that what it says?
 13 A. Yes. That looks like what it says.
 14 Q. And did you have a meeting to go through
 15 the report?
 16 A. We had a meeting up here to go over the
 17 report, yes.
 18 Q. If we can look at Exhibit 3, you've got
 19 on Figure 1, SG003754, which we talked about
 20 earlier, a little red, you know, enclosure.
 21 What was that supposed to signify?
 22 A. I don't know what page you're on.
 23 Q. I --
 24 A. Did you say?

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1 A. I have no idea.
 2 Q. Does it mean you're trying to cut costs
 3 out of liability?
 4 A. I believe it was -- I believe the call
 5 was in reference to -- they were doing the
 6 Campanella deposition, and I had -- I guess there
 7 was something I asked them about things I was --
 8 would like to know.
 9 Q. Okay. And this 8 million and final
 10 1.5 million below that, that's about the Campanella
 11 contract, right?
 12 A. I think so.
 13 Q. I'm looking at SG00, I think it's, 525.
 14 I'm not exactly sure. There's actually a missing
 15 page.
 16 MR. MCGINLEY: What's the page number
 17 in the upper right-hand corner?
 18 MS. BRICE: 270. But it does look like
 19 we're missing a page, like 526 -- Or maybe
 20 that's 526; is it?
 21 THE WITNESS: That's 526.
 22 BY MS. BRICE:
 23 Q. Got it. Thanks. 8, 3. You've got
 24 Dorgan cost attributes simplify.

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1 Q. I did say.
 2 A. Oh, I'm sorry.
 3 Q. That's okay.
 4 What was that supposed to signify this
 5 time? And this is April 2018.
 6 A. I think it was signifying the areas
 7 outside of the corridor, the pipeline corridor, but
 8 inside the northeast excavation.
 9 Q. Okay. If you turn two pages, is this
 10 the same thing; it's just overlaid on the Google
 11 images map?
 12 A. Yes. It looks like it, yes.
 13 Q. Okay. If you can turn to SG003762.
 14 Do you see that?
 15 A. Yes.
 16 Q. So you've got what looks like 1S to 4S
 17 that you've got in a hashed mark and then you've
 18 got south of that on Site 3 a whole larger area of
 19 hash marking going all the way to the eastern
 20 boundary of Site 3.
 21 What are you depicting here?
 22 A. It was a draft that we were working on
 23 depicting northeast excavation. And in providing
 24 the distances from 9S to the beginning of

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1 northeast, the CAD guy happened to highlight that
2 distance also thinking that was part of it.

3 Q. You didn't ask him to do that?

4 A. No. I asked him to put the northeast
5 excavation 140 feet from 9S, and he sort of boxed
6 that in himself.

7 MS. BRICE: Okay. Can we take a quick
8 break, and we'll be done.

9 (Brief recess.)

10 (Gobelman Exhibit Nos. 10 11 and 12,
11 marked for identification.)

12 MS. BRICE: Back on the record.

13 BY MS. BRICE:

14 Q. I've marked as Exhibit 10 that I have
15 set before you, it is SG0000726. It says from
16 Steven Gobelman to Lana and Stephanie Brumley, and
17 it says:

18 I have tracked changes in
19 the Word document that I need
20 accepted and re-PDF'd.

21 And then there's attachment to it, but
22 there's no tracked changed.

23 A. The track changes -- by the time I do
24 this, track changes are gone. The word -- the

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1 A. I think it was the -- it's referring to
2 the USEPA final report, so I assume it's referring
3 to the final report from -- that was created by the
4 accountant.

5 Q. And you were sending it to Mr. McGinley?

6 A. No, I don't believe so. There's nothing
7 attached.

8 Q. Okay.

9 A. I think that was more of a question.

10 Q. But Ms. McGinley says: Thanks for the
11 information.

12 Do you have any recollection of what
13 this was about?

14 A. No.

15 Q. Okay. Let's look at the next document,
16 please. This is Deposition Exhibit 12, SG003643
17 and 3644, two-page document. It's an email from
18 you dated May 9th, 2018 to Mr. McGinley where you
19 attach a Site 3 excavation figure, and you say to
20 him: Does this work for you?

21 How did he respond to you?

22 A. I don't know if there was a response.

23 Q. You have no recollection of any kind of
24 response?

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1 wordsmith-ing that she did.

2 Q. Right.

3 But if she actually went to Laura
4 Johnson, Stephanie Brumley, they'd probably still
5 have the track change document?

6 A. No. This is the same document that I
7 sent them and that the track changes were in and
8 then they were all accepted and they're no
9 longer -- the documents no longer.

10 Q. Understood.

11 But did you ask Lana Johnson or
12 Stephanie Brumley if they have a copy of an email
13 with the tracked changed?

14 A. No.

15 Q. I mean, it could have saved it on to
16 your system.

17 A. It isn't, but no I did not ask them.

18 Q. Okay. Then let's change to the next
19 document, which is 11. This is SG000815. It is an
20 email between you and Mr. McGinley dated January
21 18, 2017 in which you say to Evan: This is a final
22 closeout report, and Evan says great. Thanks for
23 the information.

24 What is this about?

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1 A. No. I mean, I don't know if there was
2 an email and a response back. I don't know.

3 Q. Would you have gone ahead with this
4 document without his saying that it was okay?

5 A. No, I don't think that was -- I don't
6 think that was the point.

7 Q. What was the point?

8 A. Back then, I don't know what the point
9 was. I mean, I provided him depiction of what
10 the -- the site.

11 Q. Right. But you're asking his blessing
12 basically, if this is okay.

13 And so I would assume you would have
14 waited for his blessing before you proceeded?

15 A. No.

16 Q. No? You would have just gone ahead
17 without any response from him?

18 A. I don't know if there was a response.

19 Q. How did you review your emails in order
20 to determine what to produce?

21 A. I keep all my emails in a subfolder, and
22 I just went back to the date and copied off all
23 those emails.

24 Q. And what's the subfolder called?

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1 A. Johns Manville.
 2 Q. And do you have any other Johns
 3 Manville-related emails in any other folders?
 4 A. No.
 5 Q. Where do you keep all of the hard copy
 6 documents for Johns Manville?
 7 A. They're on an external hard drive.
 8 Q. Did you ever print them all out?
 9 A. Not print them all out. I printed some
 10 of the photographs off.
 11 MS. BRICE: Okay. I think we're done.
 12 MR. MCGINLEY: No questions.
 13 Signature reserved.
 14 FURTHER DEPONENT SAITH NAUGHT.
 15
 16
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 22
 23
 24


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1 STATE OF ILLINOIS)
 2) SS:
 2 COUNTY OF C O O K)
 3 I, MARY ANN CASALE, a Notary Public
 4 within and for the County of Cook and State of
 5 Illinois and a Certified Shorthand Reporter of said
 6 State, do hereby certify that heretofore, to-wit:
 7 On October 2, 2018, personally appeared
 8 before me **STEVEN L. GOBELMAN**, a witness in a case
 9 now pending and undetermined in the Before the
 10 Illinois Pollution Control Board wherein Johns
 11 Manville is the Complainant and the Illinois
 12 Department of Transportation is the Respondent.
 13 I further certify that the witness was
 14 first duly sworn to testify to the truth, the whole
 15 truth, and nothing but the truth in the cause
 16 aforesaid; that the testimony then given by the
 17 said witness was reported stenographically by me in
 18 the presence of said witness, was thereafter
 19 converted to the written English word via
 20 computer-aided transcription, and the foregoing is
 21 a true and complete transcript of the testimony so
 22 given by said witness as aforesaid; that the
 23 signature of the witness to the foregoing
 24 deposition was not waived.

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
 2 In The Matter of:)
 3)
 3 JOHNS MANVILLE, a Delaware)
 Corporation,)
 4 Complainant,) PCB No. 14-3
) (Citizen Suit)
 5 vs.)
 6)
 6 ILLINOIS DEPARTMENT OF)
 7 TRANSPORTATION,)
 8 Respondent.)
 9 I, STEVEN L. GOBELMAN, state that I have
 10 read the foregoing transcript of the testimony
 11 given by me at my deposition on the 2nd day of
 12 October, 2018, and that said transcript constitutes
 13 a true and correct record of the testimony given by
 14 me at said deposition except as I have so indicated
 15 on the errata sheets provided herein.
 16
 17 _____
 18 STEVEN L. GOBELMAN
 19 No corrections (Please initial) _____
 20 Number of errata sheets submitted _____ (pgs.)
 21 SUBSCRIBED AND SWORN to
 22 before me this _____ day
 23 of _____, 20____.
 24 _____
 NOTARY PUBLIC

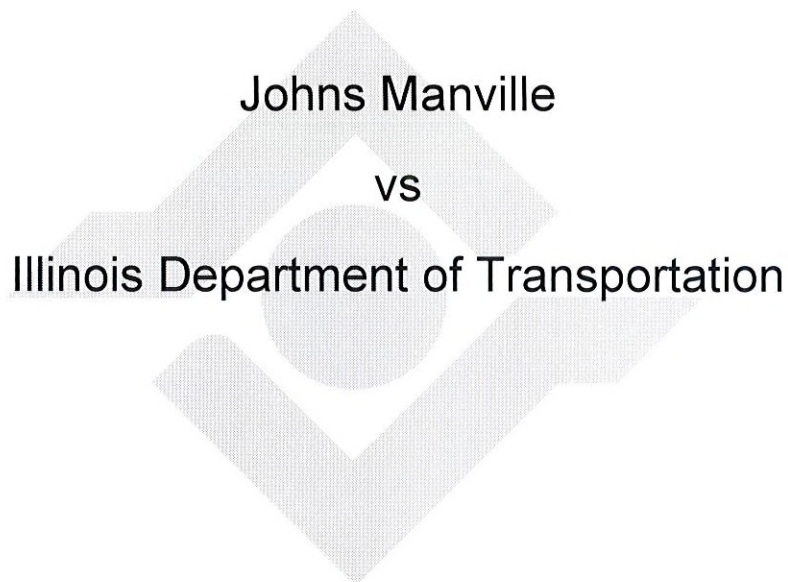
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1 I further certify that the taking of
 2 this deposition was pursuant to Notice and that
 3 there were present at the taking of said deposition
 4 the appearances as hereinbefore noted. I further
 5 certify that I am not a relative or employee or
 6 attorney or counsel, nor a relative or employee of
 7 such attorney or counsel for any of the parties
 8 hereto, nor interested directly or indirectly in
 9 the outcome of this action.
 10 IN TESTIMONY WHEREOF, I have hereunto
 11 set my hand and affixed my notarial seal this 12th
 12 day of October, 2018.
 13
 14

 17 _____
 18 MARY ANN CASALE, CSR, RPR, CLVS, CMRS
 Illinois C.S.R. License No. 084-002668
 19
 20
 21
 22
 23
 24

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EXHIBIT 3

**EXPERT REBUTTAL REPORT OF STEVEN GOBELMAN
ON DAMAGES ATTRIBUTABLE TO IDOT
BASED ON IPCB ORDER OF DECEMBER 15, 2016**



AUGUST 22, 2018

Prepared by:



ANDREWS
ENGINEERING, INC.

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Telephone: 217.787.2334

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- Gobelman: Table 1 – Cost Allocation Table

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- Appendix C – Site 3 Layout Issues
- Appendix D – Base Map Source Material
- Appendix E– Parcel 0393 Legal Description and Map

1. Purpose and Summary

I have been asked by counsel for the Respondent to review and comment on the Expert Report of Douglas G. Dorgan Jr (Report) concerning the former Johns Manville Facility Sites 3 and 6 damages attributable to IDOT dated June 13, 2018. (1) In addition to reviewing the Report, I reviewed some of the footnoted documents cited in the Report, and other historical records available regarding sites 3 and 6. My comments to the Report can be found in Section 3 through 8. Attached to this report are five Appendixes:

- Appendix A is a copy of bibliography of documents cited in this report;
- Appendix B is a copy of my resume;
- Appendix C is a composite of the different survey regarding Site 3;
- Appendix D contains the source reference material used to develop the base map; and
- Appendix E is a copy of the legal description for Parcel 0393.

2. Qualifications

My resume is presented Appendix B.

I obtained a B.S. in Geological Engineering from the University of Missouri-Rolla in 1983 and a M.S. in Geological Engineering from the University of Alaska-Fairbanks in 1985.

I have over 30 years of environmental engineering experience. I began my professional career with the Illinois Environment Protection Agency (Illinois EPA). I have over 7 years of experience with Illinois EPA. My responsibilities at Illinois EPA included: processing and managing underground injection control (UIC) permits; Site Remediation Program (SRP) projects as they related to public and private remediations, including brownfield sites; project manager on Comprehensive Environmental Resource, Compensation, and Liability Act (CERCLA) related cleanups under Illinois EPA's State Funded remediations; project management under Resource Recovery and Conservation Act (RCRA), including RCRA corrective actions, RCRA closures, leaking underground storage tank (LUST) program, and solid waste permits and closures.

I have over 22 years' experience with the Illinois Department of Transportation (IDOT). My responsibilities with IDOT included: waste assessments and investigations; overseeing soil and/or groundwater remediation; assisting construction with waste minimization and management; overseeing IDOT's environmental compliance audit (ECA) process; and the implementation of an environmental management information system (EMIS) for IDOT's maintenance yards and laboratory facilities.

I was also IDOT's technical expert reviewer on Highway Authority Agreements (HAAs). I have reviewed over a thousand HAAs which included determining IDOT's acceptable extent of impacts on our right of way. As part of the HAAs review process and for executed HAAs, I reviewed completed IDOT construction projects that have an existing

HAA or as part of a new HAA review and determined IDOT's environmental cost associated with the HAA area, and the allocation of cost involved proportioning costs to a single property from pay items that could involve multiple properties. Some of these HAA reviews required reviewing old construction projects to figure out what was constructed, how it was constructed, what the pay items and quantities were used on the construction project, and change orders associated with the project.

Since August 2015, I have been employed as a Project Director with Andrews Engineering, Inc. (Andrews) in Springfield, Illinois. My responsibilities with Andrews focus on providing technical expertise to industrial and government clients in various environmental issues including CERCLA, RCRA, TSCA, remediation technologies, and transportation. I have reviewed and prepared various cost estimates for potential new work, prepared detailed task driven work plans and cost estimates, and reports on risk assessments, remedial investigation, and feasibility studies. In addition to my role as a Project Director with Andrews, I am also utilized by industrial clients as a review and evaluation licensed professional engineer (RELPE) within the Illinois EPA's Site Remediation Program (SRP).

While at the Illinois EPA, I attended continuing education seminars, one of which was Skill Development in Negotiations of RCRA/CERCLA Disputes. This course provided basic information on negotiations, negotiating for the government, and dispute resolution techniques. While at IDOT, I also attended continued education seminars including Earthwork and Quantities Calculations, Land Acquisition and Survey, Managing Consultant Projects, and IDOT Highway Program Finance.

I am a registered Professional Engineer in Illinois and Indiana and a Licensed Professional Geologist in Illinois. I am a member of the Transportation Research Board (TRB) – ADC60 Committee for Resource Conservation and Recovery in Transportation. My qualifications were also set out in my Rebuttal Report, dated May 29, 2015, and in my testimony from the first hearing in this case.

3. Background Information

In preparation of this rebuttal report, I have review various documents from the previous hearing, documents presented regarding the cost allocation phase, the Illinois Pollution Control Boards (IPCB) opinion and order dated December 15, 2016 (2), and Mr. Dorgan's, Dr. Ebihara's, and Mr. Peterson's depositions.

According to Mr. Dorgan's Report (1), various tasks required by USEPA and performed with respect to Site 3 and Site 6 fell in what was called "Task Buckets". I have utilized the same "Task Buckets" in this report to determine the costs attributed to IDOT based on the IPCB opinion and order.

- Nicor Gas
- City of Waukegan Water Line
- AT&T

- ComEd
- Utility/Asbestos Containing Material (ACM) Excavation
- North Shore Gas
- Dewatering
- Northeast Excavation
- Filling and Capping
- Ramp
- General Site/Site Preparation
- Health and Safety
- EPA Oversight
- Legal Support Services

4. Project Management and Reasonableness of Implementation Cost

Mr. Dorgan opined that the implementation costs Johns Manville (JM) incurred were reasonable. Based on my review of the information, I have no reason to dispute the accuracy of the costs paid by JM.

5. Cost Attributed to IDOT's Responsibility as Defined by IPCB

5.1. Base Map Creation (Gobelman: Figure 1)

As stated in the IPCB opinion and order (2), "...IDOT caused open dumping of ACM waste along the south side of Greenwood Avenue within Site 6 (1S – 4S) and adjacent areas along the north edge of Site 3 (B3-25, B3-16, and B3-15). Additionally, IDOT allowed open dumping on Parcel 0393 (B3-25, B3-15, B3-16, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393)."

In order to assess the costs attributed to IDOT based on the above order, I had to create a base map (Gobelman: Figure 1) locating Sites 3 and 6, as well as the location of the IPCB referenced soil sampling locations and areas remediated. My review of the various figures showing the location of Sites 3 and 6 revealed the location of Sites 3 and 6 were not consistently located on the various figures. For example, the Plat of Topographic Survey (Atwell Survey Exhibit G of Mr. Dorgan's Report) (1) does not match up with surveyed corners of Site 3 as presented on Figure 2 in the AECOM Final Report (3) or Mr. Dorgan's Figure 1 (1), as shown in Appendix C, Ex 1.

To evaluate the existing figures of Site 3, I started with the assumption that Mr. Dorgan's Exhibit G Atwell Survey was a correct survey of Site 3. To confirm that assumption, I used Figure 2 in the Final Report that contained grid coordinates of the four corners of Site 3. The corner grid coordinates did not match the corners located by the Atwell Survey. I then used Mr. Dorgan's Report Figure 1 and overlaid that figure over the Atwell

Survey and Final Report Figure 2. As shown in Appendix C, Ex 1 provides the results of the overlay.

Based on the inconsistent location of Site 3, I created a site map utilizing current existing conditions. The site map utilized a background Google 2018 image of Site 3 showing the fencing around Site 3, as shown in Figure 1 of this report (Gobelman: Figure 1). I assumed that Site 3 was contained within the shown fencing except in the northwest and northeast corner of Site 3. In the northwest corner of Site 3 the fenceline appears to drop along the embankment slope. Site 3 was extended to the north in the northwest corner across the embankment to connect to the western boundary of Site 3. The northeast corner of the fence extends beyond the location of Site 3. The fenceline in the northeast corner extends further east than the boundary of Site 3, as shown in Final Report Figure 1 (JM004034). I compared the base map created (Gobelman: Figure 1) with the overlay prepared in Ex-1 and presented the results in Appendix C, Ex-2.

The location of Parcel 0393 was located on Gobelman: Figure 1 based on the legal description from the Grant for Public Highway dated August 3, 1971 (Hearing Exhibit 41 - 1) (4) and IDOT as-build plans pages 23 and 24 (JM001153 and JM001154, Hearing Exh. 21A-23 & 24) (5). Parcel 0393 begins at the intersection of the easterly line of Pershing Road (former Sand Street) and the south line of Greenwood Avenue. The 1971 plan sheets (5) show that IDOT Stationing 7+00 on Greenwood Avenue is at the eastern edge of Parcel 0393.

Soil sampling locations were placed on the base map based on Site 3 ELM Figure 15 (6) (JM000565, Hearing Exh. 57-536). The lengths of the western and southern boundary were marked on Figure 15. The western boundary stated the length to be 267.5 feet and the southern boundary length to be 493 feet. The Gobelman: Figure 1 indicates that the western boundary length is 267 feet and the southern boundary length is 497 feet. The difference in the southern boundary lengths could be based on fence line being used as the southern boundary of Gobelman: Figure 1.

The scale on Figure 15 indicates that the soil sampling location of B3-26 is 23.1 feet from the western boundary of Site 3 and soil sample locations B3-25, B3-1, B3-50, and B3-45 are approximately 19.7 feet south of the line drawn representing the northern extent of Site 3. This distance disagrees with the scaled distance of 15 feet used in the Mr. Dorgan's Figure 1. Mr. Dorgan does not explain in his report how he developed Figure 1. The 4.7 feet difference between Gobelman's: Figure 1 of 19.7 feet and Mr. Dorgan's Figure 1 of 15 feet is important to the location of soil sample location B3-45.

Mr. Dorgan's Report places the location of soil sample location B3-45 slightly in or on the boundary of Parcel 0393, whereas Gobelman: Figure 1 places the location approximately 3 feet outside of Parcel 0393.

Soil sampling locations (1S – 9S) along the south side of site 6 were marked on Gobelman: Figure 1 based on AECOM's Work Plan rev 2, March 13, 2014, Sheet C-0022 (7) JM004753 (Hearing Exh. 66-99). Based on Sheet C-0022 the distance from

the western edge of Site 6 to soil sampling location 9S is 419 feet. All figures developed included Mr. Dorgan's Figure 1 (1) showed that soil sampling location 8S is at the northeast corner of Site 3 and is also shown on Sheet C-0022. Based on the scale of Sheet C-0022 the remaining sampling locations on Site 6 were placed on the Gobelman: Figure 1 base map.

The location of the Northeast Excavation was also based on Sheet C-0022 (7) JM004753. Sheet C-0022 shows the length of the Northeast Excavation to be 150 feet and the western edge of the Northeast Excavation to be located east of soil sampling 3S and the eastern edge to be located slightly east of sampling 6S. Based on the scaling of Sheet C-0022 the distance from soil sampling location 9S to the eastern edge of the Northeast Excavation is approximately 140 feet.

The location of the Nicor line, North Shore Gas line, and City of Waukegan Water line were located based on the AECOM's Final Report: Southwestern Site Area – Site 3, 4/5, and 6, dated March 20, 2018 (3) JM 0040322. The locations of the AT&T lines were located based on Mr. Dorgan's Report (1) Figure 1.

5.2. Site 3 Area within IDOT's Responsibility as Defined by IPCB

IDOT's responsibility as defined by IPCB within Parcel 0393 includes the soil boring locations B3-25, B3-15, B3-16, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393). Therefore, the extent to the west within Parcel 0393 to soil sample location B3-26 (first soil sample location that did not detect ACM at any depth). As previously discussed, I located soil sample locations B3-45 outside of Parcel 0393 and, therefore, the extent within Parcel 0393 to the east would be the mid-point between soil sample location B3-50 and B3-45. However, for allocation costs in Site 3 within IDOT's responsibility as defined by IPCB, I will utilize the eastern edge of Parcel 0393. Making the extent of the eastern edge of Parcel 0393 removes arguments of the location of B3-45 given the difference between my location and Mr. Dorgan's location is 4.7 feet and the location of B3-45 is scaled off a map and the exact location was not identified.

In Mr. Dorgan Report, he incorrectly interprets the IPCB defined area of IDOT's responsibility to include all costs within Parcel 0393 with no consideration to the IPCB's defined area based on soil sample locations within Parcel 0393.

5.3. Site 6 Area within IDOT's Responsibility as Defined by IPCB

Mr. Dorgan is correct that the IPCB found IDOT liable for only soil sampling locations 1S through 4S along the south side of Site 6. However, the IPCB did not define IDOT liable for any impacts along the south side of Site 6 associated with soil sample locations 5S through 8S.

Soil sampling logs in the Engineering Evaluation/Cost Analysis, Revision 4 (8) (JM001945, JM001947, JM001949, and JM001951, Hearing Exh. 63-294, 269, 298, and 300) showed that the test pits went down to a depth of 3 feet in soil sampling location 5S

through 7S and 8S was stopped at 1 foot due to a buried dead electric line. The boring log for 5S showed transite and roofing material in each of the three sampling locations. Boring log for 6S showed transite in each of the three sampling locations and roofing material in the top two sampling locations. Boring log for 7S indicated that there was roofing material in the first foot, transite in the second foot, and brake shoes in the third foot. Boring log for 8S showed transite in the only sample in the first foot.

From the final report's (3) Table 8 (JM0039106), the depth of the excavation confirmation samples on the south side of Site 6 between 1S and 4S was at least 7 feet below ground surface (bgs). The depth of the excavation samples between 5S and 9S was at least 5.9 feet bgs.

IDOT's construction plans (5) from 1971 showed that roadway construction on Greenwood Avenue started at Station 7+60 and extended east to Station 7+00 for resurfacing. Station 7+00 is also the eastern edge of Parcel 0393. The construction of Detour Road A ends at approximately Station 15+40 along Detour Road A which is near Station 5+07 along Greenwood Avenue. The cross-section of Detour Road A (JM001154) (Exh. 21A-24) indicates that fill material depth tapered from 0 feet near Station 5+07 to an approximate depth of 2.5 feet of fill along Detour Road A which relates to Greenwood Avenue Stationing 7+00. The Site 6 area that relates to IDOT's construction Stationing 7+00 to 5+07 is soil sampling location 5S through 9S.

The IPCB ruled that the eastern edge of the reconstruction of Greenwood Avenue was near soil sampling location 4S which is near IDOT's Station 7+60 the beginning of the Greenwood Avenue roadway construction. The IPCB further ruled that IDOT did not open dump ACM waste in the construction of Detour Road A which is associated with borings 5S through 8S. Based on the amount of fill material used to create Detour Road A (2.5 feet or less), the depth of ACM found in the site investigation (3 feet or more), and JM's remedial excavation depth of 6 to 7.5 feet, I do not see any new information that would be considered new evidence to increase the area defined by the IPCB.

6. Attribution Approach

Mr. Dorgan created a Cost Allocation and IDOT Attribution Table that was presented in Exhibit F of Dorgan's Report. In order to simplify the process for the IPCB I will also utilize the same format to determine IDOT's costs allocation as defined by IPCB ruling (Gobelman: Table 1). The next subsections will discuss how the costs allocation will be assigned to IDOT based on IDOT's responsibility as defined by IPCB. Based on the allocation evaluation presented in this report, IDOT's responsibility as defined by IPCB is **\$489,891** of JM's **\$5,579,794** total Implementation Cost.

6.1. Nicor Gas

I concur with Mr. Dorgan's opinion that the costs incurred in creating a clean corridor around the Nicor Gas line is not within Site 3 as defined by IPCB, as shown on Gobelman: Figure 2.

6.2. City of Waukegan Water Line

The water line is located approximately 100 feet west of soil sampling location B3-26, near soil sample location B3-36 which did not detect ACM within any sampling depth (6). The water line is located west of soil sampling location B3-25, the farthest western location identified as IDOT's responsibility as defined by IPCB. I disagree with Mr. Dorgan's assessment that the water line cost within Site 3 is attributable to IDOT's responsibility as defined by IPCB. The water line is outside of the area within Site 3 that IDOT's responsibility as defined by IPCB, as shown on Gobelman: Figure 3.

6.3. AT&T

Mr. Dorgan stated that three AT&T telephone lines were located in Site 3. Two of the lines travelled within Parcel 0393 and the third line is located southwestern boundary of Parcel 0393 and runs southeasterly across site 3 outside of IDOT's defined responsibility. In addition, one line runs on the north side of Site 6 and another line runs on the south side of Site 6, as shown on Gobelman: Figure 4. I agree with Mr. Dorgan's assessment of the location of the AT&T telephone lines within Sites 3 and 6, as shown on Mr. Dorgan's report Figure 1. However, I disagree with Mr. Dorgan's cost attribution.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering Related to AT&T	\$26,524	\$31,105	
Professional – Completion Related to AT&T		\$15,000	
Construction – T&M Related to AT&T			\$53,548
Construction – Management Related to AT&T			\$45,350
Utility Payment to AT&T	\$82,127	\$238,161	
Total	\$108,651	\$284,266	\$98,898
IDOT Attribution	\$17,601	\$5,117	\$5,736

6.3.1. Site 3

Within Site 3 the three AT&T telephone lines equal to approximately 1,150 linear feet. The three AT&T telephone lines equal to approximately 187 linear feet within the area

attributed to IDOT's responsibility as defined by IPCB or approximate 16.3 percent of the total costs within Site 3. The proportionate cost attributed to IDOT's responsibility as defined by IPCB is \$17,601.

6.3.2. Site 6

The length of the northern corridor is approximately 2,820 linear feet and southern corridor on Site 6 is approximately 2,650 linear feet each, for a total length of approximately 5,470 linear feet (3) JM0040329. The length attributed to IDOT's responsibility as defined by IPCB is 47 linear feet, from where the AT&T telephone line enters Site 6 to the east of soil sampling location 3S and ends halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 1.8 percent and the proportionate cost for Site 6 is \$5,117.

6.3.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$22,718) by the total Sites 3 and 6 costs (\$392,917). The percentage attributed to the combined Sites 3 and 6 costs is 5.8 percent (22,718/392,917). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,736.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for AT&T work performed attributable to IDOT is \$28,454, as shown in Gobelman: Table 1.

6.4. Utility/ACM Soils Excavation

As stated in Mr. Dorgan's report, excavation of ACM impacted soils occurred on both sides of Site 6. As calculated above in Section 6.3.2 AT&T Site 6, the total length of Site 6 is approximately 5,470 linear feet. The length attributed to IDOT's responsibility as defined by IPCB is 197 linear feet, from the western edge of Site 6 to halfway between 4S and 5S. The percent of the costs attributed to IDOT is 3.6 percent and the proportionate cost for Site 6 is \$5,591.

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid Soils for Site 6		\$155,318	
Total		\$155,318	
IDOT Attribution		\$5,591	

6.5. North Shore Gas

A clean corridor for the entire North Shore Gas line was created on Sites 3 and 6, as shown on Gobelman: Figure 5. The clean corridor within Site 3 was created with the North Shore Gas line left in-place. In Site 6, the North Shore Gas line was capped near soil sampling location 4S and remainder of the line to the east was removed from the south side of Site 6.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for North Shore Gas	\$135,159	\$81,028	
Construction – T&M for North Shore Gas	\$162,678		\$22,327
Construction – Management for North Shore Gas			\$35,830
Utility Payment to North Shore Gas	\$34,687	\$153,833	
Total	\$332,524	\$234,861	\$58,157
IDOT Attribution	\$90,779	\$3,993	\$9,712

6.5.1. Site 3

The North Shore Gas line crosses Site 3 and a portion of Parcel 0393 near soil sampling location B3-15 and B3-50 (defined by the IPCB as being within IDOT liability). The distance the North Shore Gas line traverses diagonally across Site 3 with a corridor area is 12,016 square feet (25 foot corridor width). The area of the North Shore Gas line that impacts Parcel 0393 within IDOT's responsibility as defined by IPCB is approximately 3,278 square feet or about 27.3 percent of the total cost within Site 3. The proportionate cost attributed to IDOT is \$90,779.

6.5.2. Site 6

As Mr. Dorgan stated, the capping of the clean corridor occurred within Site 6 near soil sampling location 4S. All capping of the North Shore Gas line on Site 6 was limited to the area around soil sampling location 4S is attributable to IDOT's responsibility as defined by IPCB.

Mr. Dorgan states that the length along the south side of Site 6 is approximately 2,005 linear feet. The length attributed to IDOT's responsibility as defined by IPCB is approximately 35 linear feet, from where the North Shore Gas line enters Site 6 to the west of soil sampling location 4S and ends just east of soil sampling location 4S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 1.7 percent and the proportionate cost for Site 6 is \$3,993.

6.5.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$94,772) by the total Sites 3 and 6 costs (\$567,385). The percentage attributed to the combined Sites 3 and 6 costs is 15.1 percent (94,772/567,385). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$9,712.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for North Shore Gas line work performed within IDOT's responsibility as defined by IPCB is \$104,484, as shown in Gobelman: Table 1.

6.6. Northeast Excavation

The Northeast Excavation is shown on the work plan (7) to be 150 feet by 50 feet or 7,500 square feet. Part of the Northeast Excavation area is incorporated within Parcel 0393 as it relates to the area IDOT's responsibility as defined by IPCB, as shown on Gobelman: Figure 6. Even though, my assessment of soil sample location B3-45 fall outside of Parcel 0393, I have elected to include the full eastern extent of Parcel 0393 within the Northeast Excavation.

As discussed earlier, the difference between Mr. Dorgan and my location of B3-45 is approximately 4 feet. The location of B3-45 is subjective based on its location on previous figures and reports. The additional cost allocated to the Northeast Excavation area that would be attributed to this increased area is approximately 5 percent.

The area of Parcel 0393 contained within the Northeast Excavation is approximately 1,905 square feet or 25.4 percent of the Northeast Excavation. As a result, the portion of JM's costs for Northeast Excavation work performed attributable to IDOT's responsibility as defined by IPCB is \$12,683, as shown in Gobelman: Table 1.

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering for Northeast Excavation	\$3,977		
Professional – Completion Costs for Northeast Excavation	\$10,000		
Construction – Base Bid for Northeast Excavation	\$35,957		
Total	\$49,934		
IDOT Attribution	\$12,683		

6.7. Dewatering

Dewatering was required to remove the high water within both Sites 3 and 6 in order for work related to the clean corridor construction for the Nicor line, North Shore Gas line, City of Waukegan Water line, and the Northeast Excavation.

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid for Dewatering	\$140,800	\$159,250	
Construction – T&M for Dewatering	\$24,325		\$17,675
Construction – Management for Dewatering	\$74,530		\$21,500
Construction Services – Payments to Utilities	\$19,429	\$1,337	
Total	\$259,084	\$160,587	\$39,175
IDOT Attribution	\$40,417	\$37,738	\$7,287

6.7.1. Site 3

For Site 3, dewatering was required during the construction of the clean corridor associated with the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation. As previously discussed IDOT was not liable for the Nicor line and the City of Waukegan Water Line. IDOT's responsibility as defined by IPCB was proportionate liable for 27.3 percent or \$90,779 of the North Shore Gas line cost within Site 3 and 25.4 percent or \$12,683 of the Northeast Excavation cost.

Service	Site 3	IDOT's Allocation
Nicor Line	\$218,090	\$0
North Shore Gas Line	\$332,524	\$90,779
City of Waukegan Water Line	\$61,037	\$0
Northeast Excavation	\$49,934	\$12,683
Total	\$661,585	\$103,462

To determine the percentage of the work associated with IDOT's responsibility as defined by IPCB liability, I divided the total cost attributed to IDOT's responsibility as defined by IPCB in Site 3 (\$103,462) by the total cost to complete the work for the Nicor line, North Shore Gas line, the City of Waukegan Water Line, and Northeast Excavation (\$661,585). This percentage, 15.6 percent (103,462/661,585), is the percent of the dewatering cost allocated to IDOT's responsibility as defined by IPCB liability. Therefore, JM's total costs for dewatering activities on Site 3 that are attributable to IDOT's responsibility as defined by IPCB totals \$40,417.

6.7.2. Site 6

For Site 6, dewatering was required during the construction of the clean corridor for the north and south side of Site 6. As stated in Mr. Dorgan's report he attributed 50 percent of the dewatering costs to IDOT's responsibility as defined by IPCB. In addition, Mr. Dorgan used soil sampling locations 1S to approximately 9S to define the Site 6 area. The final work plan indicates that the length of the south side of Site 6 is 419 linear feet (from the western end of Site 6 to soil sampling location 9S), as shown on Gobelman: Figure 1. Therefore the total length of dewatering in Site 6 is 838 linear feet (making the length of the north side and south side equal).

The length attributed to IDOT's responsibility as defined by IPCB is 197 linear feet, from where the western edge of Site 6 to halfway between 4S and 5S. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 23.5 percent and the proportionate cost for Site 6 is \$37,738.

6.7.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the cost attributed to IDOT's responsibility as defined by IPCB (\$78,155) by the total cost from Sites 3 and 6 (\$419,671). The percentage attributed to the combined Sites 3 and 6 costs is 18.6 percent ($78,155/419,671$). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB cost is \$7,287.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$85,442, as shown in Gobelman: Table 1.

6.8. Ramp

Due to site conditions it was not practical to install the required vegetative cap in an area on the northwest corner of Site 3. Instead of a vegetative cap a three inch stone aggregate layer was placed over the compacted clay in lieu of topsoil, adjacent to a low off-site wet area (3). Since this work occurred within Parcel 0393 and is located to the west of soil sampling location B3-25 it is located outside of IDOT's responsibility as defined by IPCB liability area, as shown on Gobelman: Figure 7. The associated cost of \$20,880 is not attributable to IDOT's responsibility as defined by IPCB.

6.9. Filling/Capping

A vegetative soil cap (cap) was installed across Site 3. As stated in the Final Report (3), Site 3 is comprised of 3.1 acres. Filling/Capping costs include the removal of soils from both north and south sides of Site 6 (1). Mr. Dorgan's cost breakdowns include:

Service	Site 3	Site 6	Sites 3 and 6
Construction – Base Bid for Filling/Capping	\$328,983		
Construction – T&M for Filling/Capping	\$41,721	\$188,183	\$231,862
Construction – Management for Filling/Capping	\$55,550	\$122,170	\$120,150
Total	\$426,254	\$310,353	\$352,012
IDOT Attribution	\$27,707	\$11,173	\$18,657

6.9.1. Site 3

For Site 3, the area defined by the IPCB includes the area associated with soil sampling locations B3-25, B3-16, B3-15, and B3-50. This area extends to the west within Parcel 0393 to between B3-26 (first clean soil sampling location west of B325). As stated above, the eastern extent extends to the eastern boundary of Parcel 0393. This area equates to 0.2 acres or 6.5 percent of Site 3, as shown on Gobelman: Figure 8.

Therefore, JM's costs for dewatering activities on Site 3 that are attributable to IDOT's responsibility as defined by IPCB total \$27,707.

6.9.2. Site 6

The length of the northern and southern corridor on Site 6 is approximately 5,470 linear feet. The length attributable to IDOT's responsibility as defined by IPCB from the western boundary of Site 6 to the mid-point between 4S and 5S is 197 linear feet. The percent of the cost attributed to IDOT's responsibility as defined by IPCB is 3.6 percent and the proportionate cost for Site 6 is \$11,173.

6.9.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the cost attributed to IDOT's responsibility as defined by IPCB (\$38,879) by the total Sites 3 and 6 costs (\$736,607). The percentage attributed to the combined Sites 3 and 6 costs is 5.3 percent (38,879/736,607). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$18,657.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$57,536, as shown in Gobelman: Table 1.

6.10. General Site/Site Preparation

The General Site/Site Preparation Task Bucket, according to Mr. Dorgan, includes but is not limited to general project management, support to and interface with regulatory authorities, professional services oversight of construction activities, installation and maintenance of stormwater controls, traffic control, and clearing and grubbing the sites in preparation for construction. (1)

Service	Site 3	Site 6	Sites 3 and 6
Professional – Engineering	\$335,534	\$519,027	
Professional – Completion Cost	\$70,621	\$53,250	
Professional – O&M	\$310,903		
Construction – Base Bid	\$138,310	\$95,560	
Construction – T&M		\$37,410	
Construction – Management			\$74,300
Construction – Misc.	\$57,362	\$102,082	
Total	\$932,730	\$807,328	\$74,300
IDOT Attribution	\$99,803	\$41,981	\$5,573

6.10.1. Site 3

Using the same process as Mr. Dorgan did in his report (1); I divided the portion of Site 3 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$189,187), by the Site 3 costs for Construction Services (\$1,476,454). The Professional Engineering Services - Engineering percentage is 12.8 percent (189,187/1,476,454). The Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 3 is \$45,508.

The same percentage (12.8 percent) utilized for the Professional Engineering Services – Completion Cost on Site 3 equated to \$9,039 to IDOT's responsibility as defined by IPCB.

Using the same percentage (6.5 percent) that is used in the Site 3 vegetative cap installation, the Site Preparation Professional Engineering Services O&M on Site 3 equates to \$20,209 to IDOT's responsibility as defined by IPCB.

The percentage (12.8 percent) utilized for the Construction Services Base Bid on Site 3 equated to \$17,704 to IDOT's responsibility as defined by IPCB.

The percentage (12.8 percent) utilized for the Construction Miscellaneous costs on Site 3 equated to \$7,342 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 3 that are attributable to IDOT's responsibility as defined by IPCB total \$99,803.

6.10.2. Site 6

Using the same process as Mr. Dorgan did in his report (1); I divided the portion of Site 6 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$63,612), by the Site 3 costs for Construction Services (\$1,232,059). The Professional Engineering Services - Engineering percentage is 5.2 percent ($63,612/1,232,059$). The Professional Engineering Services - Engineering cost attributed to IDOT's responsibility as defined by IPCB on Site 6 is \$26,989.

The same percentage (5.2 percent) is utilized for the Professional Engineering Services – Completion Cost on Site 6 equated to \$2,769 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction Services Base Bid on Site 6 equated to \$4,969 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction T&M costs on Site 6 equated to \$1,945 to IDOT's responsibility as defined by IPCB.

The percentage (5.2 percent) utilized for the Construction Miscellaneous costs on Site 6 equated to \$5,308 to IDOT's responsibility as defined by IPCB.

Therefore, JM's costs for site preparation on Site 6 that are attributable to IDOT's responsibility as defined by IPCB total \$41,981.

6.10.3. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the costs that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the costs attributed to IDOT's responsibility as defined by IPCB (\$41,391) by the total Sites 3 and 6 costs (\$548,602). The percentage attributed to the combined Sites 3 and 6 costs is 7.5 percent ($41,391/548,602$). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,573.

Utilizing the same table Mr. Dorgan created in Exhibit F, the portion of JM's costs for dewatering work performed and attributable to IDOT is \$147,357, as shown in Gobelman: Table 1.

6.11. Health and Safety

6.11.1. Sites 3 and 6

Utilizing Mr. Dorgan's process of calculating the proportionate cost for the cost that could not be segregated to Site 3 or Site 6 alone, the allocation percentage was calculated by dividing the portion of the Construction Services cost attributed to IDOT's responsibility as defined by IPCB (\$41,391) by the total Sites 3 and 6 costs (\$548,602). The

percentage attributed to the combined Sites 3 and 6 costs is 7.5 percent (41,391/548,602). As applied to the combined Sites 3 and 6 costs, IDOT's responsibility as defined by IPCB is \$5,775, as shown in Gobelman: Table 1.

6.12. EPA Oversight Costs

Reimbursement cost for USEPA oversight costs.

Service	Site 3	Site 6
EPA Oversight	\$233,805	\$125,675
Total	\$233,805	\$125,675
IDOT Attribution	\$29,927	\$6,535

6.12.1. Site 3

Using the same process as Mr. Dorgan did in his report (1), the portion of Site 3 costs for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$189,187), by the Site 3 costs for Construction Services (\$1,476,454). Then applying this percentage (12.8 percent) to the cost for USEPA Oversight on Site 3 is \$29,927, as shown in Gobelman: Table 1.

6.12.2. Site 6

Using the same process as Mr. Dorgan did in his report (1), the portion of Site 6 cost for Construction Services that were attributable to IDOT's responsibility as defined by IPCB (\$63,612), by the Site 3 costs for Construction Services (\$1,232,059). Then applying this percentage (5.2 percent) to the cost for USEPA Oversight on Site 6 is \$6,535, as shown in Gobelman: Table 1.

6.13. Cost for Legal/Legal Support Services

Legal support services were related to negotiation of easements and other agreements for Sites 3 and 6 for required utility work. I did not analyze the attribution or reasonableness of these costs to the allocation process. As calculated in Mr. Dorgan's report (1), the allocation percentage was calculated by dividing the cost attributed to IDOT's responsibility as defined by IPCB for utility work (\$138,530) by utility related work for Site 3, Site 6, and Site 3/6 (\$1,638,837). The percentage attributed to the legal support services is 8.5 percent (138,530/1,638,837). As applied to JM's cost for Legal Support Services (\$71,840), IDOT's responsibility as defined by IPCB for Legal Support Services is \$6,106, as shown in Gobelman: Table 1.

7. IDOT's Responsibility as Defined by IPCB Attribution Summary

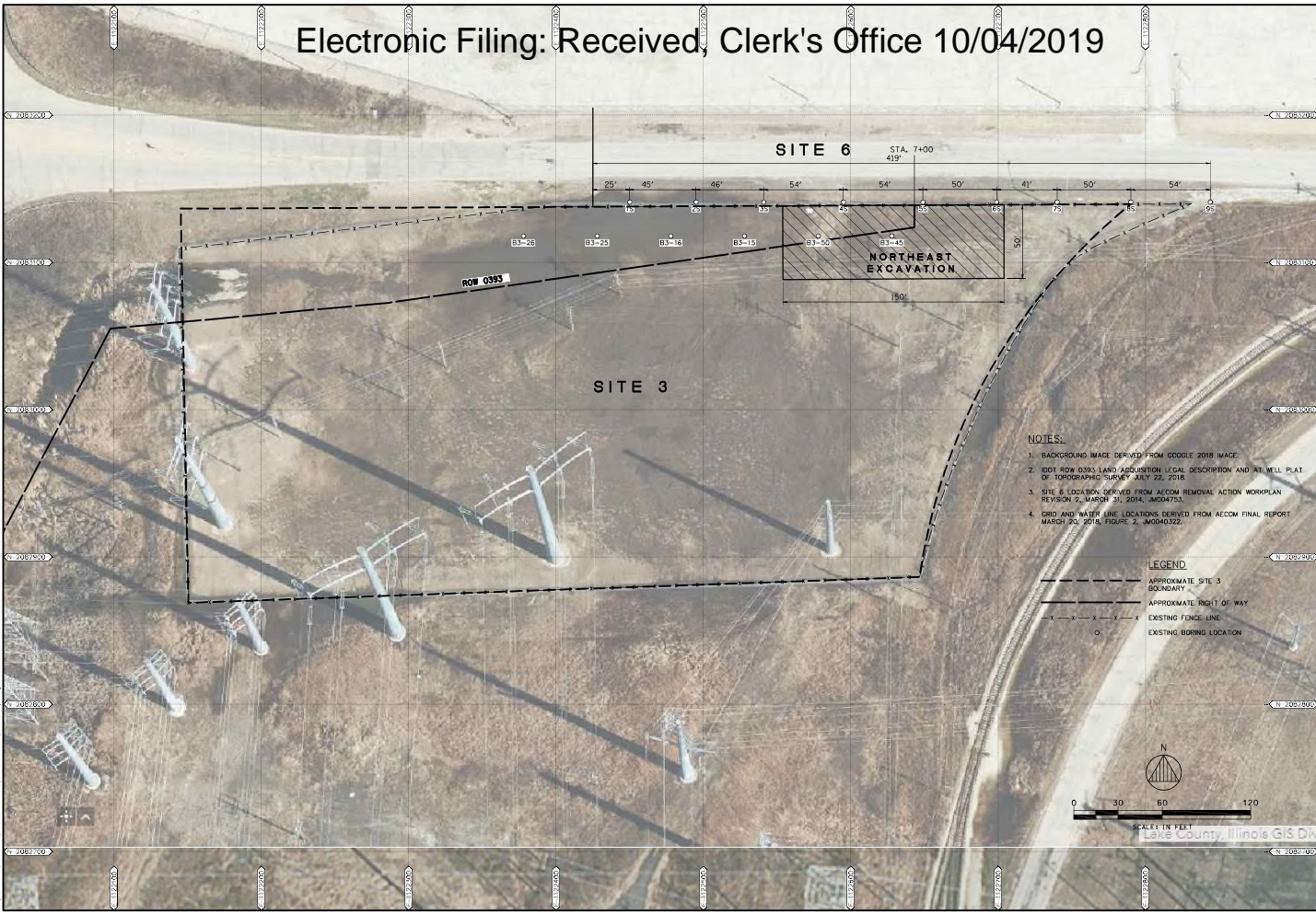
IDOT's responsibility as defined by IPCB cost allocation amounts are presented in the following table:

Task Bucket	Site 3	Site 6	Sites 3 and 6	Total
Nicor Gas	\$0	\$0	\$0	\$0
City of Waukegan Water Line	\$0	\$0	\$0	\$0
AT&T	\$17,601	\$5,117	\$5,736	\$28,454
Utility/ACM Excavation	\$0	\$5,591	\$0	\$5,591
North Shore Gas	\$90,779	\$3,993	\$9,712	\$104,484
Northeast Excavation	\$12,683	\$0	\$0	\$12,683
Dewatering	\$40,417	\$37,738	\$7,287	\$85,442
Ramp	\$0	\$0	\$0	\$0
Filling/Capping	\$27,707	\$11,173	\$18,657	\$57,537
General Site/Site Preparation	\$99,803	\$41,981	\$5,573	\$147,357
Health and Safety	\$0	\$0	\$5,775	\$5,775
USEPA Oversight Cost	\$29,927	\$6,535	\$0	\$36,462
Legal Support	\$0	\$0	\$6,106	\$6,106
Total	\$318,917	\$112,128	\$58,846	\$489,891

8. IDOT's Responsibility as Defined by IPCB Attribution

Based on the above table, it is my opinion that \$489,891 of JM's cost (\$5,579,794) incurred on Site 3 and Site 6 are attributable to IDOT in accordance to the IPCB ruling.

FIGURES



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0355 LAND ACQUISITION LEGAL DESCRIPTION AND A WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REGION 2, MARCH 31, 2014, M0040322.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, M0040322.

- LEGEND**
- - - - - APPROXIMATE SITE 3 BOUNDARY
 - - - - - APPROXIMATE RIGHT OF WAY
 - - - - - EXISTING FENCE LINE
 - o EXISTING BORING LOCATION

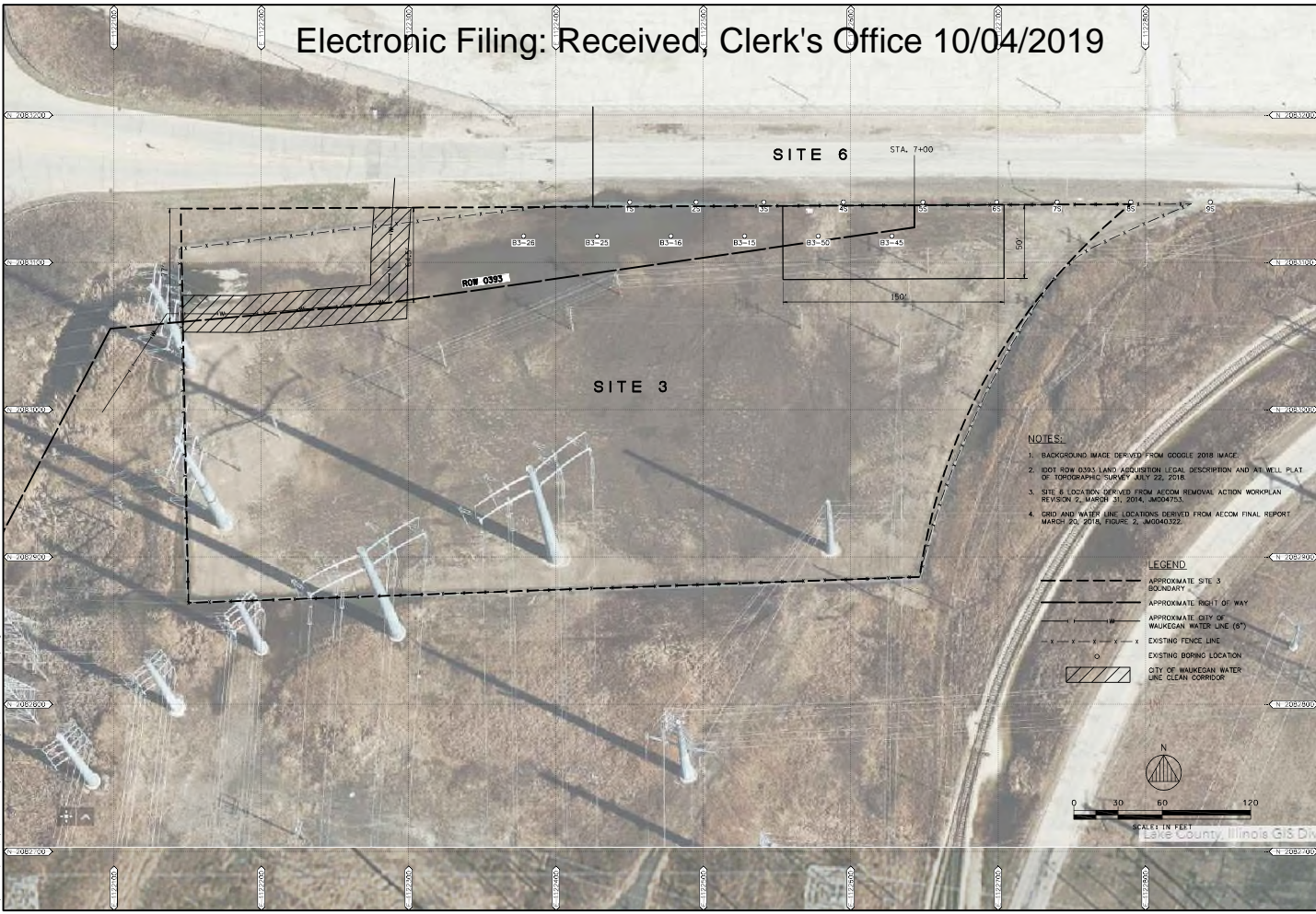


DATE	AUGUST 2018
PROJECT NO.	160001/0001
SHEET NUMBER	
GOBELMAN	
FIGURE 1	

SITE 3 AND SITE 6 BASE MAP
PREPARED FOR
JOHNS MANVILLE, IDOT
PROJECT
PCB14-3
WALKEGAN, ILLINOIS

ANDREWS ENGINEERING, INC.
3300 SINGER CREEK DRIVE
SPRINGFIELD, ILLINOIS 62711-1723
PH: 217-789-3328 FAX: 217-789-0695
PONTIAC, IL • EMPLOYING PROFESSIONAL ENGINEERS AND SURVEYORS # 0430154
APPROVED BY: S.C. [Signature] [Stamp] DATE

Date: 8/21/2018 11:27:48 AM
 User: Mike Noyes
 Plot: Tuesday, August 21, 2018 11:27:48 AM
 Plotter: HP DesignJet 2550



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0355 LAND ACQUISITION LEGAL DESCRIPTION AND AS WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REGION 2, MARCH 31, 2014, MDD043.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, MDD043322.

LEGEND

- - - - - APPROXIMATE SITE 3 BOUNDARY
- - - - - APPROXIMATE RIGHT OF WAY
- - - - - APPROXIMATE CITY OF WAUKEGAN WATER LINE (8")
- - - - - EXISTING FENCE LINE
- EXISTING BORING LOCATION
- CITY OF WAUKEGAN WATER LINE CLEAN CORRIDOR

SCALE IN FEET
0 30 60 120

CITY OF WAUKEGAN WATER LINE LOCATION MAP

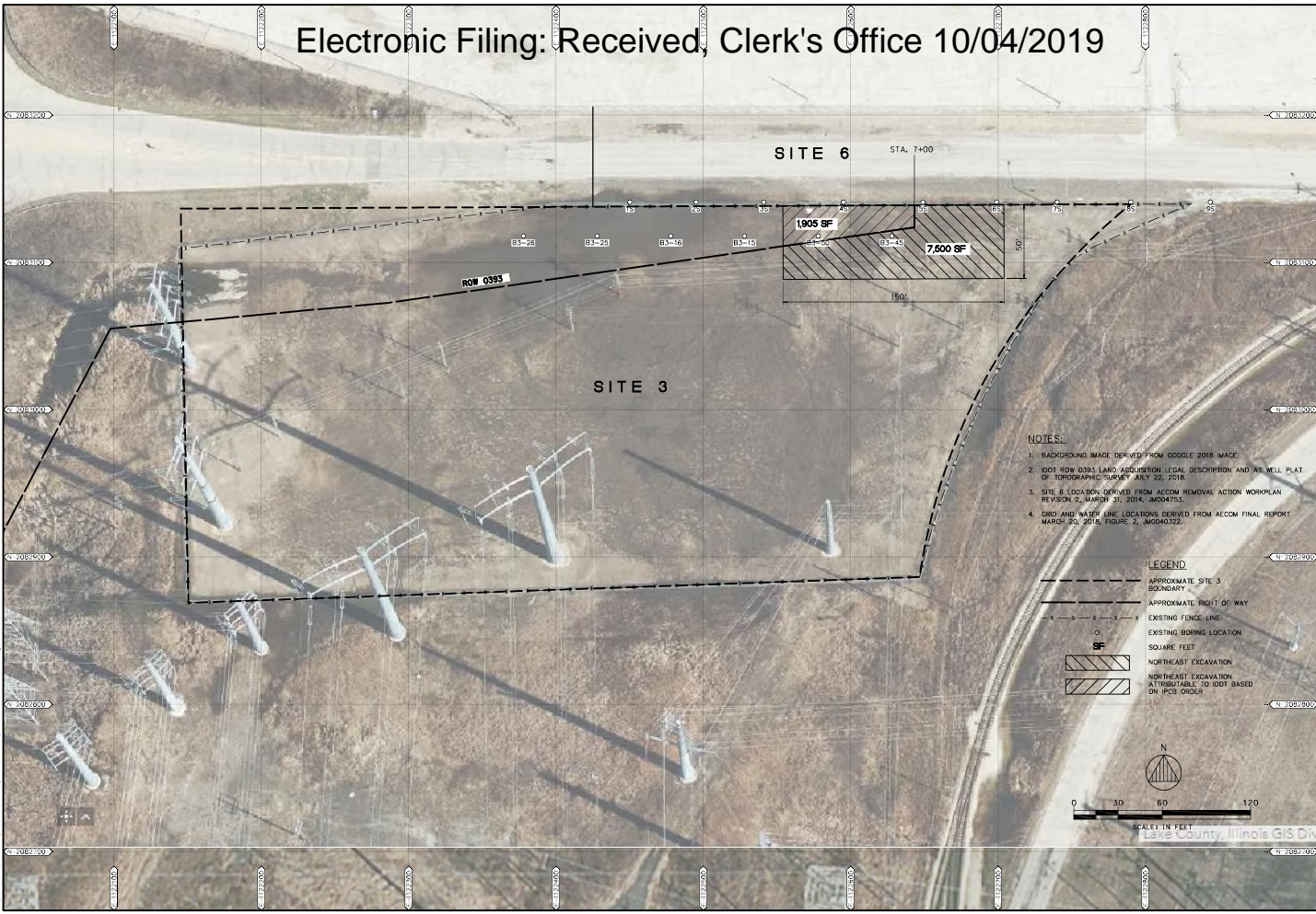
DATE	10/04/2019
PROJECT NO.	160001/0001
SHEET NUMBER:	
GOBELMAN	
FIGURE 3	

CITY OF WAUKEGAN WATER LINE LOCATION MAP

PREPARED FOR
JOHNS MANVILLE, IDOT
PROJECT # 160001/0001
WAUKEGAN, ILLINOIS

ANDREWS
ENGINEERING, INC.
3300 SINGER CREEK DRIVE
SPRINGFIELD, ILLINOIS 62711-1723
PH: 217-789-3328 FAX: 217-789-0495
PROFESSIONAL ENGINEERS AND LAND SURVEYORS # 0430154
APPROVED BY: S.C. [Signature] DATE: 10/04/2019

Date: 10/04/2019 11:24:42 AM
 User: Mike Noyes
 Project: Tunnels, August 21, 2018 11:24:42 AM
 Location: Spring Valley, IDOT
 Drawing: 160001/0001



NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0395 LAND ACQUISITION LEGAL DESCRIPTION AND A WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REGION 2, MARCH 31, 2014, M060433.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, M06043322.

LEGEND

- - - - - APPROXIMATE SITE 3 BOUNDARY
- - - - - APPROXIMATE RIGHT OF WAY
- - - - - EXISTING FENCE LINE
- EXISTING BORING LOCATION
- SF SQUARE FEET
- ▨ NORTHEAST EXCAVATION
- ▨ NORTHEAST EXCAVATION ATTRIBUTABLE TO IDOT BASED ON IPCB GROUP

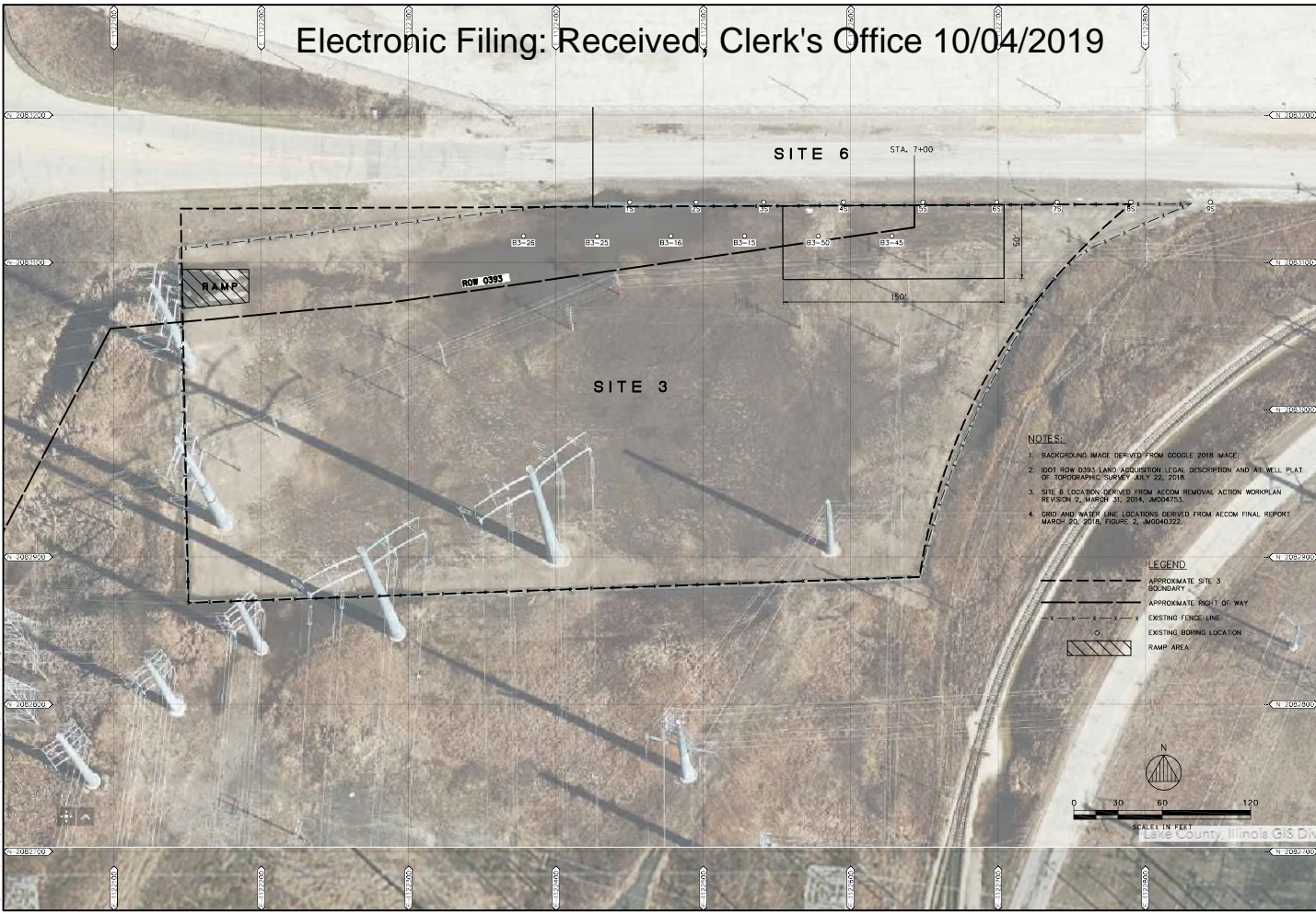
0 30 60 120
SCALE IN FEET
Lake County, Illinois GIS Division

DATE	AUGUST 2018
PROJECT #	160001/0001
SHEET NUMBER:	
GOBELMAN	
FIGURE 6	

NORTHEAST EXCAVATION LOCATION MAP
 PREPARED FOR
 JOHNS MANVILLE, IDOT
 PCB# 14-3
 WALKERGAN, ILLINOIS

ANDREWS ENGINEERING, INC.
 3300 GINGER CREEK DRIVE
 SPRINGFIELD, ILLINOIS 62711-1723
 TEL: 217-281-3328 FAX: 217-281-9695
 PONTIAC, IL • EMPHASIS
 PROFESSIONAL ENGINEERS AND LAND SURVEYORS #480154
 APPROVED BY: S.C. [Signature] DATE: 10/1/19

Date: 10/1/2019 1:27:32 AM
 User: Mike Napp
 Project: Tuesday, August 21, 2018 11:27:32 AM
 Path: \\server\Users\Mike Napp\Projects\Commodore\

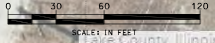


NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. IDOT ROW 0355 LAND ACQUISITION LEGAL DESCRIPTION AND A1 WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REGION 2, MARCH 31, 2014, M004031.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, M00403122.

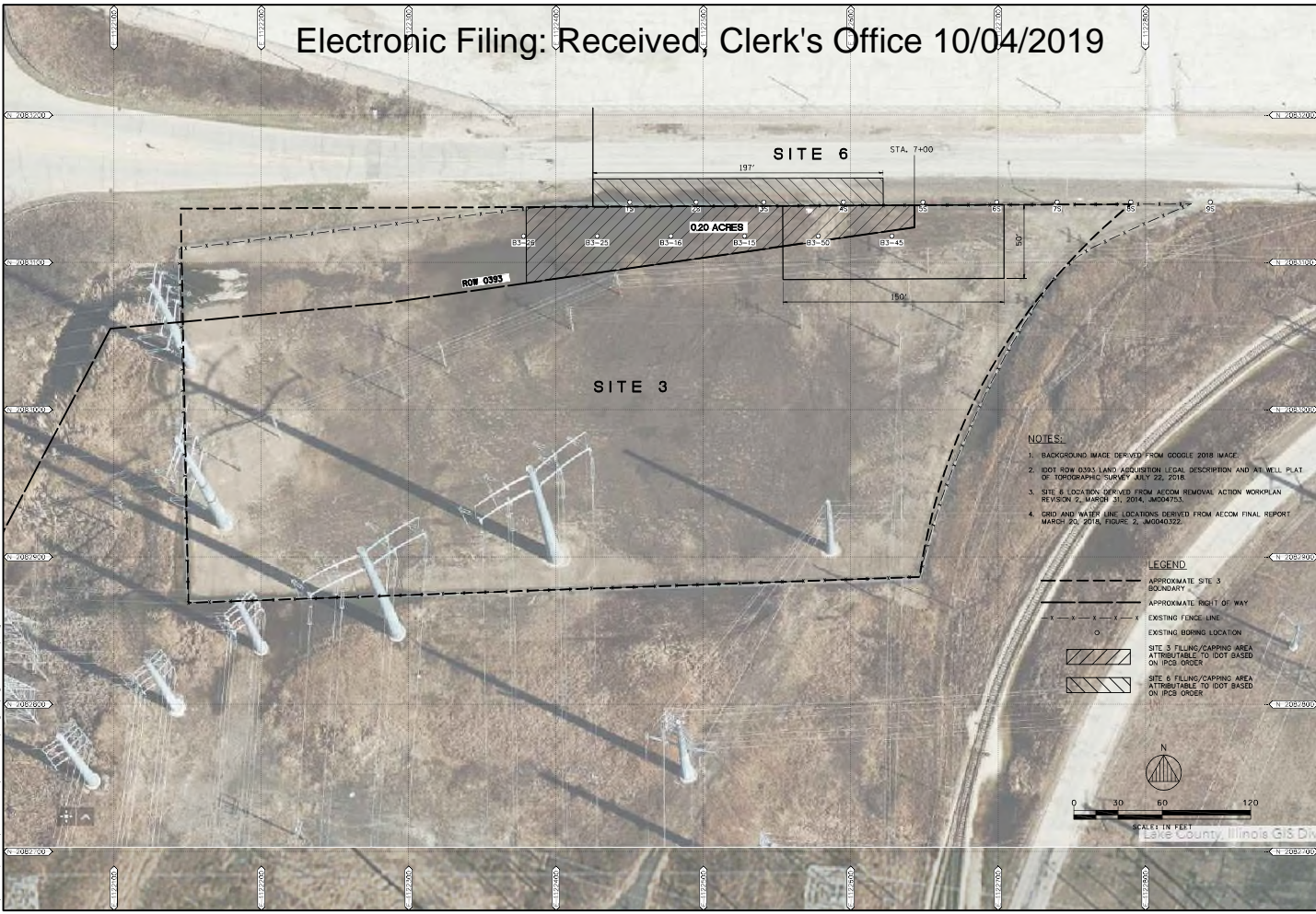
LEGEND

- - - - - APPROXIMATE SITE 3 BOUNDARY
- - - - - APPROXIMATE RIGHT OF WAY
- - - - - EXISTING FENCE LINE
- - - - - EXISTING BORING LOCATION
- ▨ RAMP AREA



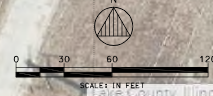
<p>ANDREWS ENGINEERING, INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-1723 TEL: 217-781-3328 FAX: 217-781-0495 PROFESSIONAL ENGINEERS AND LAND SURVEYORS # 0430154 APPROVED BY: S.C. [Signature] DATE: 10/1/19</p>	<p>RAMP LOCATION MAP PREPARED FOR JOHN'S MAPLE VS. IDOT PCB 14-3 WALKERGAN, ILLINOIS</p>
<p>DATE: AUGUST 2018 PROJECT ID: 160001/0001 SHEET NUMBER: 10</p>	
<p>GOBELMAN FIGURE 7</p>	

Date: 10/1/19 11:28:40 AM
 User: Mike Noyes
 Project: Tunnels, August 21, 2018 11:28:40 AM
 Path: C:\Users\Mike Noyes\Desktop\Mapings



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0393 LAND ACQUISITION LEGAL DESCRIPTION AND A WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 3 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2018, MGD040322.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, MGD040322.

- LEGEND**
- - - - - APPROXIMATE SITE 3 BOUNDARY
 - - - - - APPROXIMATE RIGHT OF WAY
 - - - - - EXISTING FENCE LINE
 - o EXISTING BORING LOCATION
 - [Hatched Box] SITE 3 FILLING/CAPPING AREA ATTRIBUTABLE TO IDOT BASED ON IPCS ORDER
 - [Hatched Box] SITE 6 FILLING/CAPPING AREA ATTRIBUTABLE TO IDOT BASED ON IPCS ORDER



DATE	AUGUST 2018
PROJECT #	160001/0001
SHEET NUMBER	
GOBELMAN	
FIGURE 8	

DATE: AUGUST 2018
PROJECT # 160001/0001
SHEET NUMBER:

GOBELMAN
FIGURE 8

PREPARED FOR
JOHNS MANVILLE, INC. IDOT
PCB# 14-3
WALKEGAN, ILLINOIS

FILLING/CAPPING LOCATION MAP

ANDREWS ENGINEERING, INC.
3300 GINGER CREEK DRIVE
SPRINGFIELD, ILLINOIS 62711-1723
PH: 217-789-3328 FAX: 217-789-0695
PROFESSIONAL ENGINEERS AND LAND SURVEYORS # 620154
APPROVED BY: SJC [Signature] [Stamp] DATE: 10/04/2019

Date: 10/04/2019 11:38:40 AM
 User: Mike Noyes
 Project: Tunnels, August 21, 2018 11:38:40 AM
 Location: Spring Valley, IDOT & Private Utility - Gobelman Location Map.dwg

Electronic Filing Received, Clerk's Office 10/04/2019

Work/Cost Type	Nicor Gas			City of Waukegan Water Utility			The Buckeye AT&T			ComEd		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM	\$ 106,086			\$ 35,867	\$ 48,433		\$ 26,524	\$ 31,105				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.2%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,287	\$ 560	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate								\$ 15,000				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 270	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid	\$ 106,848			\$ 25,170								
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella T&M Services	\$ 5,156			\$ 38,241						\$ 53,548		
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.8%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,106	\$ -	\$ -
Construction Services DMP			\$ 360							\$ 45,350		
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.8%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,630	\$ -	\$ -
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities							\$ 82,127	\$ 238,161				
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.2%	1.8%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 13,305	\$ 4,287	\$ -	\$ -	\$ -	\$ -
Easement Legal Support Mankas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ 218,090	\$ -	\$ 360	\$ 61,037	\$ 86,674	\$ -	\$ 108,651	\$ 284,266	\$ 98,898	\$ -	\$ -	\$ -
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 17,601	\$ 5,117	\$ 5,736	\$ -	\$ -	\$ -
							AT&T					
							Total AT&T Site 3 and Site 6	\$ 392,917				
							IDOT Attribution	\$ 22,718				
							Percent IDOT attribution	5.8%				
							AT&T IDOT Total	\$ 28,454				

Electronic Filing: Received, Clerk's Office 10/04/2019

Work/Cost Type	Utility/Asbestos Containing Material (ACM) Excavation			North Shore Gas (NSG)			Task Bucket			Dewatering		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM				\$ 135,159	\$ 81,028		\$ 3,977					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	1.7%	0.0%	25.4%		0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 36,888	\$ 1,377	\$ -	\$ 1,010	\$ -	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate							\$ 10,000					
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.4%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,540	\$ -	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid		\$ 155,318					\$ 35,957			\$ 140,800	\$ 159,250	
Percentage Attribution to IDOT	0.0%	3.6%	0.0%	0.0%	0.0%	0.0%	25.4%	0.0%	0.0%	15.6%	23.5%	0.0%
IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ -	\$ -	\$ -	\$ 9,133	\$ -	\$ -	\$ 21,965	\$ 37,424	\$ -
Construction Services Campanella T&M Services				\$ 162,678		\$ 22,327				\$ 24,325		\$ 17,675
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	0.0%	16.7%	0.0%	0.0%	0.0%	15.6%	0.0%	18.6%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 44,411	\$ -	\$ 3,729	\$ -	\$ -	\$ -	\$ 3,795	\$ -	\$ 3,288
Construction Services DMP							\$ 35,630			\$ 74,530		\$ 21,501
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.7%	0.0%	0.0%	15.6%	0.0%	18.6%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,984	\$ -	\$ -	\$ 11,627	\$ -	\$ 3,999
Construction Services Miscellaneous												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities				\$ 34,687	\$ 153,533					\$ 19,429	\$ 1,337	
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	27.3%	1.7%	0.0%	0.0%	0.0%	0.0%	15.6%	23.5%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 9,470	\$ 2,615	\$ -	\$ -	\$ -	\$ -	\$ 3,031	\$ 314	\$ -
Easement Legal Support Mankas												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight												
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ -	\$ 155,318	\$ -	\$ 332,524	\$ 234,861	\$ 58,157	\$ 49,934	\$ -	\$ -	\$ 259,084	\$ 160,587	\$ 39,175
Total IDOT Attribution	\$ -	\$ 5,591	\$ -	\$ 90,779	\$ 3,993	\$ 9,712	\$ 12,683	\$ -	\$ -	\$ 40,417	\$ 37,738	\$ 7,287

North Shore Gas (NSG)	
Total NSG Site 3 and Site 6	\$ 567,385
IDOT Attribution	\$ 94,772
Percent IDOT attribution	16.7%
NSG IDOT Total	\$ 104,484

Dewatering	
Total dewater Site 3 and Site 6	\$ 419,671
IDOT Attribution	\$ 79,155
Percent IDOT attribution	18.6%
Dewatering IDOT Total	\$ 85,442

Electronic Filing: Received, Clerk's Office 10/04/2019

Work/Cost Type	Ramp			Filling and Capping			Task Bucket			General Site/Site Preparation			Health and Safety		
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6
Professional Engineering Services LFR/Arcadis/AECOM	\$ 20,880						\$ 355,534	\$ 519,027							
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.8%	5.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 45,508	\$ 26,989	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Professional Engineering Services Completion Costs AECOM Estimate							\$ 70,621	\$ 53,250							
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	12.8%	5.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,039	\$ 2,769	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operations and Maintenance AECOM Estimate							\$ 310,903								
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	6.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,209	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Campanella Base Bid				\$ 328,983			\$ 138,310	\$ 95,560							\$ 77,000
Percentage Attribution to IDOT				6.5%			12.8%	5.2%							7.5%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 21,384	\$ -	\$ -	\$ 17,704	\$ 4,969	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,775
Construction Services Campanella T&M Services				\$ 41,721	\$ 188,183	\$ 231,862		\$ 37,410							
Percentage Attribution to IDOT				6.5%	3.6%	5.3%	0.0%	5.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 2,712	\$ 6,775	\$ 12,289	\$ -	\$ 1,945	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services BMP				\$ 55,550	\$ 122,170	\$ 120,150			\$ 74,300						
Percentage Attribution to IDOT		0.0%	0.0%	6.5%	3.6%	5.3%	0.0%	0.0%	7.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ 3,611	\$ 4,398	\$ 6,368	\$ -	\$ -	\$ 5,573	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Miscellaneous							\$ 57,362	\$ 102,882							
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	12.8%	5.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,342	\$ 5,308	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Services Payments to Utilities															
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Easement Legal Support Manikas															
Percentage Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
EPA Oversight															
Percent Attribution to IDOT		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Costs	\$ 20,880	\$ -	\$ -	\$ 426,254	\$ 310,353	\$ 352,012	\$ 932,730	\$ 807,329	\$ 74,300	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 77,000
Total IDOT Attribution	\$ -	\$ -	\$ -	\$ 27,707	\$ 11,173	\$ 18,657	\$ 99,803	\$ 41,981	\$ 5,573	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,775

<u>Filling and Capping</u>		<u>General Site/Site Preparation</u>
Total Fill and Cap Site 3 and Site 6	\$ 736,607	Total Construction Cost
IDOT Attribution	\$ 38,879	Total IDOT Attribution
Percent IDOT attribution	5.3%	Percent IDOT Attribution
Fill and Cap IDOT Total	\$ 57,536	

Electronic Filing: Received, Clerk's Office 10/04/2019

Work/Cost Type	EPA Oversight			Task Bucket			Legal Support Services			Total			Total Site 3 and Site 6 Costs
	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	Site 3	Site 6	Site 3 and Site 6	
Professional Engineering Services LFR/Arcadis/AECOM										\$ 684,027	\$ 679,593	\$ -	\$ 1,363,620
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 87,714	\$ 28,927	\$ -	\$ 116,641
Professional Engineering Services Completion Costs AECOM Estimate										\$ 60,621	\$ 68,250	\$ -	\$ 148,871
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,579	\$ 3,039	\$ -	\$ 14,618
Operations and Maintenance AECOM Estimate										\$ 310,903	\$ -	\$ -	\$ 310,903
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,209	\$ -	\$ -	\$ 20,209
Construction Services Campanella Base Bid										\$ 776,068	\$ 410,128	\$ 77,000	\$ 1,263,196
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 70,185	\$ 47,984	\$ 5,775	\$ 123,945
Construction Services Campanella T&M Services										\$ 233,880	\$ 263,634	\$ 325,412	\$ 823,126
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,918	\$ 8,720	\$ 22,411	\$ 82,049
Construction Services DMP										\$ 130,080	\$ 122,170	\$ 297,490	\$ 549,740
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,237	\$ 4,398	\$ 24,553	\$ 44,189
Construction Services Miscellaneous										\$ 57,362	\$ 102,062	\$ -	\$ 159,444
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,342	\$ 5,308	\$ -	\$ 12,651
Construction Services Payments to Utilities										\$ 136,243	\$ 393,331	\$ -	\$ 529,574
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,805	\$ 7,216	\$ -	\$ 33,021
Easement Legal Support Manikas										\$ 71,840	\$ -	\$ -	\$ 71,840
Percentage Attribution to IDOT	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,106	\$ -	\$ -	\$ 6,106
EPA Oversight	\$ 233,805	\$ 125,675	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 233,805	\$ 125,675	\$ -	\$ 359,480
Percent Attribution to IDOT	12.8%	5.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%				
IDOT Attribution	\$ 29,927	\$ 6,535	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 29,927	\$ 6,535	\$ -	\$ 36,462
Total Costs	\$ 233,805	\$ 125,675	\$ -	\$ -	\$ -	\$ -	\$ 71,840	\$ 2,642,989	\$ 2,165,063	\$ 771,742	\$ 58,845	\$ 5,579,794	
Total IDOT Attribution	\$ 29,927	\$ 6,535	\$ -	\$ -	\$ -	\$ -	\$ 6,106	\$ 318,917	\$ 112,128	\$ 58,845	\$ 489,890		

Manikas Support Site 3/6	Site 3	Site 6	Site 3 and 6	Total
Total costs for utility work	\$ 720,302	\$ 761,119	\$ 157,415	\$ 1,638,836
Total IDOT Attribution	\$ 108,381	\$ 14,701	\$ 15,448	\$ 138,530
Percent IDOT Attribution				8.5%

TABLE

Appendix A

BIBLIOGRAPHY OF DOCUMENTS CITED

1. *Expert Report of Douglas G. Dorgan, Jr On Damages Attributable to IDOT, Johns Manville vs Illinois Department of Transportation, prepared by Weaver Consultants Group, dated June 13, 2018.*
2. **Board, Illinois Pollution Control.** *Interim Opinion and Order of the Board, December 15, 2016.*
3. **AECOM.** *Final Report, Southwestern Site Area, Site 3, Site 4/5, and 6, Waukegan, Illinois, March 20, 2018.*
4. *Grant of Public Highway, August 3, 1971.*
5. *State of Illinois Department of Public Works and Buildings, Division of Highways, Plans for Proposed Federal Aid Highway, F.A. Route 42 – Section 8-HB & 8-VB, Lake County, Contract #28266. 1971.*
6. *Surface and Subsurface Characterization Site 2 and Site 3 Former Johns Manville Manufacturing Facility Waukegan Illinois, Volume 1, Appendix A – Appendix K, prepared for Johns Manville. s.l. : prepared by ELM Consultants, LLC., December 10, 1999.*
7. **AECOM.** *Removal Action Work Plan, Revision 2, Southwestern Site Area - Site 3, 4/5, and 6, Johns Manville Site, Waukegan, Illinois. March 31, 2014.*
8. *Engineering Evaluation/Cost Analysis (EE/CA) Southwestern Site Area Sites 3, 4/5, and 6: Revision 4, prepared for Johns Manville and Commonwealth Edison Company. s.l. : prepared by ARCADIS U.S., Inc., April 4, 2011.*

Appendix B

Years of Experience

Andrews 3
IL Dept. of Transportation 22
IL Environmental Protection Agency 8

Steven L. Gobelman, P.E., L.P.G.

Project Director
Andrews Engineering, Inc.
3300 Ginger Creek Drive
Springfield, Illinois 62711
(217) 787-2334

Education

MS/Geological Engineering
University of Alaska-Fairbanks

BS/Geological Engineering
University of Missouri-Rolla

Undergraduate work/Engineering
Belleville Area College
Belleville, Illinois

Licenses

Professional Engineer – IL, IN
Licensed Professional Geologist – IL

Certification

OSHA Hazardous Waste Site Worker
Certification (40 hr)

OSHA Hazardous Waste Worker
Refresher (8 hr)

MSHA Part 48

Confined Space Certified

Awards

1998 IDOT Central Office Engineer of the
Year

Affiliations

Transportation Research Board Member,
ADC60 – Committee on Resource
Conservation and Recovery

Publications

*"Sublimation of Reconstituted Frozen
Silts", MS Thesis, University of
Alaska-Fairbanks, May 1985.*

Professional Experience

Andrews Engineering, Inc.

Springfield, Illinois

August 2015 to Present

Project Director. Responsible for providing technical expertise to industrial and government clients in various environmental issues including: CERCLA, RCRA, TSCA, remediation technologies, and transportation. Review and prepare various reports on risk assessments, remediation work plans, quality assurance/quality control plans, and remedial investigation and feasibility studies.

Illinois Department of Transportation

Springfield, Illinois

September 2014 to July 2015

Technical Manager. Responsible for providing highly specialized technical expertise department wide, for conducting assessments and investigations of special waste, and when required remediation. Review and prepare risk assessments, work plans, quality assurance/quality control plans, recommend further action, NEPA documents, and coordinate various contract activities with districts, central office bureaus, and regulatory agencies.

Illinois Department of Transportation

Springfield, Illinois

September 2013 to September 2014

Technical Manager. Acting Roadside Maintenance Manager. Responsible for policies for operation and maintenance of highway rest areas statewide and responsible for reviewing all rest area plans and making recommendations regarding their design and construction. Responsible for administrative rest area maintenance contracts. Develop policies for turf and plan management for highway rights-of-way statewide (items included are mowing policy, herbicide, plant varieties and diseases, fertilization, and erosion control measures). Technical expert on hazardous waste related to pesticide/herbicide management.

Illinois Department of Transportation

Springfield, Illinois

September 1993 to September 2013

Technical Manager. Responsible for providing highly specialized technical expertise departmentwide, for conducting assessments and investigations of special waste, and when required remediation. Review and prepare risk assessments, work plans, quality assurance/quality control plans, recommend further action, NEPA documents, and coordinate various contract activities with districts, central office bureaus, and regulatory agencies.

Illinois Environment Protection Agency

Springfield, Illinois

March 1992 to September 1993

Lead Worker. Project Manager in the Bureau of Land, Division of Remediation Management, Remedial Project Management Section, Remediation Engineering Sub-Unit. Section's technical expert on geology, hydrogeology, and engineering. Conduct engineering and technical research on problems associated with cleanups conducted in the Section. Conduct public meetings and provide engineering and technical details to public information personnel for media and citizen inquiries.

Illinois Environment Protection Agency

Springfield, Illinois

May 1988 - March 1992

Environment Protection Engineer. Project Manager in the Bureau of Land, Division of Remediation Management, Remedial Project Management Section, State Sites Unit. Unit's technical expert on geology, hydrogeology, and engineering. Perform duties associated with State site cleanup projects, including voluntary cleanup actions negotiated with industry, which are highly technical in nature and include complex engineering, geology, and hydrogeologic problems as well as sensitive issues concerning toxic environmental contaminants and their public health effects. Manage contracts with engineering and cleanup firms for remedial investigations (RI), feasibility studies (FS), design, and cleanup projects. Perform RI/FS that include sampling of groundwater, soil, and hazardous waste.

Illinois Environment Protection Agency

Springfield, Illinois

November 1985-April 1988

Environmental Protection Engineer. Permit Reviewer in the Bureau of Land, Division of Land Pollution Control, Permit Section. Performed a variety of geology, hydrogeologic, and engineering functions pertaining to permit review of underground injection control (UIC) permits, RCRA closures, and solid waste permit and closure applications. Determine the feasibility of the application based on technical/engineering, geology, hydrogeologic data, and financial assurance. Based on the feasibility made recommendations for approval or denial. Worked with computer modeling of pollutant transport in groundwater to determine the extent of groundwater contamination.

Presentations

"Managing 'Uncontaminated Soil' and Special Waste through General Construction Contracts", Presented Various IDOT Districts, Project Implementation Annual Meeting, and Project Development Annual Meeting, 2012 and 2013.

"Acquiring Liability and Avoiding it at the Same Time", Presented to the Transportation Research Board's ADC60 Summer Meeting, Portland, Oregon, July 27, 2011.

"IDOT Approach to EMIS", Presented to the Transportation Research Board's ADC60 Summer Meeting, Baltimore, Maryland, June 17, 2008.

"Creating and Implementing Programs for Environmental Compliance Audits", Panel Discussion, Presented to the Transportation Research Board's ADC60 Summer Meeting, Ft Worth, Texas, July 9, 2007.

"IDOT's Management of Waste", Presented to Various IDOT Districts, July 2006.

"IDOT's Management of Waste", Presented at the Illinois Environmental Protection Agency RCRA Retreat, September 30, 2004.

"Phase II Process", Presented at IDOT's Annual Program Development Meeting, September 2003.

"Contamination Management Bid Items in Construction Contracts, A Good Idea?" Panel Discussion, Presented to the Transportation Research Board's A1F07 Summer Meeting, Key West, Florida, July 9, 2001.

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented to the Transportation Research Board's National Meeting, Washington, DC, January 13, 1998.

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented at Brownfield '97, Kansas City, Missouri, September 4, 1997.

"On-Site Management of Potentially Contaminated Soil as Construction Fill", Presented to the Transportation Research Board's A1F07 Summer Meeting, Asheville, North Carolina, July 28, 1997.

"EPA's Procedure on Determining How Clean is Clean", Presented to the AEG-North Central Section, March 16, 1993.

"Site Safety Plans - An Agency Viewpoint", Presented at HazMat '92 - Chicago, March 1992.

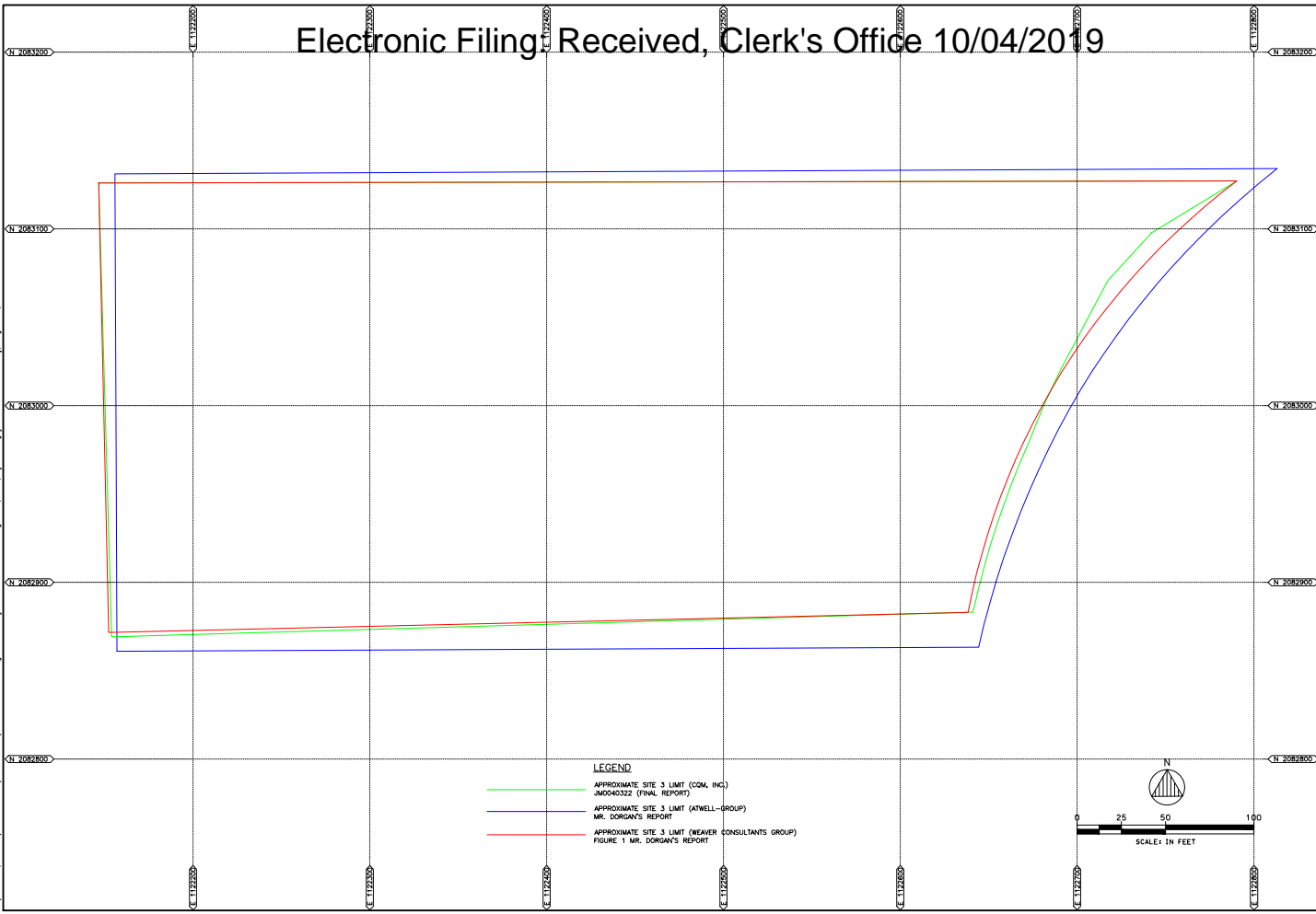
"Illinois EPA Cleanup Program", Presented at Illinois Environmental Regulation Conference, October 1991.

"Implementation of Mobile Incineration at the Paxton Avenue Lagoons Site, Chicago, Illinois", Presented at the Environmental Management Exposition, October 1990.

"Illinois Environmental Protection Agency's Procedure on Setting Cleanup Objectives", Presented at Federation of Environmental Technologist, Illinois Environmental News and Views, May 1990.

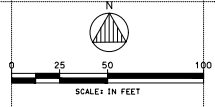
Appendix C

S:\Delmonico, Steven\Johans\Map\Site_3 Plans\Boundaries Exhibit.dwg Plot Date: August 13, 2018, 5:44:55 PM



LEGEND

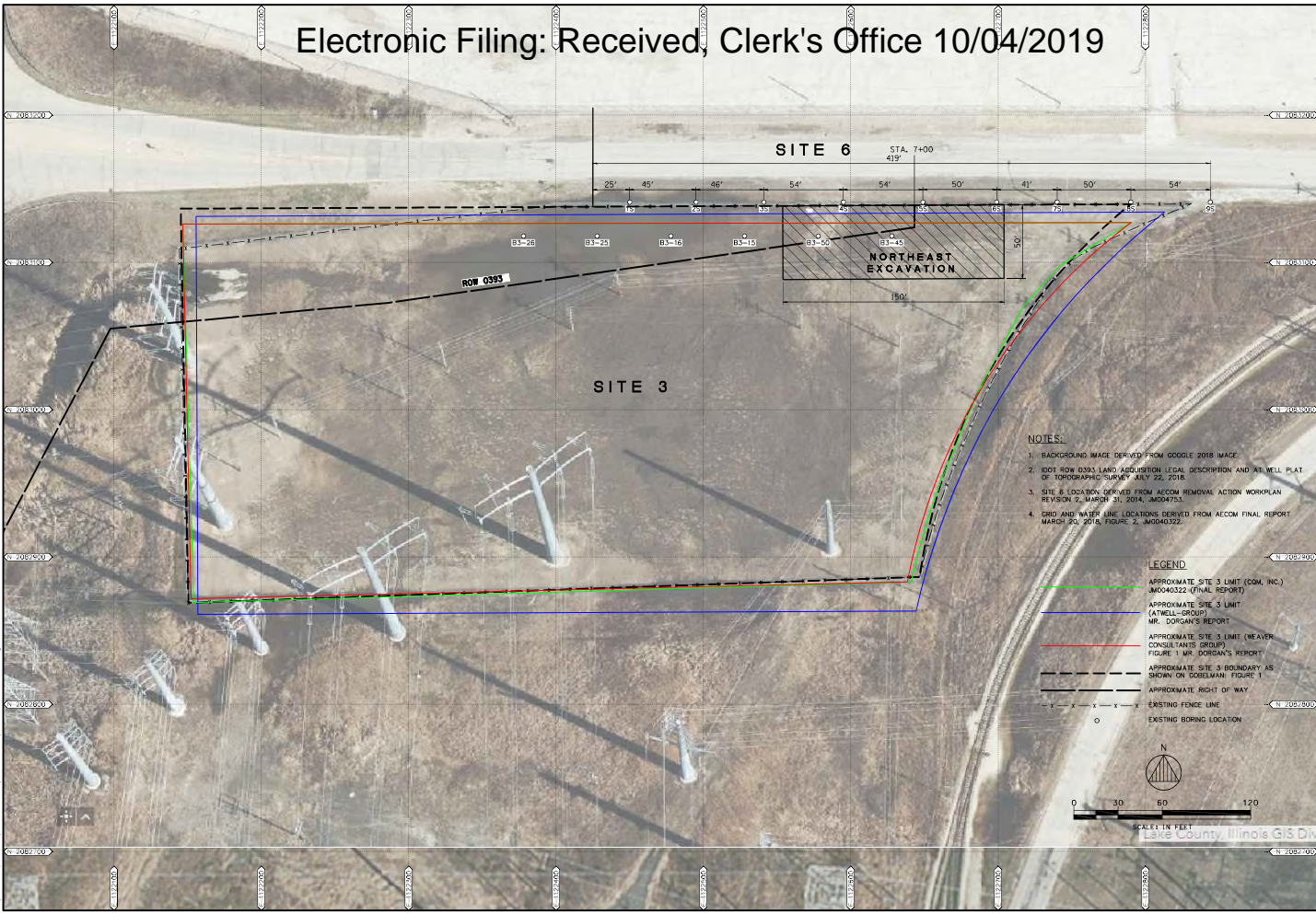
- APPROXIMATE SITE 3 LIMIT (COM, INC) -MODUCOZZE (FINAL REPORT)
- APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP) MR. DORGAN'S REPORT
- APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP) FIGURE 1 MR. DORGAN'S REPORT



DATE:	AUGUST 2018
PROJECT NO.:	160021/0001
SHEET NUMBER:	EX-1

ANDREWS ENGINEERING, INC.	
3300 SINGER CREEK DRIVE	
SPRINGFIELD, ILLINOIS 62711-7233	
PHONE:	618-232-0700
FAX:	618-232-0709
PROFESSIONAL ENGINEERING AND LAND SURVEYING (IL) #040154	
APPROVED BY:	SCOTT J. GIBSON, P.E., S.C.E., L.S.
DATE:	08/07/18

SITE 3 LIMITS	
PREPARED FOR:	
JOHNS, MARCO, ILLINOIS, IDOT	
PROJECT NO. 160021/0001	
SHEET NO. 3	
WAUKESHA, ILLINOIS	



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0395 LAND ACQUISITION LEGAL DESCRIPTION AND A WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2018, M0040322.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, M0040322.

- LEGEND**
- APPROXIMATE SITE 3 LIMIT (COM, INC.) M0040322 (TRIAL REPORT)
 - APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP) MR. DORGAN'S REPORT
 - APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP) FIGURE 1 MR. DORGAN'S REPORT
 - APPROXIMATE SITE 3 BOUNDARY AS SHOWN ON COBOLIAN, FIGURE 1
 - APPROXIMATE RIGHT OF WAY
 - EXISTING FENCE LINE
 - EXISTING BORING LOCATION

DATE	AUGUST 2018
PROJECT #	160001/0001
SHEET NUMBER	EX-2

ANDREWS ENGINEERING, INC.
 3300 GINGER CREEK DRIVE
 SPRINGFIELD, ILLINOIS 62711-1723
 TEL: 217-789-3324 FAX: 217-789-0695
 PROFESSIONAL ENGINEERS AND SURVEYORS # 0420154
 APPROVED BY: SJC

JOHNS MCGILL VS. IDOT
 PCB 14-3
 WALKERGAN, ILLINOIS

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 User: Mike Noyes
 Project: Tunnel, August 21, 2018 11:21:23 AM
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Appendix D

PROJECT
 JOHNS MANVILLE
 1871 NORTH PERSHING ROAD
 WAUKEGAN, IL 60087

CLIENT
 JOHNS MANVILLE
 1871 NORTH PERSHING ROAD
 WAUKEGAN, IL 60087

CONSULTANT
 AECOM
 2755 DIEHL ROAD, Suite 100
 WARRENVILLE, IL 60555
 630-936-1700 tel 630-936-1711 fax
 www.aecom.com

CONSULTANTS

REGISTRATION

ISSUE/REVISION

NO.	DATE	DESCRIPTION
1	2014-01-22	RESPONSE TO EPA COMMENTS
2	2015-11-04	DISSEMINATED
3	DATE	DESCRIPTION

KEY PLAN

PROJECT NUMBER

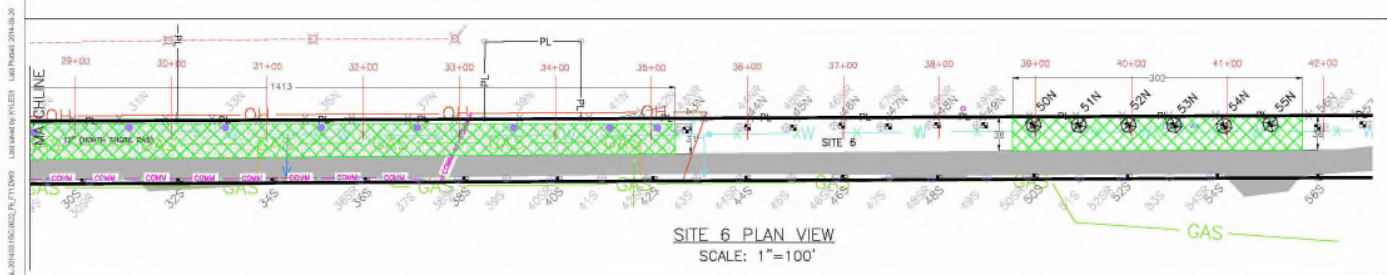
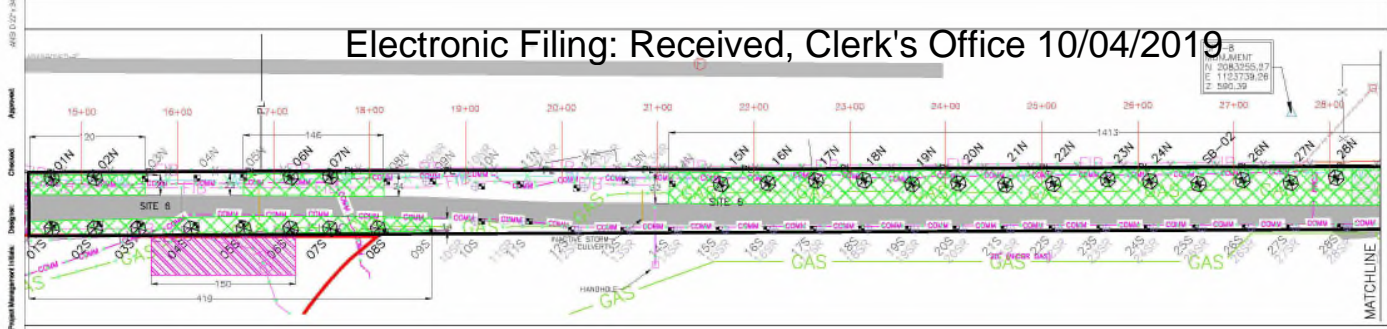
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SHEET TITLE

PROPOSED EXCAVATION AREAS

SHEET NUMBER

C-0022



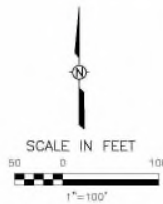
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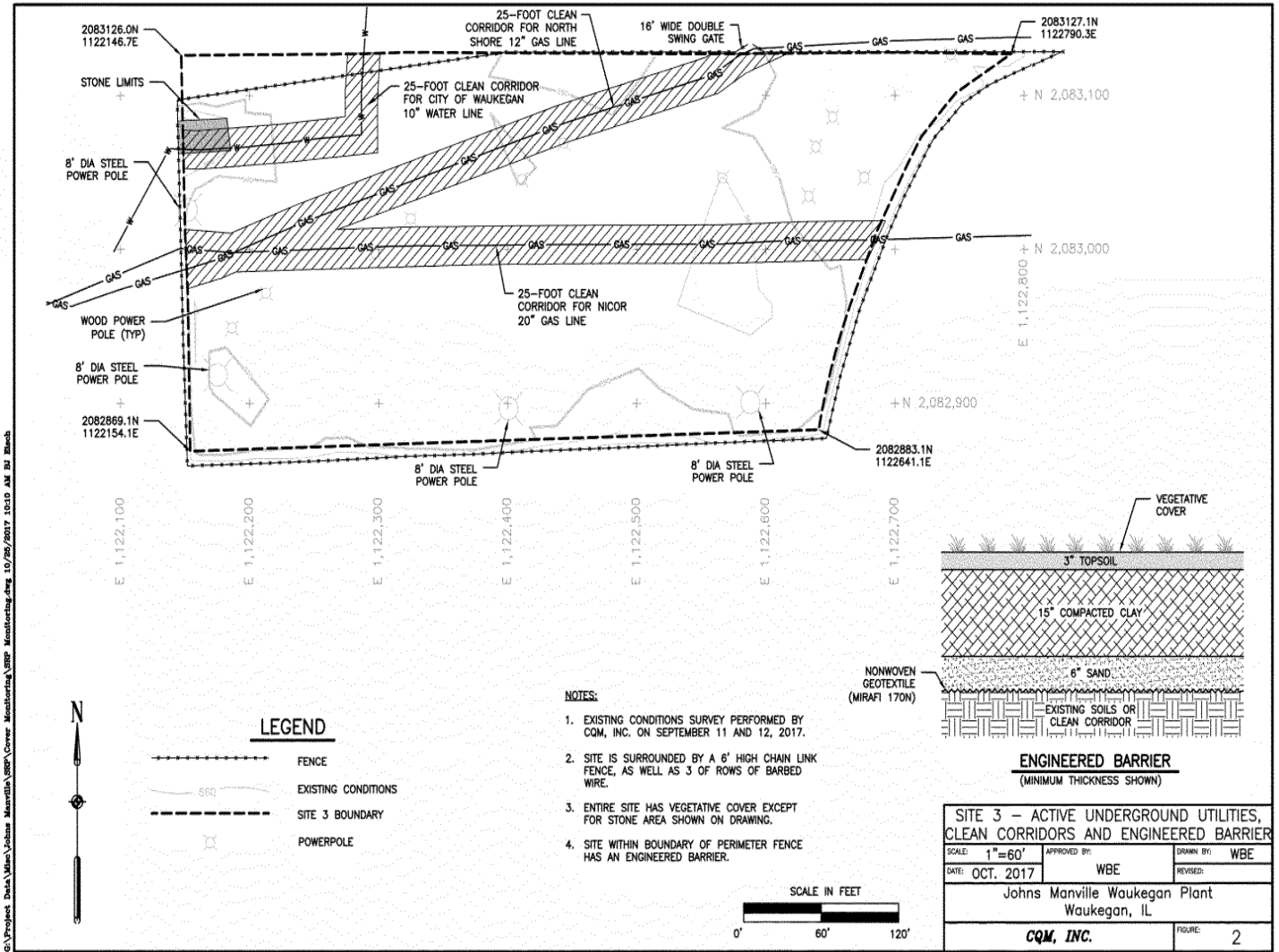
- SPT-8 SURVEY CONTROL POINT
- CITY OF WAUKEGAN STORMWATER CULVERTS (10")
- CITY OF WAUKEGAN WATER LINE (10")
- NORTH SHORE GAS HP GAS LINE (12")
- NICOR HP GAS LINE (20")
- AT&T UNDERGROUND PHONE CABLE (DASHED WHERE ASSUMED)
- AT&T FIBER OPTIC CABLE
- COMED FIBER OPTIC CABLE
- COMED UNDERGROUND 12KV POWER LINES (2X)
- OVERHEAD ELECTRIC LINE AND POWER POLES
- PROPERTY LINE
- SITE 6 BOUNDARY
- 2 TO 3 FEET PROPOSED EXCAVATION AREA
- 4 FEET PROPOSED EXCAVATION AREA
- TEST PIT W/ ASBESTOS DETECTION
- TEST PIT PROPOSED SURFACE SOIL (HOLLOW) AND SOIL BORING (FILLED) LOCATION
- GREENWOOD AVENUE PAVED ROAD SURFACE
- PAVING - OTHER

NOTES:

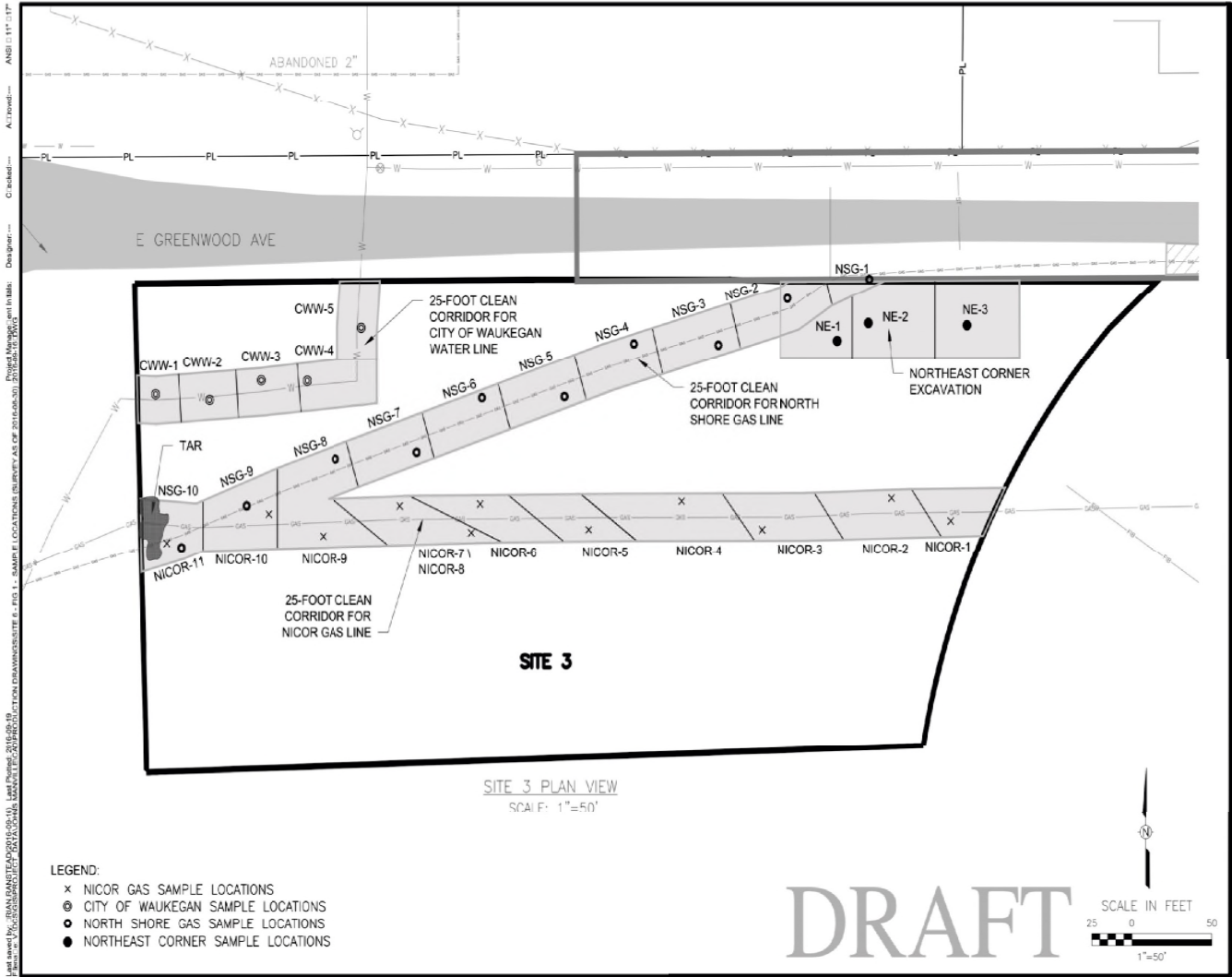
- EXISTING CONDITIONS GENERATED FROM SURVEYS BETWEEN APRIL 2, 2008 AND JUNE 28, 2011. THE CONCRETE AND ASPHALT AREAS WERE GENERATED FROM A DRAWING PROVIDED BY JOHNS MANVILLE, JANUARY 2003. THE BASE MAP WAS DEVELOPED FROM "MASTER SITE PLAN", DRAWING NO. 1, BY COM, INC., JULY 2011.
- UTILITIES IDENTIFIED BY LOCATING SERVICES (JANUARY 2008) AND APPROXIMATE LOCATION RECORDS FROM UTILITY OWNERS.



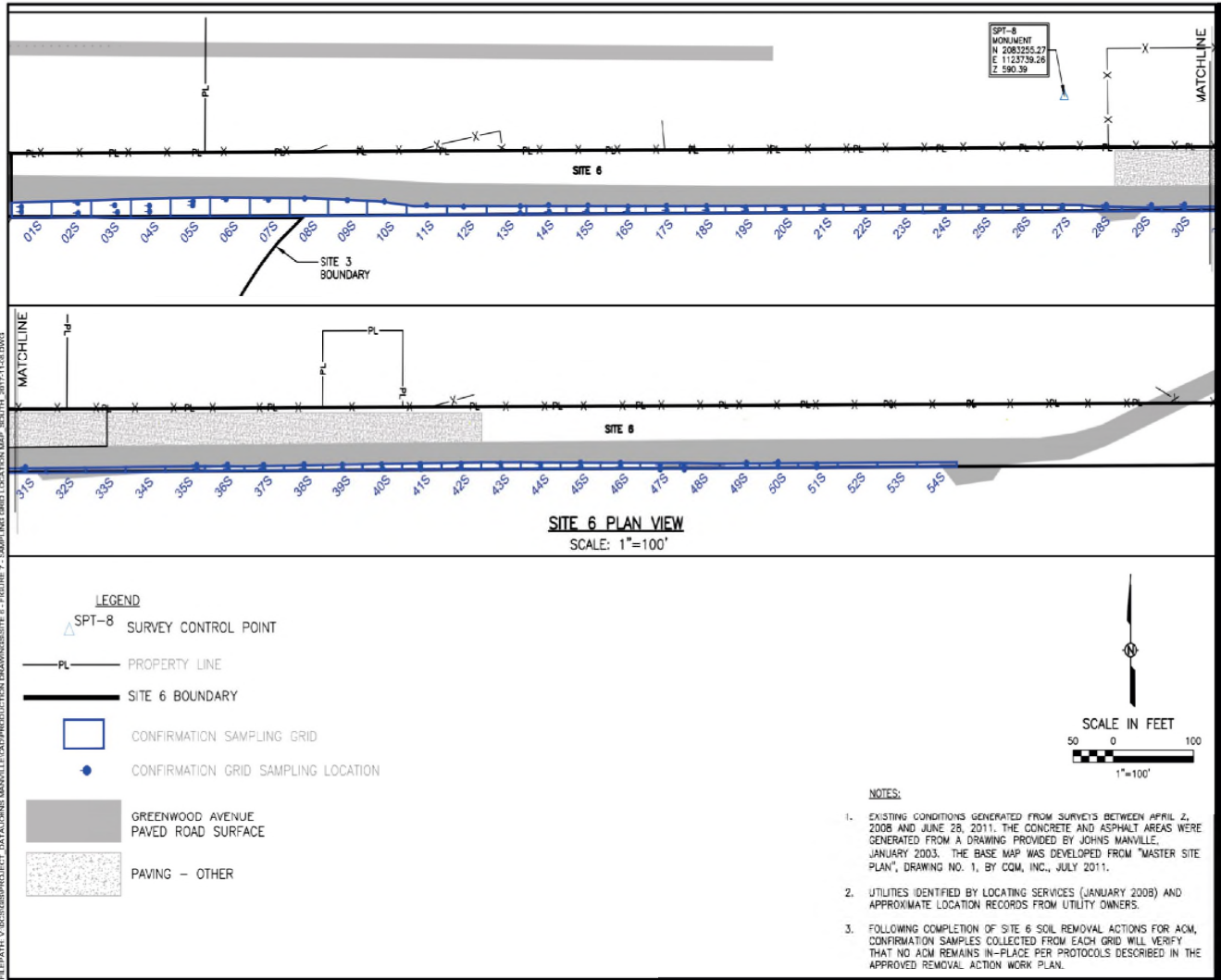
DRAWN: MURPHY/2019/08/20/PROJECTS/JOHNS MANVILLE/1871 NORTH PERSHING ROAD/PLT/DWG
 CHECKED: MURPHY/2019/08/20/PROJECTS/JOHNS MANVILLE/1871 NORTH PERSHING ROAD/PLT/DWG
 APPROVED: MURPHY/2019/08/20/PROJECTS/JOHNS MANVILLE/1871 NORTH PERSHING ROAD/PLT/DWG
 PROJECT MANAGEMENT OFFICE: MURPHY/2019/08/20/PROJECTS/JOHNS MANVILLE/1871 NORTH PERSHING ROAD/PLT/DWG



C:\Projects - 2018\Manville\Johns Manville\Site3\Cover Manufacturing\000 Manufacturing.dwg 10/26/2017 10:10 AM 301 Bland



Prepared by: RAN...
 Date: 09-13-2016
 Project No.: 60458421



SITE 6
SAMPLING GRID LOCATION MAP
SOUTH SHOULDER

Site 6
Southwestern Site Area
Waukegan, IL
Project No.: 60556851.50

Appendix E

F.A. R14 42
SECTION 8
LAKE Co.

GRANT FOR PUBLIC HIGHWAY

THIS INDENTURE WITNESSETH: That Grantor, COMMONWEALTH EDISON COMPANY, an Illinois Corporation, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, paid by and for the State of Illinois, Grantee herein, acting by and through the Department of Public Works and Buildings, hereby grants, but without warranty, subject to the reservations, conditions and provisions hereinafter contained, unto Grantee the right to use for highway purposes only, the following tract of land:

Parcel No. 0392

PART A

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right-of-Way line of the Chicago and North Western Railway Company and the South line of the Southwest Quarter of said Section 10; thence North 6° 39' 32" East 305.30 feet, as measured along said Easterly Right of Way; thence North 89° 44' 18" East 35.00 feet; thence North 11° 09' 06" East 194.74 feet; thence North 15° 11' 23" East 202.24 feet; thence North 6° 39' 33" East 101.37 feet; thence South 83° 20' 30" East 20.00 feet to a point on a line 100.00 feet Easterly of the Easterly Right of Way line of the Chicago and North Western Railway Company; thence South 6° 39' 32" West 792.89 feet to a point on the South line of the Southwest Quarter of said Section 10; thence South 89° 44' 18" West 100.73 feet, as measured along the South line of the Southwest Quarter of said Section 10, to the Point of Beginning.

PART B

A part of the Westerly 100 feet of all that part of the West Half of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly Right of Way line of the Chicago and North Western Railway Company and the South line of Greenwood Avenue, said South line of Greenwood Avenue being 66 feet South of and parallel to the North line of the Northwest Quarter of said Section 15; thence South 6° 39' 32" West 90.0 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company; thence South 13° 02' 59" East, 148.26 feet; thence South 6° 39' 32" West 100.00 feet; thence South 2° 48' 12" East 304.14 feet to a point on the Westerly line of Sand Street; thence North 6° 39' 32" East 641.72 feet along the Westerly line of Sand Street to a point on the South line of Greenwood Avenue; thence South 89° 44' 16" West,

Grantee: ILLINOIS DIVISION OF HIGHWAYS
595 SO. STATE ST., ELGIN 60120

1517501

IDOT 002838

1517501

100.73 feet along the South line of the Greenwood Avenue, to the Point of Beginning.

PARCEL NO. E392

A part of the Westerly 100 feet of all that part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 45 North, Range 12 East of the Third Principal Meridian, lying Easterly of the Right of Way of the Chicago and North Western Railway Company, in Lake County, Illinois, described as follows: Commencing at the intersection of the Easterly Right of Way of the Chicago and North Western Railway Company and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of and parallel to the South line of the Southwest Quarter of the Southwest Quarter of said Section 10; thence North 6° 39' 32" East 801.34 feet, as measured along the Easterly Right of Way of the Chicago and North Western Railway Company, to the Point of Beginning; thence South 83° 21' 08" East 100.00 feet; thence North 6° 39' 32" East 120.00 feet; thence North 83° 21' 08" West 100.00 feet to a point on the Easterly Right of Way of the Chicago and North Western Railway Company; thence South 6° 39' 32" West 120.00 feet, as measured along said Easterly Right of Way, to the Point of Beginning.

Parcel No. 0393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the Easterly line of Sand Street and the South line of Greenwood Avenue thence North 89° 44' 17" East 643.23 feet as measured along the South line of Greenwood Avenue; thence South 0° 15' 49" East 15.0 feet; thence South 81° 54' 31" West 403.76 feet; thence South 89° 44' 17" West 140.0 feet; thence South 27° 50' 01" West 185.24 feet; thence South 0° 06' 25" East 118.83 feet; thence South 14° 42' 11" West 414.48 feet to a point on the Easterly line of Sand Street; thence North 6° 39' 32" East 758.19 feet as measured along the Easterly line of Sand Street to the Point of Beginning.

Parcel No. E393

A part of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the East line of Sand Street thence North 89° 44' 17" East 643.23 feet; thence South 0° 15' 49" East 15.00 feet to the Point of Beginning; thence South 0° 15' 49" East 15.00 feet; thence South 57° 56' 15" West 435.99 feet; thence South 23° 33' 27" West 247.70 feet; thence South 34° 53' 13" West 336.16 feet; thence South 26° 17' 09" West 201.25 feet; thence North 83° 26' 33" East 3.40 feet to a point on the East line of Sand Street; thence North 6° 39' 32" East 189.57 feet as measured along the East line of Sand Street; thence North 14° 42' 11" East 175.00 feet; thence North 41° 26' 36" East 141.13 feet; thence North 17° 14' 26" East 92.57 feet; thence North 1° 03' 41" East 280.32 feet; thence North 27° 50' 01" East 45.00 feet; thence North 89° 44' 17" East 45.00 feet; thence South 1° 00' 09" East 198.14 feet; thence North 53° 41' 32" East 388.50 feet; thence North 81° 54' 31" East 180.00 feet to the point of Beginning.

Parcel No. 0394

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as

follows: Beginning at the Southeast Corner of the Southeast Quarter of said Section 9 thence South 89° 45' 04" West 300.02 feet, as measured along the South line of the Southeast Quarter of said Section 9 thence North 0° 25' 40" East 105.61 feet; thence South 81° 40' 52" East 37.63 feet; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence North 89° 45' 04" East 61.00 feet; thence North 0° 14' 52" West 120.00 feet; thence North 89° 45' 04" East 157.16 feet to a point on the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 220.00 feet as measured along the said East line to the point of Beginning.

Parcel No. E394 ✓

PART A

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence North 0° 25' 40" East 355.00 feet, as measured along the said East line to the point of Beginning; thence North 0° 25' 40" East 180.00 feet, as measured along said East line; thence South 40° 20' 50" West 467.50 feet to a point on a line 300 feet West of the East line of the South half of the Southeast Quarter of said Section 9; thence South 0° 25' 40" West 114.39 feet; thence South 81° 40' 52" East 37.63 feet; thence North 41° 28' 28" East 160.78 feet; thence North 42° 03' 04" East 236.58 feet to the Point of Beginning.

Parcel No. E394 ✓

PART B

A part of the East 300 feet of the South half of the Southeast Quarter of Section 9 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the South half of the Southeast Quarter of said Section 9 and the North line of Greenwood Avenue, said North line of Greenwood Avenue being 40 feet North of the South line of the South half of the Southeast Quarter of said Section 9; thence South 89° 45' 04" West 300.02 feet, as measured along the North line of Greenwood Avenue; thence North 0° 25' 40" East 65.61 feet; thence South 81° 40' 52" East 37.63 feet to the Point of Beginning; thence South 0° 14' 56" East 20.00 feet; thence North 89° 45' 04" East 46.00 feet; thence North 0° 14' 56" West 20.00 feet; thence South 89° 45' 04" West 46.00 feet at the point of Beginning.

Parcel No. E395 ✓

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue, said South line being 40 feet South of the North line of the Northwest Quarter of the Northwest Quarter of said Section 15, and the Westerly Right of Way of the Chicago and North Western Railway Company; thence South 89° 45' 04" West 100.00 feet; thence South 0° 14' 56" East 75.00 feet to the point of Beginning; thence South 0° 15' 44" East 205.00 feet; thence South 89° 44' 15" West 91.00 feet; thence North 0° 15' 45" West 140.51 feet; thence North 89° 46' 04" East 24.98 feet; thence

Electronic Filing: Received, Clerk's Office 10/04/2019

North 0° 14' 56" West 64.49 feet; thence North 89° 45' 04" East 66.00 feet to the Point of Beginning.

Parcel No. E395 ✓

PART B

A part of Lot 1 of School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of Lot 6 in Russell H. Edward's Business Sites, being a Subdivision of said Lot 1 in School Trustee's Subdivision thence North 88° 55' 20" East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence South 0° 14' 56" East 36.25 feet; thence North 89° 45' 04" East 100.00 feet; thence North 0° 14' 56" West 37.69 feet to a point on the South line of Lot 7 in said Russell H. Edward's Business Sites; thence South 88° 55' 20" West 100.00 feet, as measured along the South lines of Lots 6 and 7 in said Fussell H. Edward's Business Sites; the the Point of Beginning.

Parcel No. 0395

PART A

A part of the Northwest Quarter of the Northwest Quarter of Section 15 in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of the South line of Greenwood Avenue and the Westerly Right of Way of the Chicago and North Western Railway Company thence South 89° 45' 04" West 100.00 feet, as measured along the South line of Greenwood Avenue; thence South 0° 14' 56" East 75.00 feet; thence South 89° 45' 04" West 66.00 feet along a line 75.00 feet South of and parallel to the said South line of Greenwood Avenue; thence North 0° 14' 56" West 75.00 feet to a point on the south line of Greenwood Avenue; thence North 89° 45' 04" East 66.00 feet, as measured along the said South line of Greenwood, to the Point of Beginning.

Said tract of land herein described contains 0.114 Acres, more or less.

Parcel No. 0395

PART B

A part of Lot 1 in School Trustee's Subdivision of Section 16 and a part of the South 300 feet of the North 479.5 feet of that part of Northwest Quarter of the Northwest Quarter of Section 15, lying West of the Westerly line of the right of way of the Chicago and North Western Railway Company, all in Township 45 North, Range 12 East of the 3rd Principal Meridian in Lake County, Illinois, described as follows: Beginning at the intersection of the East line of the Northeast Quarter of said Section 16 and the South line of Lot 9 in Russell H. Edward's Business Sites, being a part of Lot 1 in said School Trustee's Subdivision and a part of the Northwest Quarter of the Northwest Quarter of said Section 15; thence South 89° 55' 20" West 141.77 feet, as measured along the South line of Lots 9 and 8 in said Russell H. Edward's Business Sites; thence South 0° 11' 03" East 52.27 feet; thence South 2° 37' 41" West 200.25 feet; thence South 5° 56' 41" East 48.05 feet; thence North 89° 09' 38" East 310.24 feet; thence North 0° 14' 03" West 144.53 feet; thence North 5° 56' 41" West 100.50 feet; thence North 3° 28' 56" West 54.52 feet to a point on the South line of Lot 10 in said Russell H. Edward's Business Sites; thence South 89° 44' 17" West 150.11 feet, as measured along the South line of Lots 10 and 9 of said Russell H. Edward's Business Sites to the point of beginning.

Said tract of land herein described contains 2.106 acres, more or less.

Parcel No. 0399

A part of Lots 6, 7, 8 and 9 in Russell H. Edward's Business Sites, being a Subdivision of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, reference being made to the Plan thereof recorded in the Recorder's Office of Lake County, Illinois, in Book of Plats 31 on Page 102; described as follows: Beginning at the intersection of the South line of Greenwood Avenue and the East line of the Northeast Quarter of said Section 16; thence south $89^{\circ} 45' 04''$ West 311.83 feet along the North lines of Lots 9, 8, 7 and 6 to a point 49.67 feet East of the Northwest corner of said Lot 6; thence South $14^{\circ} 53' 01''$ West 46.61 feet; thence South $80^{\circ} 47' 07''$ East 30.47 feet; thence North $89^{\circ} 45' 07''$ East 150.00 feet; thence south $0^{\circ} 14' 56''$ East 91.54 feet to a point on the South line of said Lot 8; thence North $88^{\circ} 55' 20''$ East 141.77 feet along the South lines of said Lots 8 and 9 to a point on the East line of the Northeast Quarter of said Section 16; thence North $0^{\circ} 38' 46''$ East 139.51 feet along the East line of the Northeast Quarter of said Section 16 to the Point of Beginning.

Parcel No. E399 ✓

A part of Lots 6 and 7 in Russell H. Edward's Business Sites, being a part of Lot 1 in School Trustee's Subdivision of Section 16 in Township 45 North, Range 12 East of the Third Principal Meridian, according to the Plat thereof recorded in Book 31 of Plats, Page 102, in Lake County, Illinois, described as follows: Commencing at the Southwest Corner of said Lot 6 thence North $88^{\circ} 55' 20''$ East 77.28 feet, as measured along the South line of said Lot 6, to the Point of Beginning; thence North $0^{\circ} 14' 56''$ West 93.71 feet; thence North $89^{\circ} 45' 07''$ East 100.00 feet; thence South $0^{\circ} 14' 56''$ East 92.27 feet to a point on the South line of said Lot 7; thence South $88^{\circ} 55' 20''$ West 100.00 feet, as measured along the South line of Lots 6 and 7 to the Point of Beginning.

Parcel No. 0400

A part of Lots 1 and 2 in School Trustee's Subdivision of Section 16 and a part of the Northwest Quarter of the Northwest Quarter of Section 15 all in Township 45 North, Range 12 East of the Third Principal Meridian in Lake County, Illinois, described as follows: Commencing at the intersection of South line of the Northwest Quarter of the Northwest Quarter of said Section 15 and the Westerly Right of Way of the Chicago and North Western Railway Company thence South $89^{\circ} 46' 07''$ West 204.00 feet as measured along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning; thence North $0^{\circ} 13' 53''$ West 204.00 feet; thence North $89^{\circ} 46' 07''$ East 73.17 feet; thence North $8^{\circ} 32' 41''$ East 82.02 feet; thence North $3^{\circ} 34' 48''$ East 150.33 feet; thence North $1^{\circ} 24' 09''$ East 350.14 feet; thence North $0^{\circ} 14' 03''$ West 55.46 feet; thence South $89^{\circ} 09' 38''$ West 310.24 feet; thence South $5^{\circ} 56' 41''$ East 253.45 feet; thence South $0^{\circ} 14' 03''$ East 300.00 feet; thence South $2^{\circ} 50' 26''$ East 100.05 feet; thence South $0^{\circ} 53' 54''$ East 185.11 feet to a point on the North line of Lot 3 in said School Trustee's Subdivision; thence North $89^{\circ} 46' 07''$ East 172.61 feet, as measured along the North line of Lot 3 in said School Trustee's Subdivision and along the South line of the Northwest Quarter of the Northwest Quarter of said Section 15 to the Point of Beginning.

as shown on Exhibit "A", attached hereto and made a part hereof.

Grantor hereby reserves unto itself, its successors and assigns,

the right to install, operate, maintain renew and remove its or their facilities upon, over and under the surface of said described tracts of land, and to make such other and futher use of said tracts of land, as it or they shall see fit, insofar as is compatible with the use of said tracts of land for highway purposes.

Grantor hereby further reserves the right to trim from time to time such trees, saplings, and bushes as may reasonably be required in the operation and maintenance of said facilities of Grantor, and Grantee agrees not to plant any trees on or near said described tracts of land which can grow into said facilities of Grantor.

This grant is subject to two (2) roadways reserved in deed dated June 8, 1923, recorded on June 13, 1923, as Document #225388, an easement dated June 18, 1936 to the City of Waukegan for a 10-inch sanitary sewer, and an easement dated August 14, 1954, to North Shore Sanitary District for a 39-inch interceptor sanitary sewer. There may be other utility lines, mains, pipelines or other underground facilities in this area, however, the exact location and users are not known to Grantor but this grant is expressly made subject to such lines.

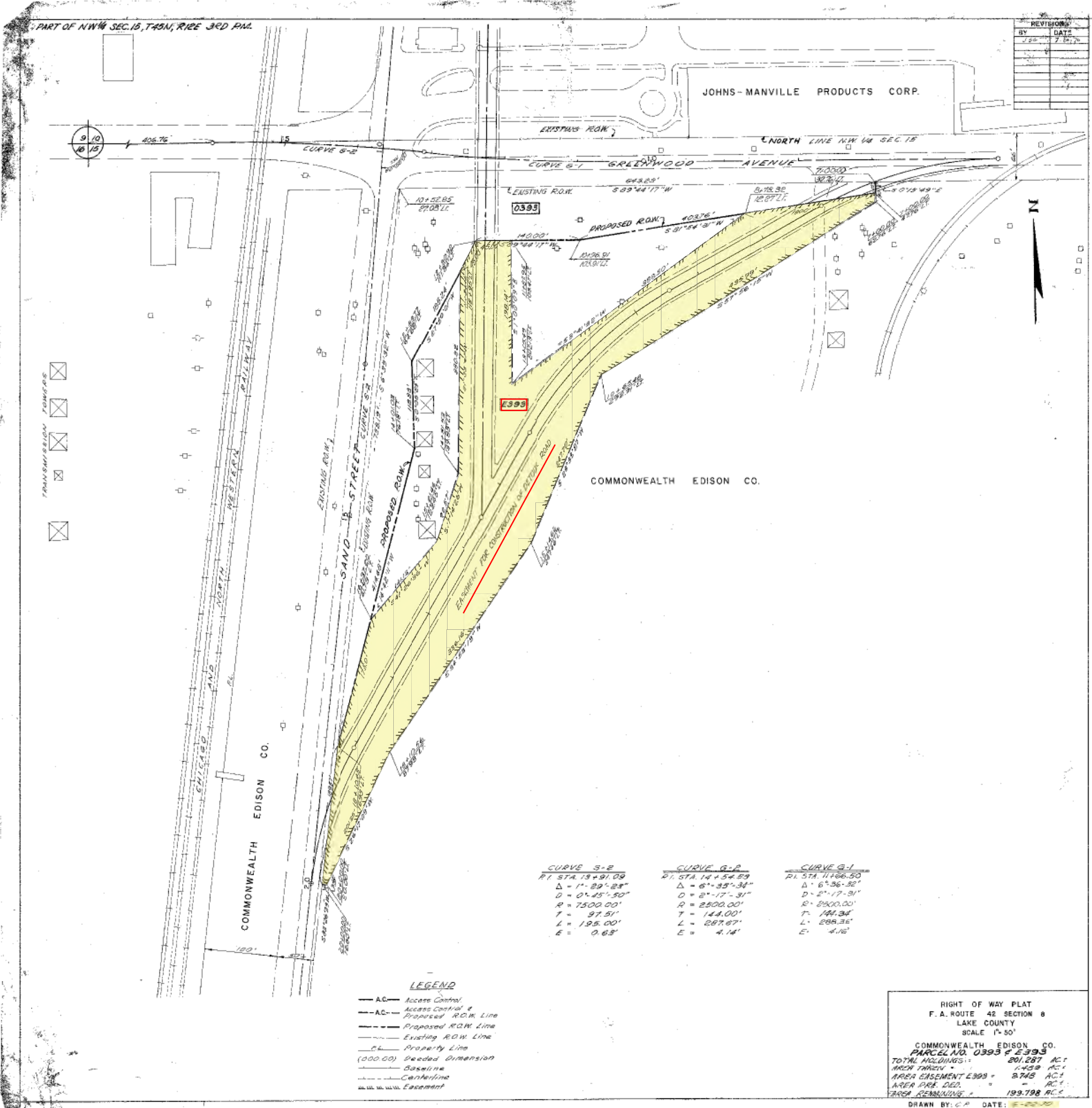
IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 3RD day of AUGUST, A.D. 1971.

COMMONWEALTH EDISON COMPANY

By *Glen H. Berman*
Vice President



1517501



REVISIONS	
BY	DATE

<p><u>CURVE 5-2</u> PI STA. 13+91.09 $\Delta = 1^{\circ} 20' 25''$ $D = 0^{\circ} 45' 30''$ $R = 7500.00'$ $T = 97.51'$ $L = 195.00'$ $E = 0.63'$</p>	<p><u>CURVE 6-2</u> PI STA. 14+54.59 $\Delta = 6^{\circ} 35' 34''$ $D = 2^{\circ} 17' 31''$ $R = 2500.00'$ $T = 144.00'$ $L = 287.87'$ $E = 4.14'$</p>	<p><u>CURVE 9-1</u> PI STA. 11+66.50 $\Delta = 6^{\circ} 36' 32''$ $D = 2^{\circ} 17' 31''$ $R = 2500.00'$ $T = 144.34'$ $L = 288.35'$ $E = 4.16'$</p>
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- LEGEND**
- AC — Access Control
 - - - AC - - - Access Control & Proposed R.O.W. Line
 - - - Proposed R.O.W. Line
 - - - Existing R.O.W. Line
 - - - Property Line
 - (500.00) Beaded Dimension
 - Baseline
 - Centerline
 - Easement

RIGHT OF WAY PLAT
 F. A. ROUTE 42 SECTION 8
 LAKE COUNTY
 SCALE 1"=50'

COMMONWEALTH EDISON CO.
 PARCEL NO. 0393 & E393
 TOTAL HOLDINGS = 20.287 AC.
 AREA CASEMENT E393 = 1.028 AC.
 AREA FIRE DED. = 2.748 AC.
 AREA REMAINING = 19.798 AC.

DRAWN BY: C.P. DATE: 6-20-09

EXHIBIT 4

Transcript of the Testimony of
DOUGLAS DORGAN, JR.

Date: June 12, 2019

Case: JOHNS MANVILLE VS. IDOT

TOOMEY REPORTING

312-853-0648

toomeyrep@sbcglobal.net

www.toomeyreporting.com

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JOHNS MANVILLE, A DELAWARE)
CORPORATION, ET AL.,)
Complainant,)
)
-vs-) PCB 14-3
) (Citizen Suit)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
Respondent.)

Deposition of DOUGLAS G. DORGAN, JR.,
taken before NANCY K. SPEARE, C.S.R. and Notary
Public, pursuant to all applicable rules
pertaining to the taking of depositions, at 69
West Washington Street, Suite 1800, in the City
of Chicago, Cook County, Illinois at
10:00 o'clock a.m. on the 12th of June, A.D.,
2019.

There were present at the taking of
this deposition the following counsel:

Page 2	<p>1 BRYAN CAVE LEIGHTON & PAISNER by 2 MS. SUSAN BRICE 161 North Clark Street 3 Suite 4300 Chicago, Illinois 60601-3315 4 (312) 602-5124 susanbrice@bcplaw.com, 5 on behalf of the Complainant; 6 OFFICE OF THE ATTORNEY GENERAL 7 STATE OF ILLINOIS by MR. EVAN J. MCGINLEY and 8 MS. ELLEN F. O'LAUGHLIN 69 West Washington Street 9 Suite 1800 Chicago, Illinois 60602 10 (312) 814-3094 emcginley@atg.state.il.us and 11 eolaughlin@atg.state.il.us, 12 on behalf of the Respondent. 13 14 15 16 17 18 19 20 21 22 23 24</p>	Page 4	<p>1 Exhibit No. 15 104 2 Exhibit No. 16 105 3 Exhibit No. 17 107 4 Exhibit No. 18 110 5 Exhibit No. 19 113 6 Exhibit No. 20 115 7 Exhibit No. 21 116 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
Page 3	<p>1 DEPOSITION OF 2 DOUGLAS G. DORGAN, JR. 3 Taken: June 12, 2019 4 5 EXAMINATION BY PAGE 6 Mr. McGinley 5 7 8 9 EXHIBITS 10 PAGE 11 Exhibit No. 1 10 12 Exhibit No. 2 10 13 Exhibit No. 3 23 14 Exhibit No. 4 26 15 Exhibit No. 5 27 16 Exhibit No. 6 37 17 Exhibit No. 7 38 18 Exhibit No. 8 40 19 Exhibit No. 9 44 20 Exhibit No. 10 49 21 Exhibit No. 11 61 22 Exhibit No. 12 77 23 Exhibit No. 13 79 24 Exhibit No. 14 91</p>	Page 5	<p>1 MR. MCGINLEY: Swear him in, please. 2 DOUGLAS G. DORGAN, JR., 3 called as a witness herein, having been first 4 duly sworn, was examined upon oral 5 interrogatories and testified as follows: 6 EXAMINATION 7 by Mr. McGinley: 8 Q Sir, can you state your name for the 9 record, please. 10 A Douglas G. Dorgan, Junior, D-O-R-G-A-N. 11 Q Mr. Dorgan, as Miss O'Laughlin and I were 12 talking about before, I think this is the fourth 13 time we've taken your deposition. So, as a 14 result, I get to like at least go through and do 15 the shorthand version of the preliminaries. You 16 know what you have to do, right, you have to give 17 clear answers, no gestures. I'll ask the 18 questions. Please let me finish the questions. 19 I'll let you finish the answer. We'll make for a 20 clear record that way; and, hopefully, we can get 21 to the end of this that much sooner. 22 Any reason why you can't give full and 23 complete testimony today? 24 A No.</p>

Page 6

1 Q You're not under the influence of any
2 medication or anything like that?
3 A No.
4 Q You got a good night's sleep?
5 A Yes.
6 Q Okay, all right -- maybe not as good as
7 on vacation but, nevertheless.
8 Okay, what did you do to prepare for
9 today's deposition?
10 A I reviewed both of my two most recent
11 reports, the expert rebuttal report, and the
12 expert rebuttal supplemental report. I reviewed
13 my deposition from the last deposition. I
14 reviewed parts of it, I didn't review the whole
15 thing. I reviewed, briefly reviewed
16 Mr. Gobelman's past deposition, the most recent
17 one.
18 Q Okay, anything else?
19 A I met briefly with Susan yesterday
20 afternoon.
21 Q Okay.
22 A And, of course, I did produce the
23 requested documents from the request.
24 Q Did you -- Okay, so your two most recent

Page 7

1 reports, your portions of your last deposition
2 testimony, portions of Mr. Gobelman's most recent
3 deposition, did you talk with anybody else
4 besides Miss Brice in advance of today's
5 deposition?
6 A No.
7 Q Anybody at Weaver?
8 A Only the person that helped support me in
9 putting the figures together, Riah Dunton.
10 Q Okay. And when did you speak with
11 Miss Dunton?
12 A Yesterday afternoon.
13 Q How long did that take?
14 A We spoke for maybe 10, 15 minutes in
15 total.
16 Q What did you talk about?
17 A I was just asking her about some of the
18 source documents that were referenced in some of
19 our figures included in my most recent report.
20 Q Okay, which source documents?
21 A Pardon me?
22 Q Which source documents? I'm sorry.
23 A The figures, the figure references from
24 earlier documents in the record.

Page 8

1 Q Okay. Were these -- Did Miss Dunton
2 create these figures that you were asking her
3 about; or were there other figures that she had
4 not created?
5 MS. BRICE: Object to the form of the
6 question.
7 MR. MCGINLEY: Q You can answer if you
8 understand.
9 THE WITNESS: A She created the figures
10 that appeared in my document; but she didn't
11 produce the -- she didn't create the referenced
12 documents from the record. It's not all of them.
13 Some of them she has.
14 Q And how long did you speak with
15 Miss Brice yesterday?
16 A About 45 minutes.
17 Q And was anybody with you when you were
18 talking?
19 A No.
20 Q Just the two of you, okay. What did you
21 talk about?
22 A We discussed today's deposition, we
23 discussed what I was looking at in preparation
24 for the deposition, discussed a little bit about

Page 9

1 the scheduling for today, how long we expected it
2 to last, answered a few questions about
3 expectations as far as what might be happening
4 going forward.
5 Q Okay, and what are the expectations going
6 forward?
7 A Possibility of a hearing sometime later
8 this year.
9 Q Um-hum. Anything else?
10 A That was it.
11 Q Did you talk about Mr. Gobelman's report
12 yesterday?
13 A No.
14 Q Okay. Did you talk about your reports?
15 A Only to the extent that I had reviewed
16 them and was reviewing -- I was reminded that the
17 earlier rebuttal report was also the subject of
18 today's deposition. So that was helpful.
19 (knock at door)
20 (WHEREUPON, a discussion was
21 held off the record)
22 MR. MCGINLEY: Q All right, so you talked
23 about the reports. Did you talk about Mike
24 Nguyen at all when you met with Susan yesterday?

Page 10

1 THE WITNESS: A No, other than I mentioned
 2 that I had previously looked at his deposition;
 3 but we didn't go into any detail.
 4 Q Was your review of the transcript from
 5 Mike Nguyen's -- and that's N-G-U-Y-E-N, just for
 6 the court reporter's benefit -- with respect to
 7 Mr. Nguyen's deposition was that a brief read
 8 through; or had you looked at it more in depth?
 9 A I haven't reviewed it since shortly after
 10 it was produced after his deposition.
 11 Q Okay. When you looked at it at that
 12 point was it a brief read -- I mean did you read
 13 every word or just parts of it?
 14 A I think I went through the entire
 15 document. Although, I wouldn't necessarily say I
 16 read every word of the document.
 17 Q Let's do this: I'm going to make this --
 18 I'll do this -- this is actually two different
 19 documents, we'll make these Exhibits 1 and 2.
 20 The first will be Notice of Deposition; and then
 21 the second document will be, Exhibit 2 will be
 22 the objections and responses to notice of expert
 23 deposition.
 24 (documents marked as requested)

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1 MR. MCGINLEY: Q Sir, before you are
 2 Exhibits 1 and Exhibits 2, Exhibit 1 being the
 3 notice of deposition, Exhibit 2 being Douglas
 4 Dorgan's objections and responses to notice of
 5 expert deposition. I take it you've seen both
 6 documents?
 7 THE WITNESS: A Yes.
 8 Q Okay, with respect to attempting --
 9 A Excuse me.
 10 Q Yes.
 11 A I've seen Exhibit 1. Just let me take a
 12 quick look at exhibit -- You asked about both 1
 13 and 2, correct?
 14 Q Take your time. I'm sorry.
 15 A I don't recall seeing Exhibit 2. I have
 16 seen Exhibit 1.
 17 Q Okay, very good. Thank you.
 18 If I could turn your attention to page
 19 5 of this, documents to be produced at your
 20 deposition.
 21 A So is this Exhibit 1?
 22 Q On Exhibit 1, yes, sir.
 23 As you may be aware, counsel produced
 24 documents to us last week on your behalf. Can

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1 you tell me, just generally speaking, what
 2 efforts did you take to comply with and collect
 3 the documents that were requested under this
 4 document request and the deposition notice?
 5 A The first thing I did was to just to try
 6 to figure out what the date ranges were; and I
 7 concluded that it was, basically, from the date
 8 of the last discovery request, which would have
 9 been I believe sometime late in August of 2018.
 10 So I kind of worked from there forward to the
 11 date that I was assembling the information. Most
 12 of the documentation were e-mail communications;
 13 and I was going through and doing searches of our
 14 e-mail server to pull communications that had
 15 taken place between me and other members of the
 16 matter primarily within our office and with
 17 Susan.
 18 We looked at the documentation that was
 19 in our server to see what was there that had
 20 previously been disclosed. Most of the
 21 documentation were the reports themselves that
 22 had already been produced. So those weren't
 23 produced again.
 24 I, also -- I wasn't entirely sure if

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1 this was proper, but nobody objected -- I was, as
 2 I was looking at e-mails I was looking at the
 3 threads; and, if there was a thread, I produced
 4 the last one in the thread rather than every
 5 single e-mail --
 6 Q Um-hum.
 7 A -- just for conciseness purposes I guess.
 8 And I also --
 9 MS. BRICE: Thank you.
 10 THE WITNESS: A I also asked our office
 11 administrator to provide me with copies of the
 12 invoices that had been issued to Johns Manville
 13 for the period of time that was requested in the
 14 request.
 15 MR. MCGINLEY: Q Okay, just with respect to
 16 your location of e-mails, so when you say you're
 17 searching through your e-mail, first of all, do
 18 you actually keep e-mail -- I assume you probably
 19 keep e-mail on a project by project basis, right?
 20 A No, I don't.
 21 Q You don't. Oh, so you have everything,
 22 everything's in the in box?
 23 A Exactly.
 24 Q You're that guy?

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1 **A I am that guy.**
2 Q So then you're just relying on the search
3 function of your e-mail applications to actually
4 find things, is that right?
5 **A That's correct.**
6 Q So when you're actually doing that kind
7 of searching what are you using, key words to try
8 and locate relevant e-mail?
9 **A Recipients first.**
10 Q Okay.
11 **A Then key words.**
12 Q Okay.
13 **A Related to the project itself. Those are**
14 **the two primary -- and, of course, date ranges.**
15 Q So when you're doing that do you have to
16 do it -- can you search across by adding those
17 two variables, let's say recipient and key words,
18 and create one sort of like comprehensive search
19 that way?
20 **A I can, but that's not the only way I do**
21 **it. I do it separately as well.**
22 Q Okay, so you went separately, recipients
23 -- so you're looking for everything from like
24 Susan Brice and Lauren Caisman, right?

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1 **A And then figuring out which applied to**
2 **this matter --**
3 Q Okay.
4 **A -- and then producing those.**
5 Q Okay. And for documents that are on your
6 server how is that search actually conducted?
7 **A We have a file server that has a**
8 **structure to it that has a folder for this**
9 **project that had several sub-folders related to**
10 **the different phases of this project. So I went**
11 **into the sub-folders related to this phase and**
12 **scanned those for any documents that I didn't**
13 **feel had been previously produced.**
14 Q Did you have -- you had an administrative
15 person assist you with this for getting the
16 invoices together, correct?
17 **A Correct.**
18 Q But, other than that, were you the only
19 person that went looking for documents?
20 **A I asked Riah also to do a review of**
21 **documents as well.**
22 Q Okay --
23 **A To be sure there wasn't anything that I**
24 **had missed from my scan of her communications.**

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1 Q Okay, so -- and was it the same kind of
2 search that she was doing looking for e-mail,
3 also looking on the server?
4 **A Yes.**
5 Q In providing -- So after you got all the
6 documents together how did you actually get them
7 to Miss Brice?
8 **A I put them on a flash drive and had**
9 **somebody in our office walk it over to their**
10 **office.**
11 Q Oh, okay, okay.
12 Was that -- and did you just provide
13 all of the documents at one time; or did you do
14 it in batches?
15 **A It was all at one time.**
16 Q Okay. And when did that take place?
17 **A I believe it was last Tuesday.**
18 Q Can I ask you to turn your attention,
19 please, to Exhibit 2; and this would be the
20 objections and responses to the notice of the
21 deposition. And the objections -- I'll just to
22 speed things up a little -- the objections and
23 responses were really to the request for
24 documents; and I just had a few questions for

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1 you. If I understand it correctly, you haven't
2 actually seen Exhibit 2 before today, right?
3 **A I don't believe so.**
4 Q Okay. And it was prepared by counsel?
5 **A Appears to be, yes.**
6 Q And were you asked for any input with
7 respect to putting this together?
8 **A Not that I'm aware of.**
9 Q Can I call your attention to number two,
10 this is on the top of page 3; and it says "copies
11 of any documents related to any work that Weaver
12 performed on the April 30th Dorgan report or
13 October 25th Dorgan report"; and the last
14 sentence it says "Mr. Dorgan also objects to this
15 request on the grounds that it is overly broad
16 and calls for documents from persons and/or
17 entities over whom Mr. Dorgan has neither
18 control, nor duty to control". I understand that
19 you did not write this; but I have a question for
20 you with respect to how -- what your level of
21 control is over documents that are maintained by
22 Weaver. I assume -- and, please, correct me if
23 I'm wrong about this -- that you have the ability
24 to track down any document that's related to your

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1 work on Johns Manville that's maintained by
2 Weaver, right?
3 **A That's correct.**
4 Q Okay. With respect to number 3, "copies
5 of any documents that you created or caused to be
6 created which were related to either the August
7 21st or November 7th Gobelman report" and the
8 second sentence, I'm just going to read after the
9 first quote, "Mr. Dorgan states that he has no
10 documents responsive to this request, other than
11 the expert rebuttal report of Douglas G. Dorgan,
12 Junior on damages attributable to IDOT dated
13 October 25, 2018 or the expert rebuttal
14 supplemental report of Douglas G. Dorgan on
15 damages attributable to IDOT dated April 30th,
16 2019". Let me ask you this: In fact, documents
17 in response to this request also include, isn't
18 it fair to say the documents in response to this
19 request also include some of the e-mails that you
20 produced as well, it's not simply limited to your
21 report, correct?
22 MS. BRICE: Objection, it calls for a legal
23 conclusion and lacks foundation. He has
24 testified that he never seen this document.

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1 MR. MCGINLEY: Understood.
2 MS. BRICE: And he's not an attorney.
3 MR. MCGINLEY: Q But you -- let me ask you
4 if, would you in your personal opinion consider
5 the e-mails as being documents that are related
6 your review -- you've created e-mails that were
7 related or discussed Mr. Gobelman's reports,
8 correct?
9 THE WITNESS: A Correct.
10 Q Okay. Are you comfortable as you sit
11 here today to say that you've produced everything
12 that's responsive to the document request in
13 Exhibit 1?
14 **A I believe so.**
15 Q Okay. With respect to Number 6, "copies
16 of all publications that you've authored or
17 co-authored, to the extent not already produced
18 to IDOT in this matter", have you, in fact,
19 produced any publications since August the 21st
20 of 2018?
21 **A No.**
22 Q Okay. Have you made any presentations
23 since August the 21st of 2018 -- in a
24 professional setting dealing with matters related

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1 to your field of work?
2 **A Yes, thank you for the clarification.**
3 **No, with that caveat, I have not.**
4 Q Have you served as an expert witness on
5 any matters since your last deposition in this
6 case?
7 **A No.**
8 Q Okay, as an opinion witness in any
9 matter?
10 **A No.**
11 Q Okay. Are you currently working -- I'm
12 sorry, are you currently doing any other
13 consulting work for counsel?
14 MS. BRICE: For me?
15 MR. MCGINLEY: Yes.
16 THE WITNESS: A Consulting work am I
17 personally currently involved in any -- I am not,
18 no.
19 MR. MCGINLEY: Q For Johns -- are you doing
20 any consulting work for Johns Manville at this
21 time?
22 **A No.**
23 Q Have you done any other consulting work
24 for Johns Manville at any point during the course

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1 of your work on this matter since the very
2 beginning?
3 **A No.**
4 Q Okay. And is that also true for counsel,
5 have you done any work for counsel since you
6 first started working on this particular matter?
7 **A Yes.**
8 Q You have. And how many other matters are
9 you -- have you worked with -- well, formerly
10 Bryan Cave -- now Bryan Cave Leighton Paisner --
11 is that it?
12 MS. BRICE: Um-hum.
13 MR. MCGINLEY: Q Okay.
14 THE WITNESS: A Yes, I've worked directly
15 with Susan on at least one or two other matters
16 since, approximately, when this matter began; but
17 there's also other members of the BCLP, Bryan
18 Cave Leighton Paisner team, that we have worked
19 with and we continue to work with on other
20 matters.
21 Q Okay, for -- you're currently working
22 with other members of Bryan Cave Leighton Paisner
23 right now?
24 **A Yes.**

<p style="text-align: right;">Page 22</p> <p>1 Q Okay. To what extent would you say on a 2 percentage basis per month your time is taken up 3 working on matters for Bryan Cave Leighton 4 Paisner? 5 MS. BRICE: Objection, calls for speculation. 6 THE WITNESS: A Less than 10%. 7 MR. MCGINLEY: Q Less than 10%. Is it more 8 than 5%? 9 MS. BRICE: Objection, calls for speculation. 10 THE WITNESS: A I wouldn't be able to 11 speculate. It could be more than 5%, but 12 certainly not more than 10. 13 MR. MCGINLEY: Q Okay, so somewhere between 14 5 and 10 would you be comfortable with saying 15 that? 16 A Perhaps. 17 Q Okay. And how long have you been at -- 18 working with Bryan Cave Leighton Paisner either 19 with Miss Brice or other attorneys in the 20 practice? 21 A Fifteen years perhaps, perhaps longer. 22 Q Okay. 23 MS. BRICE: I haven't been there for 15 24 years, for the record.</p>	<p style="text-align: right;">Page 24</p> <p>1 there -- Do you know why this document wasn't 2 produced prior to your July 31st deposition? 3 A I don't. 4 Q Okay. And you located this today, or 5 prior to today's deposition you produced it. Can 6 I ask you -- the attachments are all, as I 7 understand it, are all invoices from Donald 8 Manikas to Johns Manville. Is that, my 9 assumption, correct about that? 10 A I believe that's correct. 11 Q Okay. Why is it that you were 12 providing -- how did you come to get these 13 invoices in the first place? 14 A As I recall, they were provided as part 15 of my assessment of the total costs incurred for 16 the Johns Manville project. 17 Q Okay. 18 A And Mr. Manikas's expenses were some of 19 the right-of-way, legal consulting services were 20 part of that analysis; and these documents were 21 produced as part of my effort of tabulating the 22 costs for his effort. 23 Q Who provided you with the documents 24 though?</p>
<p style="text-align: right;">Page 23</p> <p>1 THE WITNESS: For the record, I did work with 2 Bryan Cave before Susan arrived. 3 MR. MCGINLEY: Thank you for that 4 clarification. 5 I'm going to mark that, please. This 6 would make Exhibit 3. 7 (document marked as requested) 8 MR. MCGINLEY: Q Mr. Dorgan, Exhibit 3 9 that's been presented to you is an e-mail dated 10 Wednesday, June 13th, 2018. It's from you to 11 Miss Brice. The subject is Manikas, 12 M-A-N-I-K-A-S, Invoices. There's a series of 13 attachments that are listed. I'll represent to 14 you that there are fourteen separate attachments 15 that are listed here. You can count them if you 16 want to. I've done that already. My question to 17 you is: You were previously deposed in this 18 matter back in July of 2018, July 31st of 2018, 19 if memory serves right; and prior to that 20 deposition back in July 31st in 2018 we, like 21 today, served you with a document request prior 22 to that deposition and documents were, in fact, 23 produced. I will also represent to you that this 24 document was not produced to us at that time. Is</p>	<p style="text-align: right;">Page 25</p> <p>1 A I believe Susan. 2 Q Okay. So why are you sending it back to 3 Susan and sending these attachments back to her? 4 A I don't recall. 5 MS. BRICE: I can -- can I say something? I 6 can say for the record, I probably couldn't find 7 them and was just asking for them because he had 8 them easily, readily available. 9 MR. MCGINLEY: Okay, fair enough. 10 MS. BRICE: Just so you don't have to belabor 11 the point. 12 MR. MCGINLEY: Q When you were looking for 13 documents prior to your last deposition did you 14 use the same process for locating responsive 15 documents that you described earlier today? 16 THE WITNESS: A I did. 17 Q Okay, and so you would have had a 18 recipient, Susan Brice or Brice, Susan and -- did 19 come up; and so are you 100% sure that you 20 produced everything? 21 A As I said before, I believe I produced 22 everything requested. 23 Q But you didn't produce this before, just 24 for the record; and I would ask that can you</p>

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1 commit to making sure that you have, in fact,
2 produced everything, can you go back and look to
3 make sure that you produced everything?
4 **A I could certainly do that if requested.**
5 Q We are so requesting. Thank you.
6 This is a quick one right here.
7 (document marked as requested)
8 MR. MCGINLEY: Q This is Exhibit 4. It's an
9 e-mail thread, it's an e-mail thread between you
10 and Miss Brice dated July 30th of last year; and
11 I just want to ask you about the top e-mail.
12 This is the one at 9:25 a.m. where you respond to
13 Susan, "Will call back as soon as TPA call ends".
14 What's TPA stand for?
15 **A Trade Point Atlantic.**
16 Q Okay. It has nothing to do with this
17 matter, right?
18 **A No.**
19 Q Okay. Did you, in fact, call Miss Brice
20 back after this call ended?
21 **A I anticipated I do. I don't recall this**
22 **specific conversation.**
23 Q Do you know what you would have been
24 speaking with about her back then?

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1 **A Not at this point.**
2 Q Is it possible it's something having to
3 do with your deposition the next day?
4 **A That's possible.**
5 Q When you're preparing for depositions are
6 you typically doing that in person or are you
7 doing it by phone?
8 **A It can be both.**
9 Q Your preparations for today they were in
10 person and not by phone, is that right?
11 **A That's correct.**
12 Q This will be Exhibit 5.
13 (document marked as requested)
14 MR. MCGINLEY: Q What's been presented to
15 you as Exhibit 5 is Steven Gobelman's August 22,
16 2018 Expert Rebuttal Report on Damages
17 Attributable to IDOT based on IPCB order of
18 December 15, 2016. You are familiar with this,
19 obviously?
20 THE WITNESS: A I am, yes.
21 Q Do you recall when you first received a
22 copy of this report?
23 **A I don't recall specifically, but I would**
24 **assume it would have been shortly after its**

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1 **production late August of '18.**
2 Q Okay, after you received the report did
3 you -- was it just e-mailed to you, did counsel
4 advise you that they were sending it to you
5 before they sent it to you or --
6 **A I don't recall.**
7 Q -- or what do you recall about the
8 circumstances receiving it?
9 **A Normally, I'll receive a document like**
10 **this via e-mail. It may be preceded by a call.**
11 **It may not.**
12 Q What did you do after you received this
13 report?
14 **A Reviewed it.**
15 Q Okay. About how long after you received
16 it did you review it?
17 **A I would assume relatively soon after. It**
18 **probably would have been a progressive review.**
19 **It's not like I looked at it once and that was**
20 **the only time I looked at it.**
21 Q Okay. Did you discuss it with Miss Brice
22 at some point?
23 **A I'm sure at some point I did, yes.**
24 Q Do you think it was one occasion or more

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1 than one occasion of which you discussed it with
2 her?
3 **A More than one occasion.**
4 Q Okay. While you were discussing
5 instances where you were discussing the report
6 with her are you taking notes about conversations
7 that you're having or memorializing things that
8 you discussed in any way?
9 **A No.**
10 Q Do you, as you're reviewing copies of the
11 report, if something jumps out at you about the
12 report how do you actually take that into
13 account, do you mark something down, I mean do
14 you -- on the report?
15 **A I mean I'll sometimes highlight certain**
16 **sections of the deposition, or either the report**
17 **or the depositions. Typically, what I'll do is**
18 **I'll have my draft document of the rebuttal up**
19 **and prepared in outline form; and I'll begin**
20 **making notes on that and putting some of my**
21 **preliminary observations and conclusions into it.**
22 **That then gets formed into the final report that**
23 **gets produced.**
24 Q So you're looking at the document, you're

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1 looking at the report, you're working next to it
2 in Microsoft Word, I assume, something like that?
3 **A Um-hum.**
4 Q And that's where you're taking your
5 notes, but your not actually writing notes or
6 jotting things down on it?
7 **A No.**
8 Q Okay. That's your testimony, is that
9 right?
10 **A And I wouldn't necessarily say I'm**
11 **putting notes into my report either. I'm making**
12 **comments about my observations and highlights**
13 **that I believe are relevant to how I'm going to**
14 **respond.**
15 Q Okay. Besides counsel who else did you
16 discuss the report with?
17 **A This specific report?**
18 Q Yes.
19 **A I would say most likely the only other**
20 **person that I engaged in discussions with other**
21 **than Susan, Lauren Caisman may have been involved**
22 **in some of the discussions; but, in my office, it**
23 **most likely would have been Riah Dunton.**
24 Q Who is Miss Dunton?

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1 **A She's one of the CAD designers in our**
2 **office.**
3 Q How long has she worked at Weaver?
4 **A More than ten years.**
5 Q And when you say she's a CAD designer,
6 what exactly does that mean?
7 **A What she'll -- her responsibility is to**
8 **take the needs of the technical professionals in**
9 **the office, in the office, mostly the project**
10 **managers and the project personnel, they'll then**
11 **ask her to draw up certain figures, drawings that**
12 **they'll end up using in their reports as**
13 **exhibits, similar to what she did on my behalf in**
14 **this matter as well.**
15 Q Okay, and so is her sole role to create
16 figures based upon information that's provided to
17 her, parameters that are provided to her by
18 technical professionals?
19 **A I'm sure there are instances when some**
20 **independent judgment is involved as well. She**
21 **has a particular skill-set of knowing how CAD**
22 **works intimately. So she's able to make**
23 **adjustments to make things look better, to make**
24 **things more concise. So I'm sure she does that**

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1 **at times. There are other technical assignments**
2 **that project people will give her as well but**
3 **aren't necessarily specifically related to CAD,**
4 **but I would say the vast majority of her time is**
5 **spent doing CAD --**
6 Q Okay.
7 **A -- CAD work.**
8 Q But with respect to Mr. Gobelman's report
9 I mean isn't it true that Miss Dunton actually
10 provided something more than just creation of
11 figures, right?
12 **A I'm not sure I understand the question.**
13 Q Well, I mean you asked her at various
14 points in time to review Mr. Gobelman's report to
15 provide you with a review and an analysis of
16 certain portions of Mr. Gobelman's report, isn't
17 that an accurate statement?
18 **A No, I wouldn't say I asked her for**
19 **independent analysis. I asked her to produce**
20 **information that was available out of the**
21 **document that we were given to help me understand**
22 **the way that Mr. Gobelman approached the changes**
23 **that he made to his base map, what information**
24 **could be gleaned about the circumstances around**

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1 **what points of reference he was using in his base**
2 **map; and then, ultimately, I asked her to begin**
3 **preparing figures that provided a comparison**
4 **between what Mr. Gobelman had done and what we**
5 **had historically done.**
6 Q So you needed Miss Dunton to be able to
7 look at Mr. Gobelman's report, to analyze the
8 information that was in it because you couldn't
9 do that yourself, isn't that accurate?
10 MS. BRICE: Objection, that mischaracterizes
11 the testimony.
12 MR. MCGINLEY: Q I mean you're asking her
13 to provide you with a review of Section 5 of the
14 report, right --
15 THE WITNESS: A No.
16 Q -- do you recall having done that?
17 **A I asked her to pull specific pieces of**
18 **information out of the report and out of the**
19 **figures that I could then translate into the**
20 **graphics that I asked her to produce that led to**
21 **the comparison of the base map that Mr. Gobelman**
22 **prepared versus the base maps that we had been**
23 **working off of.**
24 Q Did you ask her to pull out that

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1 information because you didn't have the time to
2 do it or because you didn't have the technical
3 skill set with which to be able to do it?
4 **A Well, she has specific skills in auto CAD**
5 **that are certainly much more advanced and**
6 **developed than mine that makes some of those**
7 **tasks easier for her to accomplish than it would**
8 **be for me to accomplish; and, from an efficiency**
9 **perspective and a cost perspective, it's just**
10 **easier to ask her to pull the information out**
11 **that I need than for me to try go in and do it**
12 **myself.**
13 Q It's fair to say though that you've had
14 to rely on her in order to be able to produce the
15 work products that you produced, correct?
16 MS. BRICE: Objection, mischaracterizes the
17 testimony.
18 MR. MCGINLEY: Q You can answer, please.
19 THE WITNESS: A I've had to rely on her to
20 help me put the CAD figures together that we
21 produced for my reports.
22 Q And you've also had to rely on her to
23 pull information out of Mr. Gobelman's report
24 that you, in turn, can then use to provide the

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1 basis for figures that she ends up producing for
2 your reports, correct?
3 MS. BRICE: Objection, misstates the
4 testimony. He said that he could have done it
5 but he had her do it for a more efficient
6 purpose.
7 THE WITNESS: A Miss Dunton looked at
8 specific information that I asked her to look at;
9 and I consulted with her on how we could then
10 represent that in the figures that I had asked
11 her to produce so that we could make sure we were
12 trying to produce as accurate a representation of
13 Mr. Gobelman's document versus our document,
14 as -- as you can see is very material to the
15 issues at hand.
16 MR. MCGINLEY: Q How would you characterize
17 -- Miss Dunton, I assume, is not the only CAD
18 person that works for Weaver, right?
19 THE WITNESS: A That's correct.
20 Q Okay. And, in fact, you've had for
21 previous figures that have been done for work
22 that you've done you had other people produce
23 those figures, not Miss Dunton, correct?
24 **A That's correct.**

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1 Q Okay, for the work that you did, we'll
2 call it during the liability phase prior to
3 December 2016 when the Board issued its opinion,
4 you had somebody else working on the figures at
5 that point, right?
6 **A I believe -- well, I don't recall**
7 **specifically -- but James Treece was helping me**
8 **as well as Riah was helping me during those early**
9 **phases.**
10 Q But I'll represent to you -- and I can
11 show you if you need -- that the figures that you
12 produced for the liability phase actually showed
13 JDT. So I would assume that those were produced
14 by Mr. Treece, right?
15 **A That's correct.**
16 Q And his last name is T-R-E-E-C-E?
17 **A That's correct.**
18 Q Okay. Of all the people who did CAD work
19 at Weaver how would you stack Miss Dunton up, is
20 she the best of the people that you've got?
21 **A We have CAD people all over the company.**
22 **So I can't represent the skills of every person**
23 **that does CAD work.**
24 Q Well, let's talk about here in Chicago.

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1 **A In the Chicago office there are two; and**
2 **she was the one available to me as part of this**
3 **effort, which is why she was involved.**
4 **Mr. Treece was no longer available to me.**
5 Q Besides Miss Dunton who else, if anybody,
6 did you discuss Mr. Gobelman's report with at
7 Weaver?
8 **A Nobody that I recall.**
9 Q Okay. This should be Exhibit 6, I
10 believe.
11 (document marked as requested)
12 MR. MCGINLEY: Q Mr. Dorgan, what has been
13 handed to you, Exhibit 6, Dorgan 1048 through
14 1049, this would appear to be an e-mail from you
15 to -- the last e-mail, I'm sorry, an e-mail
16 thread -- but the last e-mail dated August 23rd
17 of last year. It's from you to Riah Dunton; and
18 it says, from you to Miss Dunton, "per our
19 discussion, Section 5". What was your discussion
20 of that, do you recall?
21 THE WITNESS: A I think Section 5 is the
22 primary section that discusses the steps that
23 Mr. Gobelman undertook to create his base map;
24 and so in my effort at understanding both how

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1 Gobelman went about preparing his figure and how
2 that create -- how that compared to the figures
3 that we had historically created and that we
4 wanted to create to show the comparison between
5 those different sources I would have been
6 discussing with her what we needed to produce as
7 a figure to support the document that I was going
8 to have to prepare as part of my rebuttal.
9 Q Okay, so your discussion -- and this is
10 the e-mail August 23rd, 9:28 -- your discussion
11 obviously occurred before that. I assumed that
12 this was just about Section 5. Had she seen a
13 copy of the report at that point, do you know?
14 A **I don't know. Although, I would suspect**
15 **not, since it was attached to this e-mail.**
16 Q Okay.
17 So this should be I'm thinking Exhibit
18 7 at this point.
19 (document marked as requested)
20 MR. MCGINLEY: Q And this is an e-mail,
21 also an e-mail thread in this case from you to
22 Miss Brice, Lauren Caisman, Dorgan 1003, 1-0-0-3,
23 dated September 12th, 2018. And I take it from
24 this -- I'm sorry, there's a second page that

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1 goes with that -- 1003, 1004. The top line says
2 "Sounds good. Will see you there". And this
3 seems to be in response to a request from
4 Miss Brice to set up time for meeting. Did you,
5 in fact, end up meeting sometime around
6 Wednesday, September 12th of 2018?
7 THE WITNESS: A I believe so.
8 Q Okay. What did you talk about when you
9 had this meeting?
10 A **I don't recall specifically at this**
11 **point, but I'm assuming we were discussing my**
12 **preliminary observations from review of the**
13 **Gobelman report.**
14 Q Okay. Would this be the first time that
15 you discussed preliminary observations about the
16 Gobelman report with Miss Brice and Miss Caisman?
17 MS. BRICE: Objection, calls for speculation.
18 He already said that he assumed that that's what
19 he was doing.
20 THE WITNESS: A I don't recall.
21 MR. MCGINLEY: Q How long a meeting was
22 this?
23 A **I don't recall.**
24 Q Let's do this -- This is 8, I take it.

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1 (document marked as requested)
2 MR. MCGINLEY: Q I want to direct your
3 attention -- this, Exhibit 8, is a series of
4 invoices that were provided to us from Weaver
5 Consultants Group. I take it -- this is Dorgan
6 989 through Dorgan 995. These are the invoices I
7 believe that you've referenced earlier as having
8 been produced in response to our document request
9 for your deposition today, is that right?
10 THE WITNESS: A I believe so, yes.
11 Q Okay. Can I direct your attention to the
12 second page, this would be Dorgan 990; and could
13 you read just above the solid black line it says
14 "note", could you read that, the text of that,
15 please.
16 A **It says "for preparation of expert**
17 **rebuttal report and meeting with counsel".**
18 Q Okay, and underneath that for
19 professional services, it says professional --
20 I'm sorry, it says principal/corporate
21 consultant, Douglas Dorgan, 3.75 hours. This is
22 the same period of time during which you would
23 have met with Miss Brice and Miss Caisman around
24 about September 12th, 2018, is that right?

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1 A **That would seem reasonable.**
2 Q Okay. So total, 3.75 hours billed, so is
3 it fair to say that your meeting with Miss Brice
4 and "Miss Briceman" -- Caisman could have lasted
5 -- we've merged into one solitary being at this
6 point --
7 MS. BRICE: "Miss Briceman".
8 MR. MCGINLEY: Q Is it fair to say that
9 your meeting with counsel could have lasted up to
10 3.75 hours?
11 MS. BRICE: Objection, calls for speculation.
12 If you know you could answer the question. It
13 does say for preparation of expert rebuttal
14 report and meeting with counsel -- right?
15 THE WITNESS: Yes, that's correct. So it
16 could not have been up to 3.75 hours because
17 there was time spent on the preparation of the
18 expert rebuttal report that's included in that
19 3.75 hours.
20 MR. MCGINLEY: Q So how much time do you
21 think you probably spent between the two tasks?
22 A **I don't recall.**
23 Q Was this a meeting where you actually
24 presented them with a copy of the expert rebuttal

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1 report?
2 **A I don't believe so.**
3 Q And why do you say that?
4 **A This was still in the development phase**
5 **of the report. So I don't -- I would not have**
6 **been transmitting a document at that point, I**
7 **don't believe.**
8 Q Okay, but would you have been discussing
9 the document with them, would you have had a
10 draft with you at the time?
11 **A I would have likely continued to be**
12 **discussing my findings from further review of the**
13 **document and as I was beginning to shape my**
14 **rebuttal opinions on how I was going to produce**
15 **my report.**
16 Q When you discuss your reports with
17 counsel how do you go about doing that, if you
18 want to actually share with them information
19 that's in the report or a portion of the report,
20 how would you do that? I mean I take it you're
21 not actually producing a copy and saying, hey,
22 would you like to take a look at this?
23 **A Yeah, there comes a point in time where I**
24 **provide a draft of the document; and then I make**

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1 **additional changes until I'm ready to produce the**
2 **document as final and then produce it as final.**
3 Q But when you produce it to them it would
4 be electronically, correct?
5 **A Correct.**
6 Q Okay. Prior to actually sharing that
7 with them would you ever have occasion to just
8 read through the current working draft of the
9 report?
10 **A I can't say that's never taken place, but**
11 **that's not typically how it works.**
12 Q Okay. Do you -- has there even been an
13 occasion where you've gone over to meet with
14 counsel and perhaps you'd keep -- you have a
15 laptop, correct?
16 **A Correct.**
17 Q Do you keep a copy or are able to access
18 copies of your working draft report on your
19 laptop?
20 **A No, my draft report is kept on a flash**
21 **drive.**
22 Q Okay. Do you take the flash drive with
23 you and bring it up --
24 **A I may --**

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1 Q -- on the laptop?
2 **A -- um-hum.**
3 Q So it's possible you've actually shared
4 the report with counsel --
5 **A Yes.**
6 Q -- before you send the draft, right?
7 **A Yes.**
8 Q Okay. Do you think you would have done
9 that on September 12th, on or about September
10 12th of 2018?
11 MS. BRICE: Objection, asked and answered.
12 THE WITNESS: A Perhaps. I don't recall
13 specifically.
14 MR. MCGINLEY: This is 9.
15 (document marked as requested)
16 MR. MCGINLEY: Q Mr. Dorgan, Exhibit 9 is
17 Dorgan 1052 to, this is an e-mail from you to
18 Dunton -- Miss Dunton, September 25th of last
19 year. It says "Johns Manville discussion. Is
20 there a good time for you?" It's very short and
21 sweet. What was the purpose of -- I take it you
22 wanted to meet with Miss Dunton?
23 THE WITNESS: A Correct.
24 Q What were you hoping to meet about?

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1 **A I'm sure we were meeting about the**
2 **figures that she was working on.**
3 Q Okay. When you're actually in the
4 process of developing the figures can you
5 describe for me, just generally, how that --
6 what's the process like. I mean you give her
7 some, you start by giving her some parameters
8 about what it is that you want to visualize into
9 a figure, right?
10 **A That's correct.**
11 Q Okay, so with that as the starting
12 assumption, I mean how does the process work
13 going forward?
14 **A Well, typically, I would lay out what the**
15 **ultimate goal is in terms of what I'd like to see**
16 **produced. It doesn't always end up that way as**
17 **you go through the production process. I would**
18 **be laying out for her what I envision for the**
19 **figures that would support the opinions and**
20 **conclusions that I was reaching in my report.**
21 **I'd then ask her to sit down and begin drafting**
22 **those figures; and there's often times iterations**
23 **back and forth as we clarify information that's**
24 **being produced, we may change font sizes, we may**

<p style="text-align: right;">Page 46</p> <p>1 change line types, we may add information, we may 2 take information off. It just depends on the 3 process that we're driving towards the ultimate 4 presentation. 5 Q Okay, so when you talk about -- you're 6 saying there's an end goal, if you will, that 7 you're hoping to have these figures achieved for 8 you, is that a fair way to put it? 9 A Yes. 10 Q Okay. So how do you actually communicate 11 that to Miss Dunton? I mean do you say this is 12 what I want things to look like at the end or -- 13 I mean help me understand that because that's 14 kind of a general statement. 15 A There's a little bit of that; but, 16 certainly, you know, you have a vision for what 17 you think the end product needs to look like. 18 But there's also looking at the information 19 that's already been presented and understanding 20 how we're going to translate, in this case, say 21 Mr. Gobelman's figures in his report onto a 22 figure that we're going to produce to allow the 23 comparison that we were able to do. So there's 24 some back and forth in terms of we need to add</p>	<p style="text-align: right;">Page 48</p> <p>1 able to look at them in, you know, a larger view. 2 Sometimes it could be at my desk. 3 Q If she's someplace besides her CAD 4 station, you're in your conference room, you're 5 in your office, you're meeting with her and you 6 say, Riah, I'd like to change these three 7 features of this figure, maybe I want this line 8 bigger, maybe I want to see a different color for 9 representing the boundaries, how is she -- is she 10 writing this down, is she taking notes as you 11 have this discussion? I mean how is she making 12 sure that she's going to deliver for you the end 13 product that you want? 14 A Well, she's making the changes in the 15 document and then she produces the next revision 16 for me to look at; and I decide whether they're 17 changes I want to keep and they're responsive to 18 my request. 19 Q Okay, but my question to you is slightly 20 different. What I'm asking is is she doing 21 something to like note what it is that 22 Mr. Dorgan, Doug Dorgan wants to see in the 23 revised figure? 24 A Yeah, she could be making notes on a</p>
<p style="text-align: right;">Page 47</p> <p>1 this, we need to add that; and then, ultimately, 2 she does the actual drawing and produces 3 something for me to review. 4 Q Okay. When she creates that first 5 go-round of a figure does she keep that -- I mean 6 does she work off of that figure and subsequent 7 revise -- revisions or refinements of that 8 figure? 9 A Yeah, you'd, basically, have one project 10 file that those, all those changes are made in; 11 and those changes just are cumulative, so as you 12 make changes that file just keeps getting 13 changed. 14 Q Do you have any understanding of how -- 15 you sit down, you talk about what revisions you 16 want made with, you talked with Miss Dunton about 17 wanted to see done, you talked with her about how 18 you want to see the figures revised. Are you 19 having these meetings at her work station where 20 she's got her CAD or are you meeting someplace 21 else? 22 A Sometimes it can be at her work station, 23 it could in one of the small conference rooms, or 24 we can pull the figures up on a monitor and be</p>	<p style="text-align: right;">Page 49</p> <p>1 draft. 2 Q Okay. And when you say "notes on a 3 draft" how would that actually take place, how 4 would those notes be memorialized? 5 A She would write them on a hard copy of 6 the figure. 7 Q Okay. And what do you think she does 8 with the hard copy of the figure after she's gone 9 back and revised the figure; is she keeping them 10 someplace? 11 A No, drafts all get discarded before we go 12 final. It's company policy. 13 Q This should be 10. 14 (document marked as requested) 15 MR. MCGINLEY: Q Take a moment -- this is 16 Exhibit 10 is Dorgan 1064 through 1071. It is an 17 e-mail thread from you -- I'm sorry -- from 18 Miss Dunton to you, that's the top level e-mail, 19 dated September 27, 2018; and just after you've 20 had a chance to look it over please let me know. 21 THE WITNESS: A Okay. 22 Q If I could direct your attention to 23 Dorgan 1066, this is the third page of the 24 e-mail, you'll see that there's an August 23rd,</p>

<p style="text-align: right;">Page 50</p> <p>1 2018 e-mail, it says, "per our discussion, 2 Section 5". We just talked about this e-mail a 3 little while ago, right? 4 A Yes. 5 Q Okay. Can you turn to the preceding 6 page, Dorgan 1065. It says -- this is from 7 Miss Dunton to you, September 5th, 2018. Is this 8 the only e-mail that took place between you and 9 Miss Dunton during the period between August 23rd 10 and September 5th of last year about Johns 11 Manville? 12 A I don't recall specifically. 13 Q Okay. Is it unusual to have -- I mean 14 this was an active, I assume it was a somewhat 15 active work effort taking place after August 23rd 16 because that's more or less the date that you got 17 -- date that you got the report initially, 18 Mr. Gobelman's report, correct? 19 A Correct. 20 Q Okay. So that looks to be almost two 21 weeks. I assume that you're looking through the 22 report, Miss Dunton's looking through the report, 23 brainstorming, coming up with observations about 24 the report, would that be a fair summary?</p>	<p style="text-align: right;">Page 52</p> <p>1 bubbles? 2 MR. MCGINLEY: Right, yeah. 3 MS. BRICE: Yeah, and if you go -- move over 4 the bubbles -- 5 MR. MCGINLEY: Right, no, no, I understand 6 that. 7 MS. BRICE: Yeah. 8 MR. MCGINLEY: But initially that wasn't 9 produced that we could see. So I just wanted to 10 make sure -- 11 MS. BRICE: Right, I didn't know you couldn't 12 see the -- 13 MR. MCGINLEY: No, that's no problem. 1068 14 on this is that the same as 1072 with the 15 bubbles? 16 MS. BRICE: I have no idea. 17 MR. MCGINLEY: Okay, let me do this -- We'll 18 come back to this. 19 Q Second paragraph of this September 5th 20 e-mail, it says "We have noted that the site 21 layout was supplied by AECOM". What does she 22 mean by "site layout was supplied by AECOM"? 23 THE WITNESS: A Earlier in this proceeding 24 we received a CAD drawing I believe in a DWG</p>
<p style="text-align: right;">Page 51</p> <p>1 MS. BRICE: Objection, mischaracterizes his 2 earlier testimony. 3 THE WITNESS: A I think if you -- I 4 earlier provided her the report, then we had had 5 a discussion, and then she responded with some 6 specific observations that were responsive to the 7 discussion we had and the requests that I had 8 made of her. That's what my understanding and 9 recollection is. 10 MR. MCGINLEY: Q Okay, could I ask you 11 about this September 5th e-mail, a couple 12 questions here. She notes "I've read Section 5 13 and have marked a few inconsistencies within that 14 section on the attached pdf". The pdf that was 15 -- Susan, I'm sorry I'm going to have to ask you 16 about this -- this is -- So you know that I asked 17 Lauren the other day about not being able to get 18 the comments on this; and then she sent me back 19 this. 20 MS. BRICE: Yeah. 21 MR. MCGINLEY: So 1072 through 1075, the 22 revised version, is this -- this is the one that 23 had the comments on it, right? 24 MS. BRICE: That were -- that had the</p>	<p style="text-align: right;">Page 53</p> <p>1 format that would have served as the basis for 2 the figures that we were preparing, the 3 underlying information. 4 Q Did you -- You didn't produce that in 5 response to our document request? 6 MS. BRICE: It would have been produced at 7 the beginning of the case. 8 MR. MCGINLEY: The CAD file itself? 9 MS. BRICE: I think so, yes -- 10 THE WITNESS: I don't recall specifically; 11 but it would not have -- that would have been my 12 assumption, which is why it wouldn't have been 13 produced here. I assumed it had already been 14 produced earlier. 15 MR. MCGINLEY: Q But it's your testimony 16 that it would have been a DWG file, that's what's 17 being referenced here? 18 A I don't know if it would have been 19 produced as a DWG or it would have been a print 20 of that document. It may have been a print 21 of the document. 22 Q Okay. If there's a DWG file that is 23 related to what she's talking about here, about 24 the site layout supplied by AECOM, we would like</p>

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1 to get that because we have not seen that, okay?
2 **A Um-hum.**
3 Q And, as a result, it's not entirely clear
4 to me which AECOM site layout we're talking about
5 here right now.
6 MS. BRICE: Can I ask you a question? Have
7 you gone back from the first production, the
8 first case, and looked through everything?
9 Because that's what I would --
10 MR. MCGINLEY: Everything that was produced
11 to us was produced as a pdf, or as Excel in some
12 rare instances. There's also photos, okay; but
13 we have never actually --
14 MS. BRICE: I mean the initial case.
15 MR. MCGINLEY: No, I understand. But we have
16 never actually gotten a DWG file.
17 MS. BRICE: Okay, you're sure on that?
18 MR. MCGINLEY: I am 100% sure of that.
19 MS. BRICE: Okay.
20 MR. MCGINLEY: Without any doubt in my mind.
21 MS. BRICE: Okay.
22 THE WITNESS: And, Susan, you're making notes
23 of the follow-up items?
24 MS. BRICE: Yeah, I have, yes. I mean I

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1 don't know what a DWG file is --
2 MR. MCGINLEY: Well, by this point I think we
3 have some idea.
4 MS. BRICE: Generally, an idea. But I
5 certainly didn't know earlier --
6 MR. MCGINLEY: But it's because of that, it's
7 because of having gone through this issue of late
8 that I can tell you that we've never actually
9 gotten a DWG file for this.
10 MS. BRICE: Okay.
11 MR. MCGINLEY: So we want to see that.
12 MS. BRICE: Okay.
13 MR. MCGINLEY: Q So it says that,
14 Mr. Dorgan, it says we've noted the site layout
15 was supplied by AECOM, this would have included
16 the boundary for Site 3 and Site 6. The use of
17 the AECOM Site 3 figure and its legal description
18 supplied us with a boundary for parcel 0393.
19 MS. BRICE: I will say for the record that I
20 think he said that, mentioned that in his initial
21 report. Is that correct, Doug?
22 THE WITNESS: I believe so, yes, in my
23 rebuttal report.
24 MR. MCGINLEY: Q Said what specifically?

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1 THE WITNESS: A I referenced that original
2 mapping was predicated on an AECOM drawing that
3 had been provided to us.
4 Q That's -- drawing, yes. But I think now,
5 we're talking about DWG files, that's a slightly
6 different beast.
7 **A Was predicated on the electronic version
8 of the drawing, the DWG file. We would have used
9 that as our underlying base.**
10 Q Okay, so that's everything that you --
11 that Miss Dunton has done in respect, with
12 respect to your initial report and -- we'll call
13 this the damage phase, okay -- so your report
14 from June of last year, your initial expert
15 report June of last year, your rebuttal report in
16 October of last year, and your supplemental
17 rebuttal report from April 30th of this year
18 would have all used the AECOM figure as this DWG
19 file as the underlying basis for those figures,
20 is that what you're testifying to?
21 **A I would not want to testify that all of
22 them were, but our fundamental figures with the
23 Site 3 and Site 6 boundaries and some of the
24 other relevant features had been predicated on**

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1 **the original mapping provided to us by AECOM.**
2 Q What do you mean when you say
3 "fundamental figures"?
4 **A Well, when you receive a document like
5 that it comes with various layers; and, depending
6 on which layers you turn on and turn off, is what
7 actually prints when you print a version of the
8 document. So I just want to be careful not to
9 represent that every feature is shown on --
10 included or imbedded in the original document is
11 necessarily represented on the prints that had
12 been produced as part of this effort.**
13 Q Understood. But when you say
14 "fundamental" though, what would be the
15 fundamental features that would be shown on a
16 map, or that you'd be using this AECOM DWG file
17 to represent for your participation with your
18 report?
19 **A The boundary conditions, the boring
20 locations, the test pit locations, the location
21 of some of the utilities, right-of-way, as
22 examples.**
23 Q Is it just a singular DWG file that we're
24 talking about here having been supplied by AECOM,

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1 or were there more than one DWG file?
 2 **A I believe it's one, but I don't recall**
 3 **specifically if there had been others as well.**
 4 Q Okay. Did AECOM provide you with other
 5 DWG files besides just the one that you used for
 6 the site layout?
 7 **A Not that I recall.**
 8 Q Okay. Would they have -- when the DWG --
 9 how did this DWG file come into Weaver's
 10 possession, was it sent by AECOM to you directly;
 11 or did it come through counsel?
 12 **A I don't recall.**
 13 Q Okay. Do you recall, if you needed to
 14 figure that out, how would you track that down?
 15 **A I would, I'm anticipating I could track**
 16 **it down, yes.**
 17 Q Okay, and how would you go about doing
 18 that?
 19 **A I'd go back and look at the original**
 20 **record and look at communications between our**
 21 **team and the AECOM team. It could have been**
 22 **transmitted to me on a hard drive at some point**
 23 **as well. I just don't recall specifically. That**
 24 **was quite a while ago at this point.**

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1 Q But you've had direct communications just
 2 with AECOM apart from counsel, right?
 3 **A Yes.**
 4 Q Okay. The next paragraph down says
 5 "please note that the Plat of Topographic Survey
 6 by ATWELL has the contours and survey information
 7 we used for supporting base information.
 8 However, it does not have the boundary of Site 3
 9 or Site 6". Do you have an understanding of what
 10 she's saying here?
 11 **A I believe so. The ATWELL survey, which**
 12 **was produced to us as a hard copy, I believe, I**
 13 **don't believe we have an electronic version of**
 14 **it, showed Site 3 on it; but, if I recall now,**
 15 **there were two versions of the ATWELL survey as**
 16 **well. So I need to be a little bit careful. But**
 17 **they didn't have any survey data on the sites**
 18 **themselves.**
 19 Q So there's two versions of the ATWELL
 20 survey, is that right?
 21 **A I believe there had been a corrected**
 22 **version sent out sometime after the original**
 23 **version was issued.**
 24 Q Do you know when the initial version was

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1 sent out?
 2 **A I don't.**
 3 Q When was the corrected version sent out?
 4 **A I don't recall that either.**
 5 Q Is it -- but it sounds like from reading
 6 this -- and I'd like to get your input on this --
 7 it says, "however, it does not have the boundary
 8 of Site 3 or Site 6", that's what Miss Dunton is
 9 saying, is that right?
 10 **A Correct.**
 11 Q So the ATWELL survey didn't have Site 3
 12 listed on it?
 13 **A I don't recall specifically the version**
 14 **of the ATWELL survey she was looking at, whether**
 15 **it had Site 3 and Site 6 on it. I know a**
 16 **subsequent version did, but I'm not sure which**
 17 **version this is referring to.**
 18 Q Okay, so she -- so she, apparently, had
 19 access to an earlier version of the plat of
 20 topographic survey, is that right?
 21 **A I'm not sure.**
 22 MS. BRICE: I'll say for the record, I'm not
 23 aware of two versions as we sit here.
 24 MR. MCGINLEY: Okay.

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1 10?
 2 THE COURT REPORTER: 11.
 3 (document marked as requested)
 4 MR. MCGINLEY: Q Exhibit 11 is a plat of
 5 topographic survey. This is by ATWELL. I take
 6 it this is the plat of topographic survey that at
 7 least in some respects is being referred to by
 8 Miss Dunton in her e-mail, is that right?
 9 THE WITNESS: A I believe so, yes.
 10 Q Okay, if you look in the lower right-hand
 11 corner there's -- we had this done in color just
 12 so that we could get the signature; and then I
 13 can point you to the date, June 23rd of 2017.
 14 **A I'm sorry, where is that date? Oh, I see**
 15 **right here --**
 16 Q No, no, just look at where the signature
 17 is, just above that where the surveyor has signed
 18 it and said "dated this 23rd day of June 2017",
 19 do you see that?
 20 **A Yes, I do.**
 21 Q Okay, do you know if this is the
 22 correct -- and this is, this is the version, I'll
 23 represent to you this is the version that is
 24 attached to your report. Does that appear to be

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1 the version that's attached to your report? It's
2 larger certainly than how it prints out.
3 **A I would need to do a quick comparison,**
4 **but I'm assuming that it is.**
5 Q Okay. Do you know why -- The survey work
6 on this was done back in 2013, correct?
7 **A I don't know specifically when the survey**
8 **work was done.**
9 Q Well, it says, if you look over by let's
10 say the western edge of Site 3 -- You know where
11 the Site 3 boundary on this is, correct?
12 **A Yes.**
13 Q Okay, it says at last dated -- "North
14 Shore Gas Atlas dated 15 of July, 2013", do you
15 see that?
16 **A I'm sorry, can you just show me here**
17 **where you're referring to?**
18 Q Yeah, I'll just circle it for you. Yeah,
19 right in -- there you go.
20 **A Thank you.**
21 Q My eyes are getting too --
22 MS. BRICE: I can't read it.
23 THE WITNESS: If I get it right in the right
24 focal point of the glasses I can pick it up.

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1 MR. MCGINLEY: I think for here we're going
2 to need something like substantially larger.
3 Q But, at any rate, is that a survey date
4 or I mean when they say "Atlas dated 7-15-2013",
5 do you have an understanding of what that means?
6 MS. BRICE: Yeah, objection, calls for lack
7 of foundation, calls for speculation.
8 THE WITNESS: A I can speculate that this
9 is related to the Atlas that North Shore Gas has
10 on record that shows the location of their
11 infrastructure; but I haven't -- I don't recall
12 any specific knowledge of that specific atlas.
13 MR. MCGINLEY: Q Can you see -- I mean
14 there's clearly Site 3 boundaries marked on this,
15 correct?
16 THE WITNESS: A Yes.
17 Q And if you look in the middle of that it
18 says "Site 3", correct?
19 **A Yes.**
20 Q So would it be fair to say that this was
21 not the version that Miss Dunton was referring to
22 in her e-mail?
23 **A I would -- the only thing that may be --**
24 MS. BRICE: Don't speculate.

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1 THE WITNESS: -- referenced here is she's
2 talking about the boundary of Site 3 and Site 6;
3 and, while there are bearings, they're aren't any
4 surveyed locations to the property boundaries.
5 That may be what's being referred to here. But,
6 yes, this version has at least the lines shown on
7 it for Site 3.
8 MR. MCGINLEY: Q Was there ever at any point
9 while you were preparing your, any of your
10 reports during this we'll say damages phase of
11 the case, did it -- was there ever any discussion
12 about doing a new survey of the site?
13 **A No.**
14 Q Do you consider -- does the fact that --
15 Let me just ask you this: If you look in the
16 upper right hand corner, right over here.
17 **A Um-hum.**
18 Q See this, it says July 22nd, 2013 is the
19 date, it says AECOM plat of topographic survey
20 and the date, do you see that?
21 **A I do.**
22 Q Okay. Can you tell me -- I mean this is
23 certified by the surveyor almost four years after
24 the work, field work was done apparently. Is

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1 that unusual, would that be unusual to have a
2 surveyor certify something four years after the
3 fact?
4 **A The surveyor is capturing information at**
5 **the time they performed the actual survey.**
6 Q Understood.
7 **A And then what you're seeing here are the**
8 **dates that they revised their drawing; but, other**
9 **than that, the underlying circumstances around**
10 **what their scope of work was and exactly when**
11 **they did it I just I don't have any knowledge of**
12 **that.**
13 Q Okay, is it -- but in your experience is
14 it common to have a survey certified by a
15 surveyor four years after, apparently, the field
16 work is done?
17 **A Again, I don't know the circumstances as**
18 **to why this particular survey was commissioned**
19 **and for what purpose. So I can't speculate to**
20 **that.**
21 Q I'm not asking you about this
22 specifically. I'm just asking you in your
23 experience are you familiar, have you ever seen
24 other instances where a surveyor certified

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1 something where the field work was apparently
2 done sometime prior to the date that the surveyor
3 certified it?
4 **A This is a plat of topographic survey that**
5 **was designed to capture topographic information**
6 **at the time the survey was implemented. I just**
7 **don't know why it was done at this point or for**
8 **what specific purpose. A plat of topographic**
9 **survey can be done at any point. It doesn't**
10 **necessarily have to be done at the conclusion of**
11 **some phase of the work. So, again, I just don't**
12 **know what the circumstances were surrounding the**
13 **timing of this particular work effort.**
14 Q Understood. But my question again is
15 based on your experience, I'm not talking
16 about this specifically, are you familiar with
17 other instances where field work is done, a plat
18 of topographic survey, and then it's certified by
19 the surveyor some period of time, possibly four
20 years after the field work was done; have you
21 ever seen anything like this before?
22 **A May I clarify?**
23 Q Certainly.
24 **A When you reference "field work" I assume**

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1 **you're referencing the field work that was done**
2 **by the surveyor that went to the site and took**
3 **the shots that collected the data that then was**
4 **translated into this plat of topographic survey,**
5 **and I don't know exactly when that field work was**
6 **done. If you're referring to the field work that**
7 **was done as part of the original remedial effort,**
8 **there was probably a lag between one and the**
9 **other; but, again, I don't know specifically when**
10 **this field work was taken.**
11 Q I'm talking about the former, not the
12 latter. I'm not talking about remedial field
13 work. I'm talking about surveying work that
14 would be subsequently memorialized in a plat of
15 topographic survey. I'm not talking about this
16 in a remedial context. I'm talking about it in a
17 straight land surveying context.
18 **A I understand --**
19 MS. BRICE: But -- but -- I think -- Okay, go
20 ahead. It's just -- I think you guys are
21 confused about -- I think about what he's talking
22 about --
23 THE WITNESS: If I may? You're referring to
24 the fact that this is dated 7-22-2013 --

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1 MR. MCGINLEY: Q Right.
2 THE WITNESS: -- and the certification date
3 from the license surveyor is 11-30-2018?
4 Q Right.
5 **A I can't speak to the origin to that, nor**
6 **what common survey practices are by registered**
7 **land surveyors.**
8 Q Okay, that's -- so you've not --
9 you're not, in your experience you're not
10 familiar with things like -- with something like
11 this happening, correct, where the surveying work
12 is done and then the certification is done after?
13 MS. BRICE: Objection, assumes facts not in
14 evidence. We have no idea why this says AECOM
15 2013 on here -- or whether that's when the survey
16 work was actually done. I mean he didn't -- he
17 had nothing to do with this document.
18 MR. MCGINLEY: I'm just asking about his
19 experiences at this point, not -- I'm not
20 asking --
21 THE WITNESS: A I can't think of any
22 specific experience where there's a delay between
23 field work implementation and certification.
24 Although, I'm not aware of instances where that

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1 hasn't happened. So it's just not something that
2 I do regularly.
3 MR. MCGINLEY: Thank you.
4 Q Resuming back to Exhibit 10, please, if
5 you could turn to the first page, this would be
6 Dorgan 1064, September 27th e-mail from
7 Miss Dunton to yourself; and she -- could you
8 read the first opening line of the e-mail,
9 please, after "Doug".
10 **A It says "Further review of the Section 5**
11 **report, in addition to my previous comments**
12 **attached, is the section in question. Plus,**
13 **following notes".**
14 Q Okay, and there are seven bullet points
15 that are listed here. Was the comments that she
16 was providing, why was she providing these
17 comments to you?
18 **A These would have been questions that I**
19 **would have asked her to try to answer and address**
20 **as part of the earlier dialog that we had.**
21 Q These are fairly substantial comments,
22 wouldn't you agree?
23 **A I don't know how I would characterize**
24 **these comments. They were certainly relevant to**

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1 **what we were working on.**
 2 Q Between September 5th and September 27th
 3 it looks like she was doing a fair bit of work on
 4 Section 5 of the Gobelman report?
 5 MS. BRICE: Objection, mischaracterizes the
 6 testimony and the documents.
 7 MR. MCGINLEY: Q Would you agree, sir?
 8 THE WITNESS: A Yeah, she references the
 9 review that she did of the report; and these were
 10 the answers to those questions that came from her
 11 review.
 12 Q Okay. I'd like to turn your attention to
 13 the second bullet point. Could you read that for
 14 us, please.
 15 **A Bullet point 2?**
 16 Q Yes.
 17 **A "The fence Andrews engineering is**
 18 **referencing around Site 3 was installed sometime**
 19 **between June of 2016 and April 2017. Its base of**
 20 **location must be per some construction documents**
 21 **or a contractor's instruction, no evidence of**
 22 **legal papers to support its location in relation**
 23 **to boundary lines."**
 24 Q What does she mean by that statement, do

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1 you have an understanding?
 2 **A I think she had been looking into if we**
 3 **could find in the record and the past documents**
 4 **any information that specifically referenced the**
 5 **fence that had been referenced in Mr. Gobelman's**
 6 **report.**
 7 Q And the reference to evidence of legal
 8 papers, I mean what does she mean by that; do you
 9 know?
 10 **A I'm assuming she -- she was referring to**
 11 **any plats of survey or any previous documents**
 12 **that, title papers, that might have highlighted**
 13 **or somehow referenced the location to that fence.**
 14 Q Do you know if she undertook any -- Well,
 15 let me ask you this: I assumed by this point in
 16 this case you and Weaver have a fairly
 17 substantial repository of documents that are
 18 related to this matter. Is that a fair
 19 assumption on my part?
 20 **A Yes.**
 21 Q Okay. And if she's saying there's no
 22 evidence of legal papers to support the location
 23 of the fence would it be a fair assumption that
 24 in this repository of documents that are

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1 maintained by Weaver she couldn't find anything
 2 that spoke to this issue about the fence?
 3 MS. BRICE: Objection, asked and answered.
 4 THE WITNESS: A I believe that's true.
 5 MR. MCGINLEY: Q Do you know if she
 6 undertook any efforts to look for evidence of
 7 legal papers outside of the documents maintained
 8 by Weaver?
 9 **A Not that I'm aware of.**
 10 Q So you're not aware if she did any sort
 11 of title search or something like that?
 12 **A No.**
 13 Q Okay. Would that be common for her to do
 14 that?
 15 **A No.**
 16 Q Next bullet point could you read that for
 17 us, please.
 18 **A "Parcel 0393 per document 1649408 is**
 19 **located on Atwell's topo survey, AECOM figures in**
 20 **the same location. Without the document, I**
 21 **cannot verify which bearing/section line it was**
 22 **read from and if the grid is laid out by this**
 23 **document."**
 24 Q And the document that she's saying

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1 "without the document" she's referring to
 2 document 169408, is that right?
 3 **A I believe so.**
 4 Q Do you know if she made any attempts to
 5 locate that document?
 6 **A I don't recall.**
 7 Q In order, to your mind, in order --
 8 you're trying to produce the most accurate work
 9 product that you can produce, correct?
 10 **A That's correct.**
 11 Q You're trying to produce the most
 12 accurate opinions that you can produce, correct?
 13 **A Yes.**
 14 Q In furtherance of that objective is it
 15 necessary sometimes to go out and do additional
 16 research to try and locate documents that are
 17 missing that might be critical to the formulation
 18 of an opinion?
 19 **A It can be done, I believe, to be**
 20 **critical, yes.**
 21 Q Do you know if Miss Dunton ever made any
 22 attempt to locate this document that's referenced
 23 in that bullet point 1649408?
 24 **A I don't believe that, other than a review**

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1 **of the record that we had was done to locate this**
2 **document.**
3 Q Okay. If I could ask you to read -- skip
4 the next bullet point and the one after that,
5 beginning with "I found".
6 A **"I found no evidence on where Atwell**
7 **located Site 3. They have the base grid but no**
8 **measurements off of it. Also, a note in the**
9 **General Notes that states NOT to use a scale for**
10 **dimensions."**
11 Q Okay, what's your understanding of what
12 she's communicating to you here?
13 A **I believe that relates back to our**
14 **earlier discussion, which is that the Site 3**
15 **didn't have any specific survey data referenced**
16 **for it. So how it would superimpose onto this**
17 **figure was unclear to us.**
18 Q Did you ever get further clarification
19 about that?
20 A **No.**
21 Q Did you ever reach out to Atwell to try
22 to attempt to understand how they went about
23 putting this plat of survey together?
24 A **No.**

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1 Q Did you ever ask AECOM about how this
2 plat of survey was put together?
3 A **I may have. I don't recall specifically.**
4 Q Would you -- who would you have spoken
5 with at AECOM if you were going to ask about this
6 plat of survey?
7 A **Likely, Mr. Ebihara -- Dr. Ebihara,**
8 **(phonetic).**
9 Q Is it your testimony then that you don't
10 have any recollection sitting here today of ever
11 having spoken to Dr. Ebihara about the plat of
12 survey?
13 A **My recollection is that they had provided**
14 **us the Atwell plat of survey, since it had been**
15 **done at their direction; and so I'm sure there**
16 **was some discussion. The specifics of that I**
17 **just don't recall at this point.**
18 Q After the bullet points there is
19 paragraph that reads: "This is a link to the
20 documents that I collected that I used for
21 review"; and then it lists -- there's a link to
22 what I assume is the location on Weaver's
23 network, is that correct?
24 A **That's a file path, correct.**

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1 Q File path, that's right.
2 Do you know if this sub-folder review
3 of rebuttal reports is that still on the Weaver's
4 internet at this point?
5 A **It likely is, and I believe it contains**
6 **documents that were just assembled from other**
7 **locations in the project file just to put them in**
8 **a location for conciseness.**
9 Q Okay. Do you know what documents he had
10 collected and that she used for review?
11 A **I can't say specifically.**
12 Q Do you know do you have any idea of what
13 documents she reviewed besides, obviously, the --
14 obviously she reviewed Mr. Gobelman's report; and
15 there's no question about that. Do you have a
16 sense of any knowledge about what other documents
17 she may have reviewed?
18 A **Not specifically.**
19 Q Do you have a general idea about what she
20 reviewed?
21 A **I don't want to speculate as to the**
22 **specific documents in this sub-folder. Several**
23 **of them are referenced in the e-mail above. So**
24 **I'm assuming it includes some of those documents.**

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1 Q While it's possible, perhaps even likely
2 that all of these documents have been produced to
3 us, I would like to make sure that after this
4 deposition is over that Mr. Dorgan or somebody
5 else at Weaver goes back and makes sure that all
6 of the documents that are in this sub-folder have
7 been produced to us.
8 MS. BRICE: Okay.
9 MR. MCGINLEY: Thank you.
10 What are we up to now?
11 THE COURT REPORTER: 12.
12 (document marked as requested)
13 MR. MCGINLEY: Q This is an e-mail dated
14 October 19, 2018, Dorgan 1006. It's an e-mail,
15 e-mail thread, the top one being from you,
16 Mr. Dorgan, to Miss Brice, saying -- regarding a
17 draft; and it asks -- Well, Miss Brice initially
18 asks if you can set up a time to talk on Monday;
19 and you, in turn, say "Sure, do you have time for
20 a five-minute discussion today?" Couple
21 questions: First of all, do you know if you ever
22 ended up speaking, having that quick five-minute
23 discussion with Miss Dorgan -- with Miss Brice?
24 It's all gone to -- it's to Briceman --

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1 MS. BRICE: It' going to be Brice-Dorgan by
2 the time we're done.
3 MR. MCGINLEY: No, he's still separate.
4 THE WITNESS: A I don't recall
5 specifically.
6 MR. MCGINLEY: Q Okay. Would you have,
7 once talking the following Monday would you have
8 been speaking about the draft, I assume?
9 **A More than likely.**
10 Q Okay. What would you have wanted to have
11 spoken with Miss Brice about the draft; do you
12 recall?
13 **A I don't recall.**
14 Q This is shortly before, October the 19th
15 is shortly before you actually released the
16 drafts -- I mean your final report, correct?
17 **A Yes, that's correct.**
18 Q That was October the 25th, right?
19 **A Correct.**
20 Q But as you sit here today you don't have
21 any recollection about what it was that you
22 wanted to talk to her about?
23 **A No.**
24 Q Okay. Exhibit 13, October 25, 2018,

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1 Expert Rebuttal Report.
2 (document marked as requested)
3 MR. MCGINLEY: Q I assume that you're
4 familiar with this?
5 THE WITNESS: A I am.
6 Q You are. I'd like to ask you a few
7 questions about this. First of all, if I could
8 ask you about Section 2.1. Generally, you're
9 asserting that the Gobelman report relies on
10 inaccurate, inconsistent, and unreliable
11 methodology, correct?
12 **A Correct.**
13 Q I wanted to ask you about the -- if you
14 look at the second paragraph, the last two
15 sentences of that paragraph, they read "Our
16 opinions, however, diverge on how the
17 implementation costs are "attributed" to IDOT.
18 My approach is more reasonable and accurate." Do
19 you see that, sir?
20 **A I do.**
21 Q Okay. Isn't it a fair reading of that
22 statement that "my approach is more reasonable
23 and accurate" to say that in some respect
24 Mr. Gobelman's approach had some degree of

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1 reasonableness to it? You're not saying it's
2 completely unreasonable, right; you didn't say
3 it's unreasonable?
4 **A That's correct.**
5 Q Okay. So isn't -- is it then by
6 implication an acknowledgement that there's some
7 degree of reasonableness to the opinion that's
8 being put forth by Mr. Gobelman with respect to
9 attribution of costs?
10 MS. BRICE: Object to the form of the
11 question.
12 THE WITNESS: A Can you restate the
13 question?
14 MR. MCGINLEY: Q The language that you're
15 using here is to say "my approach is more
16 reasonable and accurate", correct?
17 **A Correct.**
18 Q You're not saying Mr. Gobelman's approach
19 is unreasonable, right; that's not what's written
20 here?
21 **A I don't write that there, correct.**
22 Q Okay. So by saying it's -- your approach
23 is more reasonable aren't you, therefore,
24 acknowledging, at least implicitly, that to some

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1 extent Mr. Gobelman's approach is reasonable,
2 less reasonable than yours, however?
3 **A That is an inference that could be made,
4 yes.**
5 Q Okay. And isn't it also then possible to
6 state that to some extent Mister -- according to
7 your opinion -- Mr. Gobelman's opinion is at
8 least somewhat accurate?
9 MS. BRICE: Objection, misstates the record.
10 He's talking about the approach specifically on
11 methodology, not the entire report.
12 MR. MCGINLEY: Q Isn't it fair to say that
13 Mr. Gobelman's approach is, at least with respect
14 to implementation of costs attributed to IDOT, is
15 at least to some degree accurate?
16 THE WITNESS: A That inference could be
17 made, yes.
18 Q Okay. The crux of your opinion, both
19 here and in your April 30th report, is that
20 Mr. Gobelman's opinions are based upon a flawed
21 base map, isn't that right?
22 **A At least partially, yes.**
23 Q Okay, to what extent is your -- how
24 significant, in your view, is this notion of the

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1 flawed base map as being a problem with
2 Mr. Gobelman's opinions?
3 **A I believe it's significant.**
4 Q Okay, and when you say "significant" are
5 you saying -- is it the most significant factor
6 in terms of what you view as being the problems
7 with Mr. Gobelman's opinions?
8 **A It's one of the more significant factors,**
9 **not the only one.**
10 Q Okay, what are the other ones?
11 **A As I've stated in my report, in addition**
12 **to working off of the base map and making**
13 **interpretations based upon a base map that I**
14 **don't think was accurate, he also limited the**
15 **scope of the cleanup very narrowly in his**
16 **interpretation of the Pollution Control Board**
17 **ruling; and, also, as I've noted in my report,**
18 **failed to consider how certain activities that**
19 **took place were being driven by the conditions**
20 **that were identified within the IDOT area of**
21 **responsibilities. So there were over two**
22 **examples of other ways -- other issues with**
23 **Mr. Gobelman's methodology that I questioned.**
24 Q If you had to rate them though in order

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1 of significance it seems to me, based on a
2 reading of your report, that the flawed, what
3 you've characterize as a flawed base map is
4 perhaps the preeminent issue that you take with
5 Mr. Gobelman's opinions?
6 **A I wouldn't characterize it that way. I**
7 **believe all of them have importance to the**
8 **overall evaluation.**
9 Q But if you were pressed upon to having to
10 weigh them in terms of relative significance,
11 where would you put the base map?
12 MS. BRICE: Objection, asked and answered.
13 THE WITNESS: A I would rate them as being
14 equally important.
15 MR. MCGINLEY: Q And you'd say that they're
16 equally --
17 MS. BRICE: Can we take a break just to go to
18 the bathroom?
19 MR. MCGINLEY: Oh, yeah, I'm sorry,
20 absolutely.
21 (WHEREUPON, a short break was held)
22 MR. MCGINLEY: Okay, back on the record.
23 **Q I would like to ask you a question about**
24 **the last paragraph of page 2 of your report, this**

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1 being again Exhibit 13. The last sentence says
2 "As presented in figure 2 of the Dorgan expert
3 report, visual ACM was found predominantly in the
4 IDOT Areas of Liability and the record suggests
5 that the visual ACM drove the work mandated by
6 the Enforcement Action Memorandum, (EAM) and the
7 work ultimately performed." What part of the
8 records suggest this?
9 **A Well, I think when you review the**
10 **Enforcement Action Memorandum itself that laid**
11 **out the original basis of the work that**
12 **ultimately was represented in the remedial action**
13 **work plan you could see that the record was**
14 **pointing towards the occurrence of visual ACM as**
15 **being one of the primary drivers that led all of**
16 **the subsequent effort that took place.**
17 Q Okay, but your use of the term "suggests"
18 in its own way suggests that that's not really
19 definitively stated in the enforcement action
20 then, right?
21 **A Correct.**
22 Q Because if it had been explicitly stated
23 in the Enforcement Action Memorandum, I assume
24 you would have said this is explicitly the driver

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1 that USEPA is concerned about, right?
2 **A Correct.**
3 Q I'd like to ask you some questions about
4 section 2.2 of the report. Here you're saying
5 "the Base Map (Figure 1) of the Gobelman report
6 inaccurately represents the boundaries and
7 features of Site 3". You state that among your
8 issues with Mr. Gobelman's methodology, his use
9 of the fence around Site 3, that's one of your
10 problems with the accuracy of Mr. Gobelman's
11 report, right?
12 **A Yes.**
13 Q Okay. It says "this methodology is not
14 reasonably relied upon by experts in the field".
15 What do you mean by that statement, sir?
16 **A That the location of a fence by itself is**
17 **not typically relied on as an accurate**
18 **representation of site boundaries.**
19 Q Okay. And when you say "experts in the
20 field" what are we talking about with respect to
21 "the field"; I mean what experts; what's the
22 field of expertise here?
23 **A I would say I was generally referring to**
24 **experts that have been involved in contaminated**

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1 **property remediation cleanup planning, cleanup**
2 **oversight.**
3 Q Okay. Are fences a physical boundary
4 ever used by experts to delineate a site or
5 portion of a site?
6 **A They can be if it's known that the fence**
7 **actually sits on a boundary.**
8 Q Okay. So, in those instances, the use of
9 a fence would not be improper in your mind, is
10 that right?
11 **A I would not be using the fence to**
12 **demonstrate a boundary. I'd be using the**
13 **underlying actual boundary. If it so happens**
14 **that the fence lines up with the boundary then**
15 **acknowledging that is reasonable, yes.**
16 Q The next statement, the next sentence
17 rather says "it is also inconsistent" -- "it"
18 being how Mr. Gobelman has laid out his figures
19 -- it's also inconsistent with the figures
20 approved by USEPA and used by the Board in ruling
21 on the issues from the first phase of the case
22 after hearing. What figures have been approved
23 by USEPA, sir, what are you referring to here
24 specifically?

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1 **A I'm referring to the figures that were**
2 **included in all of the documentation that had**
3 **been submitted to them as part of this project,**
4 **including the remedial action work plan and then**
5 **subsequently the completion document that was**
6 **prepared by AECOM.**
7 Q Did USEPA ever specifically say we
8 approve this figure in this submission?
9 **A No.**
10 Q Okay, you're not aware -- there's been no
11 statement like that that's been issued by USEPA
12 with respect to any specific figure in any of
13 these submissions on behalf of Johns Manville,
14 correct?
15 MS. BRICE: Objection, calls for speculation.
16 THE WITNESS: A Not that I'm specifically
17 aware of.
18 MR. MCGINLEY: Q Couldn't we also --
19 wouldn't it also been fair to say that figures
20 that have been approved by USEPA are the figures
21 that have been included in the administrative
22 order on consent or the enforcement action
23 memorandum, since that's actually one of the
24 actual drivers in the remediation?

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1 **A They would have been relied upon by USEPA**
2 **at the time, but as the project evolved there**
3 **were modifications made to a number of the**
4 **figures up to the point that the remedial action**
5 **work plan was submitted and then the completion**
6 **report was submitted.**
7 Q But it's fair to say that, at least for a
8 substantial portion of time, USEPA -- and, as a
9 matter of fact, the only official USEPA documents
10 that have been issued concerning the site, the
11 work that's to be done at this site by Johns
12 Manville, the only official documents issued by
13 USEPA have different maps included, right?
14 They're not the maps that you're referring to,
15 isn't that right?
16 **A There are earlier versions of mapping**
17 **that was used at some of the earlier submittals,**
18 **yes.**
19 Q Okay. And the last official document
20 that I'm aware of -- I mean I know there's other
21 correspondence that's taken place since November
22 of 2012 when the enforcement action memorandum
23 was issued -- but the last time that USEPA
24 actually included a map in something that they've

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1 issued was in 2012 with the enforcement action
2 memorandum, correct?
3 MS. BRICE: Objection, lack of foundation,
4 calls for speculation.
5 MR. MCGINLEY: Q Are you aware -- you're
6 aware of the enforcement action memorandum,
7 correct?
8 THE WITNESS: A Yes.
9 Q Are you aware that there's a map included
10 in the enforcement action memorandum?
11 **A Yes.**
12 Q Okay. And that map is the Levine Frick
13 (phonetic) map that was also included in the
14 administrative order on consent, correct?
15 **A I don't recall the specific figure, but I**
16 **am aware that there's a figure in the enforcement**
17 **memorandum.**
18 Q Are you aware of any documents since the
19 EAM was issued by USEPA in November of 2012 that
20 has attached a different map, a more recent map
21 than the Levine Frick map?
22 **A Not other than the remedial action work**
23 **plan and completion report mapping.**
24 Q Okay, but that wasn't something that

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1 USEPA -- was attached to something from USEPA,
2 right?
3 **A It wasn't from USEPA, but it was approved**
4 **by USEPA.**
5 Q Well, the remedial action work plan was
6 approved, yes. But it's your testimony, I take
7 it, that by implication the approval of the
8 remedial action work plan necessarily involves
9 the approval of the underlying figures, is that
10 right?
11 **A That's correct.**
12 Q You also state in that sentence that the
13 Board has relied on this map. Which map are we
14 talking about actually? You're saying the map
15 used by the Board in ruling on issues from the
16 first phase of the case after hearing.
17 **A Yeah, there had been a series of figures**
18 **included in earlier reports that were submitted**
19 **as part of this matter and in figures that were**
20 **used as demonstrative at the hearing that then**
21 **became the basis of how the Board ruled in their**
22 **ultimate findings.**
23 Q You're saying that by implication though,
24 right, because there's no -- you're familiar with

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1 the Board's December 2016 order, right?
2 **A Yes.**
3 Q Is there a map attached to that order?
4 **A No.**
5 Q Okay.
6 **A Not that I recall.**
7 Q Not that you recall.
8 I can show you a copy if you'd like to
9 refresh your recollection.
10 **A Of the order?**
11 Q Yes.
12 **A If you think that would be helpful, I'd**
13 **be happy to look at it.**
14 Q Okay. It's the only copy I've got. If
15 you can mark it though as an exhibit, please.
16 (document marked as requested)
17 MR. MCGINLEY: Q So my question to you
18 about Exhibit 14, the Board's --
19 MS. BRICE: I don't have a copy.
20 MR. MCGINLEY: Well, it's the only copy I
21 have.
22 MS. BRICE: Oh, okay, that's all right.
23 MR. MCGINLEY: I figured at this point we've
24 all read this enough times.

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1 MS. BRICE: It's fine, don't worry about it.
2 MR. MCGINLEY: Q There's no map included in
3 that order, correct?
4 THE WITNESS: A That's correct.
5 Q You've had a chance to review it; and you
6 ascertained that that's the case, right?
7 **A I have.**
8 Q Okay. The issues that were before the
9 Board that led to -- that are reflected in the
10 order that's in front of you, Exhibit 14, was
11 there any mention about site boundaries, anything
12 like that, about trying to define site boundaries
13 -- what's in, what's out, so to speak?
14 **A Not that I recall.**
15 Q In fact, the two reports that you drafted
16 and were submitted as evidence into the hearing
17 back in 2016, neither those reports it's fair to
18 say has any mention about site boundary issues
19 such as what we're discussing here today,
20 correct?
21 **A I believe that's correct, yes.**
22 Q Because the focus of what you were doing
23 back in 2016, 2015 with your expert reports was
24 to establish a case for liability, for IDOT's

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1 liability with respect to Site 3 and Site 6,
2 right?
3 MS. BRICE: Objection to the extent it
4 mischaracterizes the documents in the record.
5 MR. MCGINLEY: Q We can go through the
6 reports, if you'd like to; but I think it seems
7 to me it's a fairly clear proposition, right?
8 THE WITNESS: A I believe that statement,
9 generally, represents the focus of those
10 documents.
11 Q You said "generally". Is there any -- do
12 you have any doubt? I mean because, if you'd
13 like, I can provide you with copies of the
14 report, you can look through them right now and
15 satisfy whatever perhaps doubts you may have
16 about that question.
17 **A My answer is predicated on the fact that**
18 **there may have been other topics that were**
19 **addressed beyond just those that you've mentioned**
20 **that I was specifically answering to. So that is**
21 **the limitation on characterizing it as generally.**
22 Q Okay. But, again, the driver of what you
23 were doing was to, basically, establish a case
24 for IDOT's liability with respect to claims that

<p style="text-align: right;">Page 94</p> <p>1 Johns Manville was making against IDOT, isn't 2 that a fair statement? 3 A I think that's a fair statement. 4 Q Okay. So then to say that the map that 5 was approved by the Board during the hearing, to 6 the extent that there was any approval, first of 7 all, it would be implicit, right? There's no 8 explicit mention in the Board's order of having 9 approved any particular figure as being 10 representative of the site, right? 11 MS. BRICE: Objection, calls for a legal 12 conclusion. He is not a lawyer and he doesn't 13 understand how all the evidence works and how the 14 Board takes that evidence into consideration. 15 MR. MCGINLEY: Q Let me ask you this: 16 You've read the opinion I'm sure, right? 17 THE WITNESS: A Some time ago, yes. 18 Q Okay. Do you recall any mention about 19 site boundaries, any discussion about maps and 20 how those maps set forth site boundaries? 21 MS. BRICE: Objection, best evidence rule. 22 THE WITNESS: A I don't recall specific 23 discussion of site boundary issues. Certainly 24 both sides are referenced and specific boring</p>	<p style="text-align: right;">Page 96</p> <p>1 you're able to say that the map was used by the 2 Board in ruling on the issues from the first 3 phase of the case after hearing? I mean that's 4 -- those were your words. So, clearly, you've 5 arrived at some conclusion about what the Board 6 did, what they relied on, what they looked like; 7 and, apparently, you're suggesting that this map, 8 the AECOM map I presume, has somehow been 9 accepted by the Board. Isn't that a fair reading 10 of what's in the report, your report, your words? 11 MS. BRICE: Objection, calls for a legal 12 conclusion. Plus, he already testified that the 13 Board talked about boring locations and other 14 things that are in those maps. 15 MR. MCGINLEY: I'm asking him about the very 16 language that he's using in his report. 17 MS. BRICE: Right, but the Board -- I mean 18 the Board talked about that stuff, they talk 19 about boring locations exactly and parcel 0393. 20 MR. MCGINLEY: Q It says -- and I'll read 21 it one more time -- "it is also inconsistent with 22 figures approved and used by the Board in ruling 23 on the issues from the first phase of the case 24 after hearing".</p>
<p style="text-align: right;">Page 95</p> <p>1 locations and test pit locations on the two sites 2 are referenced, but I don't recall there being 3 any specific dialog concerning the accuracy or 4 representativeness of the individual boundaries. 5 MR. MCGINLEY: Q And would you have any 6 reason to disagree with the statement that the 7 Board never actually specifically explicitly 8 approved any particular figure in the course of 9 their December 2016 opinion? 10 MS. BRICE: Objection, it calls for a legal 11 conclusion and calls for speculation. 12 MR. MCGINLEY: Well, he could read through 13 the order, we could -- 14 MS. BRICE: You want to spend your remaining 15 hour doing that, that's fine; but it might be 16 better use of our time -- 17 MR. MCGINLEY: Q The fact of the matter is 18 there's no explicit statement about -- the Board 19 never approved any particular figure or any map 20 in their opinion? 21 MS. BRICE: Objection, best evidence rule as 22 to what is in the opinion itself. He just 23 testified he hasn't read it in a very long time. 24 MR. MCGINLEY: Q But then how is it that</p>	<p style="text-align: right;">Page 97</p> <p>1 MS. BRICE: Same objection. 2 MR. MCGINLEY: Q What's your basis for that 3 statement, sir? Are you aware of any actual 4 specific approval by the Board of any figures? 5 MS. BRICE: Objection, he's not a lawyer and 6 doesn't know how evidence works in a hearing. 7 MR. MCGINLEY: They're his words here. 8 Q You're making this -- you're making the 9 assertion that certain figures have been approved 10 by the Board. I'm asking you where you find 11 that, how that is the case, what you make that 12 statement based upon? 13 THE WITNESS: A Well, I would point out 14 that my statement there references approval by 15 USEPA but qualifies it as having been used by the 16 Board. I'm not aware of any substantial boundary 17 disputes that existed at the time of the hearing, 18 the original hearing. There had been a series of 19 figures that had been prepared that represented 20 the boundary conditions for both Site 6 and Site 21 3 and the location of various features from the 22 site and boring locations and test pit locations; 23 and I'm not aware of any finding by the Board 24 that there was any issue with the accuracy of the</p>

<p style="text-align: right;">Page 98</p> <p>1 information presented on those figures and that 2 when they came down with their ruling they're 3 specifically referencing information that was on 4 the figures that had been presented during the 5 hearing. 6 MR. MCGINLEY: Q But you're making that 7 statement based upon implication, aren't you, 8 right? That's a deduction on your part, isn't 9 that correct? 10 THE WITNESS: A Yes. 11 Q Okay. You have no specific knowledge 12 that they've ever said we accept this figure as 13 being accurate, correct? 14 MS. BRICE: Same objection. He's not a 15 lawyer. 16 MR. MCGINLEY: Q Let me ask you about are 17 you aware of any effort by Johns Manville to 18 attempt to clarify what figures the Board relied 19 on in its December 2016 ruling? 20 THE WITNESS: A No. 21 Q Has there ever been any discussions about 22 trying to clarify what figures were relied on in 23 their December 2016 ruling? 24 A Not involving me.</p>	<p style="text-align: right;">Page 100</p> <p>1 recognized as reasonably reliable by those in my 2 field". Do you see that, sir? 3 A I do. 4 Q Okay. And your methodology here, again, 5 is it refers to what, what do you mean by 6 "defensive methodology" -- or I should say 7 "technical and defensible methodology"? 8 A I took data that had been presented on 9 figures that were already in the record and 10 superimposed them onto one figure to provide a 11 comparison. 12 Q The AECOM CAD file, that file, how 13 accurate do you believe that to be? 14 A I believe it's accurate. 15 Q Have you done any independent assessment 16 of its accuracy? 17 A No. 18 Q Did you ask Miss Dunton to ever undertake 19 any assessment of its accuracy? 20 A No. 21 Q Did you -- you, essentially, then have 22 accepted it as given without any further 23 investigation into its accuracy, is that a fair 24 statement?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q Have you ever had any discussions 2 internally with anybody at Weaver about having to 3 -- about wanting to clarify those boundaries? 4 MS. BRICE: Object to the form of the 5 question. 6 MR. MCGINLEY: Q About the figures, about 7 seeking potential -- of possibly seeking 8 clarification of what figures the Board was 9 using? 10 THE WITNESS: A No. 11 Q I'd like to direct your attention to page 12 5 of your report, please. This would be -- I can 13 direct your attention towards the bottom, it's 14 the paragraph saying "I used the above referenced 15 four figures" -- Do you understand what I'm 16 referring to? 17 A Yes. 18 Q Okay, the second sentence to that, well, 19 it says "I used the above referenced four figures 20 to demonstrate the differences between the 21 boundaries depicted in my Dorgan expert report 22 and in the Gobelman report. My approach is more 23 technical and defensible methodology for 24 assessing the boundary of Site 3 and one that is</p>	<p style="text-align: right;">Page 101</p> <p>1 A Yes. 2 Q Is it possible then that that data file, 3 that CAD file, is less than 100% accurate? 4 A Is it possible, yes. 5 Q Okay. And you wouldn't know whether or 6 not it's accurate or whether it's possible that 7 it's less than 100% accurate because you've 8 undertaken no sort of deeper dive into that file, 9 right? 10 A That's correct. 11 Q Just took it exactly as given? 12 A Yes. 13 Q Okay. Let's turn your attention to 14 Section 2.3 of your report, page 7. You make the 15 statement -- this is the second paragraph, second 16 -- I'm sorry -- third sentence -- 17 A Sorry, second paragraph, third -- 18 Q Second paragraph, third sentence, yes. 19 It says "the record reflects that USEPA 20 considered every soil boring/test pit to 21 represent a 50-by-50-foot grid of contamination 22 that needed to be remediated." There's no 23 citation here in your report to what specifically 24 in the record you're basing that assertion on, is</p>

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1 there?
2 **A No.**
3 Q Okay. As you sit here today can you tell
4 me what -- what portion of the record you believe
5 supports this statement in your report?
6 **A I don't recall specifically, but I**
7 **believe it was in some of the communications that**
8 **occurred back and forth between Johns Manville**
9 **and EPA after they had issued their enforcement**
10 **action memorandum.**
11 Q Anything else that you're relying on when
12 you make that statement in your report?
13 **A No, I believe that's it.**
14 Q I have to direct your attention to page
15 8, please. I'd like to just have you read that
16 last sentence of the carry-over paragraph from
17 the preceding page. This is just -- the one
18 that's just above Section 2.4 and starts "I
19 therefore disagree".
20 **A "I, therefore, disagree with**
21 **Mr. Gobelman's method of treating IDOT's**
22 **liability so narrowly, as it is not consistent**
23 **with USEPA's required scope of work or with how**
24 **experts in the field view what is represented by**

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1 **contamination found in a single boring."**
2 Q How is -- in what way is Mr. Gobelman's
3 method of treating IDOT's liability inconsistent
4 with USEPA's required scope of work?
5 **A What I'm referring to here is his**
6 **practice of narrowly identifying an area on the**
7 **figures that were related to specific borings**
8 **referenced in the IPCB order, rather than**
9 **acknowledging that the borings were**
10 **representative of a larger area and that that**
11 **larger area was required to be cleaned up based**
12 **upon the findings in the boring.**
13 Q Okay, but how is that, how is
14 Mr. Gobelman's treatment of liability
15 inconsistent with USEPA's required scope of work?
16 MS. BRICE: Objection, asked and answered.
17 THE WITNESS: A Again, he limited the area
18 of IDOT liability based upon the location of the
19 boring, not based upon the area that that boring
20 represented.
21 MR. MCGINLEY: Q Okay --
22 **A Which is what USEPA did.**
23 Q The last part of that sentence "how
24 experts in the field view what is represented by

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1 contamination found in a single boring", can you
2 elaborate on that, please.
3 **A Yeah. So the boring, a single boring is**
4 **a sample of a larger area and not a specific**
5 **representation of the isolated location of the**
6 **boring itself.**
7 Q Okay. Okay.
8 (document marked as requested)
9 MR. MCGINLEY: Q I've handed you a
10 document, this is an e-mail, and I'm specifically
11 talking here about Dorgan 1008, e-mail thread
12 between you and Miss Brice; and I'd like to
13 direct your attention to the second e-mail on the
14 page, Saturday, January 19, 2019 at 9:04 a.m.;
15 and it says "Ironic timing. No hearing in
16 February. They are allowed the supplemental
17 report" --
18 MS. BRICE: I don't have that document.
19 MR. MCGINLEY: You don't have it? What do
20 you have? I'm sorry is that -- Oh, hold on a
21 second here. Oh, that's because I wanted to give
22 you this. Sorry. It's an occupational hazard.
23 Here we go, this is --
24 MS. BRICE: So just make that 16, make that

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1 16.
2 MR. MCGINLEY: Yeah, we'll make that 16.
3 We'll hold off on --
4 (document marked as requested)
5 MR. MCGINLEY: My apologies for the
6 confusion.
7 Q The e-mail from Miss Brice to yourself,
8 Saturday, January 19, 9:04 a.m. states, "Ironic
9 timing. No hearing in February. They are
10 allowing the supplemental report, which means I
11 do another dep and you do a non-detailed reply."
12 Do you have an understanding of what's meant by,
13 counsel meant by "non-detailed reply"?
14 THE WITNESS: A Not specifically at the
15 time this was written.
16 Q Did you subsequently have -- I mean an
17 understanding of about what kind of reply you
18 were supposed to put forth at this point?
19 **A I just think it's referring to how I was**
20 **going to eventually need to reply to the**
21 **supplemental report that Mr. Gobelman prepared.**
22 Q Did you ask -- ever have occasion to ask
23 counsel about why they wanted a non-detailed
24 reply?

<p style="text-align: right;">Page 106</p> <p>1 A I don't recall.</p> <p>2 Q Fair to say that your prior reports in</p> <p>3 this matter have been detailed, wouldn't you</p> <p>4 agree with that statement?</p> <p>5 A Yes.</p> <p>6 Q Okay, so did you find it at all unusual</p> <p>7 that you were now being tasked to do something</p> <p>8 that was, in some respects, significantly</p> <p>9 different than what you'd done previously?</p> <p>10 A I don't exactly know how that was</p> <p>11 characterizing the overall scope of the response</p> <p>12 effort. So I would be speculating.</p> <p>13 Q What discussions did you have with</p> <p>14 counsel about the nature and scope of the work</p> <p>15 that you should do with respect to what</p> <p>16 culminated in your April 30th, 2019 report?</p> <p>17 A Initially I found it a little unusual</p> <p>18 that there'd be a supplement to the rebuttal</p> <p>19 report; and so then I was tasked with responding</p> <p>20 to Mr. Gobelman's supplemental report; and, of</p> <p>21 course, the issues seemed to become more narrow</p> <p>22 as we advanced, and so I was specifically</p> <p>23 responding to the new issues raised in</p> <p>24 Mr. Gobelman's supplement.</p>	<p style="text-align: right;">Page 108</p> <p>1 you wanted to have a some sort of detailed</p> <p>2 conversation with Miss Dunton, is that a fair</p> <p>3 read of that statement on my part?</p> <p>4 A Yes.</p> <p>5 Q Okay. What -- were there any specific</p> <p>6 issues that you were interested in discussing</p> <p>7 with her at that point?</p> <p>8 A Well, ultimately, we produced the figure</p> <p>9 that was included in my document that compared</p> <p>10 differences between various sources of</p> <p>11 information, including the changes that</p> <p>12 Mr. Gobelman had made to his figure between his</p> <p>13 initial rebuttal report and his supplemental</p> <p>14 report; and this was a conversation to discuss</p> <p>15 how we were going to show that on the figures and</p> <p>16 what, ultimately, I was going to need to have as</p> <p>17 a figure, at least at that point in the process,</p> <p>18 to support the supplemental report that I was</p> <p>19 going to be working on.</p> <p>20 Q Okay, when it says "would like to discuss</p> <p>21 support for the figures", at the point that you</p> <p>22 sent this e-mail were there a set of figures that</p> <p>23 existed already; or I mean can you elaborate on</p> <p>24 that?</p>
<p style="text-align: right;">Page 107</p> <p>1 Q Did you ever have any discussions though</p> <p>2 about the specific parameters about, besides the</p> <p>3 unusual nature of the assignment, did you have</p> <p>4 any specific discussions with counsel about the</p> <p>5 parameters of what your work product should be</p> <p>6 with respect to responding to Mr. Gobelman's</p> <p>7 unusual report?</p> <p>8 A Not that I specifically recall.</p> <p>9 Q So this I guess would be 17 now.</p> <p>10 (document marked as requested)</p> <p>11 MR. MCGINLEY: Q Mr. Dorgan, I've -- you've</p> <p>12 just been handed Exhibit 17. This is Dorgan 1058</p> <p>13 through 59; and it's an e-mail thread between you</p> <p>14 and Miss Dunton that starts on April the 8th and</p> <p>15 ends on April the 8th. I'd actually like to</p> <p>16 direct your attention to the e-mail that's on the</p> <p>17 second page on -- I'm sorry -- 1059; and this is</p> <p>18 an e-mail April on the 8th at 8:36 a.m. in which</p> <p>19 you write, "I'd like to set aside an hour to do a</p> <p>20 deep dive on issues related to our ongoing</p> <p>21 project. I have to produce a new document by the</p> <p>22 end of the month. Would like to discuss support</p> <p>23 for figures." A few questions about this: When</p> <p>24 you say "a deep dive on the issues", I take it</p>	<p style="text-align: right;">Page 109</p> <p>1 A I believe that was a reference to the</p> <p>2 figures that we would produce as part of the</p> <p>3 supplemental report.</p> <p>4 Q Okay. Did you end up having this, having</p> <p>5 a meeting with Miss Dunton?</p> <p>6 A I believe so, yes.</p> <p>7 Q Okay. And when did that take place, as</p> <p>8 best you know?</p> <p>9 A I think later on we have some dialogue</p> <p>10 about when we can get together. It was somewhere</p> <p>11 around that Monday, the 8th. Actually, it</p> <p>12 suggests that we end up doing it on Tuesday, the</p> <p>13 9th.</p> <p>14 Q Do you recall where you actually met, was</p> <p>15 it at her work station, your office, conference</p> <p>16 room?</p> <p>17 A I don't recall specifically.</p> <p>18 Q Do you -- While you were discussing</p> <p>19 issues on the project what -- any particular ones</p> <p>20 that rang out to you that you focused on</p> <p>21 specifically with Miss Dunton?</p> <p>22 A Well, Mr. Gobelman's report came in with</p> <p>23 modifications to his base mapping. So the bulk</p> <p>24 of our conversation had to do with how we</p>

<p style="text-align: right;">Page 110</p> <p>1 represent those changes, superimposed with other 2 sources, so there would be a clear visual to 3 allow an understanding of how those changes took 4 place and what the changes were and their 5 relevance. 6 Q Okay, thank you. 7 Okay, would you mark this, please. 8 (document marked as requested) 9 Q Mr. Dorgan, Exhibit 18 that I've 10 presented to you is an e-mail with an attachment, 11 a two-page document, Dorgan 1077 and it goes 12 through 1079. The second -- 1078 is a blank 13 page. Let me ask you this: It's dated April 10 14 from Miss Dunton to yourself. It says, "please 15 find the attached property layout illustrating 16 the boundaries of AECOM/WCG lines, borings, and 17 features that have been established by AECOM". I 18 -- would I be correct in reading this to mean 19 that the reference to boundaries of AECOM lines 20 and features that have been established by AECOM 21 is that coming out of this AECOM CAD file that we 22 were talking about earlier? 23 A That's correct. 24 Q Okay. Were all the boundaries, borings,</p>	<p style="text-align: right;">Page 112</p> <p>1 Q Okay. And I take it that 1080, which is 2 the last page of Exhibit 17 -- 18, rather, is 3 also a preliminary figure done by Miss Dunton? 4 A Yes. And I actually believe that's just 5 an enlarged area, enlargement of the area to the 6 eastern site of Site 3. 7 Q Okay. 8 A Same document, just an enlarged look at 9 it. 10 Q Okay. Do you recall having -- when you 11 saw these did you ask her to make any changes to 12 them? 13 A There may have been some. I don't recall 14 the specific ones. 15 Q But you would have reviewed these, right, 16 these preliminary figures -- 17 A Yes. 18 Q -- 1079 and 1080? 19 A Yes. 20 Q But you don't recall whether you asked 21 her to make any changes? 22 MS. BRICE: Asked and answered. 23 THE WITNESS: A That's correct. 24 MR. MCGINLEY: Okay, I'll go to 1081. So</p>
<p style="text-align: right;">Page 111</p> <p>1 and other features those had all been established 2 by AECOM, correct? 3 A Well, no, because some of the borings 4 were off of Mr. Gobelman's representation from 5 his figure. That was the purpose of the exhibit 6 was to create those comparisons. So the ones 7 that are specifically referenced as AECOM-Weaver 8 borings, which I believe are ultimately in the 9 key, I'm not sure, that's not on this document 10 but was in the final document, reference which 11 ones are which. 12 Q Okay, 1079 is the last page of this 13 exhibit. Can you tell us what this is -- 14 MS. BRICE: 1079 or 80? 80 is the last page. 15 MR. MCGINLEY: Oh, I'm sorry. I'm looking at 16 1079. You're right, it goes to 1080. 17 Q 1079 is what exactly? 18 THE WITNESS: A It's a representation of 19 that comparison primarily showing Site 3 and the 20 different boundaries from the different source 21 documents that were used. 22 Q Okay. Is this a preliminary version of 23 what, ultimately, was created by Miss Dunton? 24 A I believe so.</p>	<p style="text-align: right;">Page 113</p> <p>1 this will be 19. 2 (document marked as requested) 3 MS. BRICE: Are these the ones taken out of 4 the report? Are these the ones attached to the 5 report? 6 MR. MCGINLEY: They were produced -- they're 7 separately -- 8 MS. BRICE: Oh, they were produced 9 separately? 10 MR. MCGINLEY: Yeah. 11 MS. BRICE: Okay. 12 MR. MCGINLEY: Q. Mr. Dorgan, I take it that 13 you have seen this document before, Exhibit 19, 14 is that right? 15 THE WITNESS: A Yes. 16 Q Okay, let me draw your attention down to 17 the lower right hand corner to the right of where 18 the Weaver Consultants' logo is; and if, like me, 19 you'll have to take off your glasses, it says 20 "drawn by RMD", which I take would be Riah 21 Dunton, correct? 22 A Correct. 23 Q And it says "reviewed by SB". Who's SB? 24 A I don't know.</p>

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1 Q Is that a reference to Miss Brice, by any
2 chance?

3 A I don't know.

4 Q Who would know, if you had to find out,
5 who would you go and ask?

6 A I'd probably have to ask Riah.

7 Q Okay, are you, generally speaking, you
8 typically review most of the figures that go out,
9 correct?

10 A Yes.

11 Q Okay -- some reason why you didn't review
12 this one?

13 A I don't know that I didn't review this
14 one. This looks like the, it looks like the same
15 figure we just looked at, just with the key and
16 the title block added to it, or perhaps the
17 previous version was clipped out of this.

18 Q Let's just take a quick time out here for
19 one second.

20 (WHEREUPON, a discussion was
21 held off the record)

22 MR. MCGINLEY: Back on the record.

23 Q Does counsel ever review figures before
24 they go final?

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1 THE WITNESS: A As part of a draft?

2 Q Yes.

3 A Yes.

4 Q But as you sit here today you're not
5 aware of anybody at Weaver with the initials SB,
6 is that your testimony?

7 A I'm sure there are, but I don't know who
8 the SB would be that would have reviewed this.

9 Q Typically, who is responsible -- I mean
10 is there some sort of protocol at Weaver for who
11 actually reviews the figures before they are
12 deemed final?

13 A Usually the person that request the
14 figure be prepared or the manager of the project.

15 Q Okay, and you're the manager of the
16 project, obviously?

17 A Yes.

18 Q Okay, that's going to be 20.
19 (document marked as requested)

20 MR. MCGINLEY: Q Mr. Dorgan, Exhibit 20 is
21 Dorgan 1085 through Dorgan 1088. Do you see
22 that?

23 THE WITNESS: A Yes.

24 Q Okay. There's a note that -- the e-mail

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1 initially on the first page, 1085 from
2 Miss Dunton to yourself, it says "Attached is the
3 updated figure of the water utility lines shown".
4 Do you know why she put the water line -- utility
5 lines on this map?

6 A I assume I asked her to.

7 Q If you look at 1087 and 1088 in the lower
8 right hand corner next to the Weaver logo, it
9 seems as if you are the person who reviewed this
10 figure, is that right?

11 A More than likely, yes.

12 Q Well, it says "reviewed by DD". So would
13 it be fair to assume "DD" is yourself?

14 A Yes.

15 Q Okay, which does seem to be the standard
16 protocol for reviewing these things, correct,
17 these figures, you as project manager listed as
18 reviewed by?

19 A It could be others; but on this project I
20 was often the one reviewing them, yes.

21 Q 21.
22 (document marked as requested)

23 MR. MCGINLEY: Q Mr. Dorgan, Exhibit 21
24 that's been presented to you, I know that you

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1 know what this document is, it's your April 30th,
2 2019 report, right?

3 THE WITNESS: A That's correct.

4 Q Okay. I just have a few questions to ask
5 you about this. Turning your attention, please,
6 to Section 1.2. Although -- Oh, you have a copy
7 that states -- Yeah, I don't. Okay, this would
8 be 1097, Dorgan 1097, page 2. It says
9 "information considered"; and under number two it
10 says "the deposition transcript and exhibits of
11 Mr. Gobelman taken on February 7, 2019". And
12 your testimony earlier was that you reviewed the
13 transcript, correct, of Mr. Gobelman's
14 deposition?

15 THE WITNESS: A I believe that that
16 question -- that answer was in response to a
17 question concerning preparation for this
18 deposition.

19 Q Yes -- Well, I'm talking about what's
20 here under "Information Considered".

21 A Yes, I reviewed Mr. Gobelman's deposition
22 as part of preparing this report.

23 Q Okay. And did you review all the
24 exhibits?

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1 **A The exhibits to?**
2 Q Mr. Gobelman's deposition.
3 **A No, not each one.**
4 Q So you only reviewed some of the
5 exhibits?
6 **A Correct.**
7 Q Do you recall which exhibits you actually
8 did review?
9 **A Not offhand.**
10 Q With respect to Number 3, the deposition
11 and transcript and exhibits of Mr. Nguyen,
12 N-G-U-Y-E-N, taken on March 20, 2019, you've
13 testified earlier that you -- it doesn't -- you
14 did a light read, shall we say, of Mr. Nguyen's
15 deposition, would that be a fair statement?
16 MS. BRICE: Objection, that question had to
17 do with preparation for the deposition.
18 THE WITNESS: A I did, I reviewed, I read
19 Mr. Nguyen's transcript and reviewed selective
20 exhibits as part of my preparation for this
21 document.
22 MR. MCGINLEY: Q Was there anything about
23 Mr. Gobelman's deposition testimony that struck
24 you in the course of reading it?

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1 **A I think I used select excerpts from that**
2 **deposition as references in this document.**
3 Q General overview or general impression
4 about what he said during his deposition?
5 **A I think there were, again,**
6 **inconsistencies in some instances relative to his**
7 **approach towards how we define the site**
8 **boundaries and identified the location of the**
9 **borings; and in select instances that's been**
10 **pointed out in this report.**
11 Q What about Mr. Nguyen's deposition, did
12 you -- was there anything significant that you
13 took from that with respect to your preparation
14 of this report, of April 30th?
15 **A Not specifically. It gave me insight**
16 **into the process that they had gone through in**
17 **preparing the documents, but I don't recall that**
18 **I used any of Mr. Nguyen's testimony specifically**
19 **in this document.**
20 Q Let me ask you this: From the sound of,
21 from what you said about how you work with
22 respect to Miss Dunton, you come to her and say I
23 have this project, I need to produce figures,
24 right -- I mean that's partly how you engage with

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1 her, is that right?
2 **A That's partly how the engagement works,**
3 **yes.**
4 Q Okay. And so you're giving her
5 parameters for a figure that you want to see
6 created; and she does that and comes back to you
7 and says this is what I've got, does this work
8 for you, something to that effect, is that a fair
9 way of characterizing things?
10 **A That's, generally, true.**
11 Q Okay. In reading the deposition
12 transcript of Mr. Nguyen, I mean would you say
13 that Mr. Nguyen follows a similar process with
14 respect to Mr. Gobelman?
15 **A I'd say generally.**
16 Q Okay. So, basically, is it your
17 testimony -- I mean CAD people are -- need
18 instruction or direction in order to produce
19 figures for supporting a project, is that a fair
20 summation of things?
21 **A Yes.**
22 Q In your opinion, at this point had there
23 been a definitive map of the site that's been
24 produced that shows the exact locations of all

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1 utilities that run through Site 3 and Site 6?
2 **A I believe the figures that were included**
3 **in my original expert report on damages include a**
4 **figure that accurately represents the utilities**
5 **and boring locations.**
6 Q And when you say "figure" in your report
7 are you referring to the initial report that you
8 did back in June of last year?
9 **A Yes.**
10 Q And why do you think that's an accurate
11 depiction of where the utility lines are?
12 **A It represents the aggregate information**
13 **that's been collected over the course of this**
14 **matter from various sources into one document**
15 **that allows for visible representation of the**
16 **location of those features.**
17 Q Same question for Site 3 and Site 6 in
18 the boring locations, is it, to your mind is it a
19 definitive map of where those boring locations
20 been produced at this point?
21 **A I believe so, yes.**
22 Q Is it possible that there are still
23 questions about where boring locations may
24 actually be though?

<p style="text-align: right;">Page 122</p> <p>1 A Not in my mind.</p> <p>2 Q You've never actually seen where the</p> <p>3 locations -- where the boring locations were, is</p> <p>4 that right?</p> <p>5 A That's correct.</p> <p>6 Q You've been out at the site and seen it</p> <p>7 how many times?</p> <p>8 A Once.</p> <p>9 Q Once, okay. And at the time that you</p> <p>10 toured the site there were no boring locations</p> <p>11 out there, right?</p> <p>12 A Not that I recall.</p> <p>13 Q Have you ever spoken with Mr. Ebihara</p> <p>14 about any issues relating to where the boring</p> <p>15 locations had been at the site?</p> <p>16 A Yes.</p> <p>17 Q Okay, what did you learn from those</p> <p>18 discussions with Mr. Ebihara?</p> <p>19 A The process that they went through in</p> <p>20 order to prepare the figures that they had been</p> <p>21 working for both their remediation work plan and</p> <p>22 their completion report.</p> <p>23 Q And what did Mr. Ebihara tell you about</p> <p>24 the process that they used to produce those</p>	<p style="text-align: right;">Page 124</p> <p>1 A That's, generally, correct, yes.</p> <p>2 Q When you've discussed these issues with</p> <p>3 Mr. Ebihara about the process they went through</p> <p>4 to let's say verify the locations of soil borings</p> <p>5 or verified locations of site boundaries, things</p> <p>6 like that, those sound like they would get to be</p> <p>7 complex discussions, is that -- would that be a</p> <p>8 fair statement?</p> <p>9 A I don't know that I would characterize</p> <p>10 them that way.</p> <p>11 Q Okay, how would you characterize those</p> <p>12 discussions with Mr. Ebihara?</p> <p>13 A I needed to develop an understanding of</p> <p>14 how their figures were originally produced, and</p> <p>15 he provided that clarification. Those figures</p> <p>16 had been used in all of the submittals to the</p> <p>17 EPA. They'd been accepted by EPA. The work was</p> <p>18 designed around those figures. The work was</p> <p>19 implemented around those figures. That's my</p> <p>20 understanding.</p> <p>21 Q Okay. When you've had those discussions</p> <p>22 with Mr. Ebihara though have you taken notes of</p> <p>23 those discussions?</p> <p>24 A No.</p>
<p style="text-align: right;">Page 123</p> <p>1 documents?</p> <p>2 A He referenced some of the previous</p> <p>3 sources that they had been relying on and the way</p> <p>4 in which that they had carried that name to all</p> <p>5 of the subsequent documentation that they'd been</p> <p>6 working on.</p> <p>7 Q And what sources had they been looking</p> <p>8 at?</p> <p>9 A I don't recall the specifics.</p> <p>10 Q Was it possible that they were looking at</p> <p>11 ELM -- the ELM report from 1999 as being a</p> <p>12 starting point in that inquiry?</p> <p>13 A It may have been.</p> <p>14 Q Okay. As you sit here today do you have</p> <p>15 any -- have you ever discussed, do you have any</p> <p>16 recollection of having discussed the 1999 ELM</p> <p>17 report with Mr. Ebihara?</p> <p>18 A Not that I recall today.</p> <p>19 Q Okay, but it's possible that you've</p> <p>20 discussed that report?</p> <p>21 A It's possible.</p> <p>22 Q Because it's fair to say that that's the</p> <p>23 very first shall we say site investigation</p> <p>24 document that pertains to Site 3?</p>	<p style="text-align: right;">Page 125</p> <p>1 Q So you're confident that you can remember</p> <p>2 all the pertinent details of those conversations</p> <p>3 without having to resort to jotting things down?</p> <p>4 A I don't believe I made that statement.</p> <p>5 Q So do you ever have occasion to take</p> <p>6 notes when you're having meetings with somebody</p> <p>7 like Mr. Ebihara, talking about technical issues</p> <p>8 related to site history or something like that?</p> <p>9 A Yes. And I believe I've covered that</p> <p>10 earlier.</p> <p>11 Q When you're in the field -- I mean when</p> <p>12 you're meeting with Mr. Ebihara though are you</p> <p>13 writing these things down as you're talking with</p> <p>14 him?</p> <p>15 A As I've indicated previously, my practice</p> <p>16 is my version of the report, which is a draft, if</p> <p>17 there's any specific commentary that I need to</p> <p>18 support the draft that I'm developing I may make</p> <p>19 it there; but, ultimately, it gets removed and</p> <p>20 the report is finalized and published.</p> <p>21 Q You're not in the habit of keeping</p> <p>22 notebooks or things like that, is that what I</p> <p>23 should understand?</p> <p>24 A Not on these types of matters.</p>

<p style="text-align: right;">Page 126</p> <p>1 Q Do you know if Mr. Ebihara ever took any 2 notes while you were talking about things? 3 A I can't speak to Mr. Ebihara's practices. 4 Q Were you meeting with Mr. Ebihara just 5 by, just taking place by phone; or did you ever 6 have face-to-face meetings with him? 7 A We had conversations that were both 8 face-to-face and over the phone. 9 Q When you're having the face-to-face 10 conversations with Mr. Ebihara was he ever taking 11 notes that you can recall? 12 A I don't recall what Mr. Ebihara was 13 doing. 14 Q You testified previously that you have 15 never personally sought to verify the accuracy of 16 the AECOM CAD file, is that right? 17 A That's correct. 18 Q And Miss Dunton has never, as far as you 19 know, taken any steps to verify the accuracy of 20 that CAD file either, is that right? 21 A That's correct. 22 Q Do you know if anyone else at Weaver has 23 ever attempted to verify the accuracy of the 24 AECOM CAD file?</p>	<p style="text-align: right;">Page 128</p> <p>1 Q Okay. 2 Let's take a quick couple-minute break; 3 and I'm going to ask a few other questions. 4 (WHEREUPON, a discussion was 5 held off the record) 6 MR. MCGINLEY: Q Let's return back to 7 Exhibit 8. These are the Weaver invoices. 8 THE WITNESS: A I somehow suspected we'd 9 get back here. 10 Q It is an interesting topic. So these are 11 all the invoices that have been generated by your 12 work on this matter from, roughly -- well, we had 13 asked for August the 21st, I think, to the 14 present date; and your invoicing covers, begins 15 slightly earlier than that; but it sounds like 16 this covers everything up to the present date, is 17 that fair to say? 18 A Yes, with the exception probably of the 19 current period. 20 Q Understood. Could you read the note on 21 Dorgan 989, this is the first page of the 22 invoices. 23 A "For preparation for deposition, assemble 24 supplemental discovery document request,</p>
<p style="text-align: right;">Page 127</p> <p>1 A Not that I'm aware of. 2 MS. BRICE: I would just say objection to the 3 this line of questioning, what he just talked 4 about with respect to his conversations with 5 Mr. Ebihara. 6 MR. MCGINLEY: Q If somebody from Weaver 7 had attempted to verify the accuracy of the AECOM 8 CAD file you would know about that, right? 9 THE WITNESS: A I would anticipate knowing, 10 yes. 11 Q Because you would probably be the person 12 directing that to take place, right? 13 A That's correct. 14 Q I mean you're the project manager, that 15 sorts of falls within your bailiwick, if you 16 will, right? 17 A That's correct. 18 Q And the fact then that you're not aware 19 of anything like that taking place, the logical 20 conclusion, nobody's done that work, right, 21 nobody's attempted to verify the accuracy of the 22 CAD file? 23 A As I said, I'm not aware that that's been 24 done.</p>	<p style="text-align: right;">Page 129</p> <p>1 deposition on July 31st, preliminary review of 2 Gobelman rebuttal report'. 3 Q Okay. Sitting here today do you 4 understand -- do you have any understanding of 5 what's meant by "assemble supplementary discovery 6 document request"? 7 A I don't recall specifically, no. 8 Q As the project manager are you the person 9 who does the last read of the bill before it goes 10 out the door? 11 A Yes. 12 Q Okay. So you, fair to say, that you 13 would be familiar with the descriptions that 14 would come in under notes on an invoice, right? 15 A Yes. 16 Q Do you actually write the notes down? I 17 mean are you the person that puts the text in 18 here? 19 A Yes. 20 Q Okay. But you can't remember what was 21 actually done for assembling supplemental 22 discovery, is that your testimony? 23 A Correct. 24 Q Okay. If I could -- Let me just ask you</p>

<p style="text-align: right;">Page 130</p> <p>1 this: There's several, I mean the people who are 2 being billed for are yourself, Riah Dunton, James 3 Treece, and then you have technical and clerical 4 word processing support, is that a fair 5 statement? 6 A Yes. 7 Q Okay. And it looks to me, primarily, 8 that you and Miss Dunton are really the ones that 9 are doing the most substantive work that's being 10 billed for here; is that also a fair statement? 11 A Yes. 12 Q Okay. The work that Miss -- that's being 13 billed here for by Miss Dunton, I assume that 14 this is all related to either creation of figures 15 or it would be where she was reviewing and 16 pulling information out of Mr. Dorgan's -- I'm 17 sorry -- Mr. Gobelman's report, would that be a 18 correct assumption on my part? 19 A I believe so, yes. 20 Q Do you keep, when you're actually billing 21 your work on this project, how do you actually 22 bill for the work? I mean how do you keep -- how 23 do you total -- know how much time you've spent? 24 A I fill out a time sheet once a week.</p>	<p style="text-align: right;">Page 132</p> <p>1 A I did. 2 Q Did Miss Dunton do any of that? 3 A She helped pull the information together. 4 She, obviously, provided some commentary based 5 upon the information she was looking at; but, 6 ultimately, I translated that information into 7 the report that I prepared. 8 Q Okay. You can't say -- I mean the way 9 your bill is set up you're not able to say what 10 portion of the 1.75 hours or the 12.75 hours that 11 Miss Dunton spent was done allocated to reviewing 12 the supplemental report, right? 13 A That's correct. 14 Q Okay, and you can't say what portion of 15 those hours were allocated towards assessing new 16 information from the supplemental report, right? 17 A That's correct. 18 Q If I could turn your attention to the 19 March 6th invoice, Dorgan 993. So am I to 20 understand that there was no -- there was no 21 billing for work being done between the time 22 period covered by the November 29th invoice and 23 the March 6th invoice? 24 A Yes, I didn't charge any time during that</p>
<p style="text-align: right;">Page 131</p> <p>1 Q Okay. Does your time sheet differentiate 2 between whether you've done preparation for 3 deposition, assembled supplemental discovery 4 document requests, or what entries go into that 5 time sheet? 6 A It can. 7 Q It can. How would you have put together 8 the information here under note, these 9 descriptions, would you have had to refer to 10 something to get this information that became the 11 text that's here for the note? 12 A It would be both from the knowledge just 13 of the work effort that had taken place during 14 that period, and there could be notes from the 15 client sheet submittal that would clarify certain 16 work efforts. 17 Q I direct your attention, please, to 18 Dorgan 992. This is the November 29th, 2018 19 invoice. And directing your attention to the 20 note, it says "Review of supplemental Gobelman 21 report. Assess new information from supplemental 22 report and evaluate with respect to boundary 23 configurations and site features". Who actually 24 performed the assessing of new information?</p>	<p style="text-align: right;">Page 133</p> <p>1 period. 2 Q Under note on the March 6th invoice it 3 says "support to counsel through review of 4 supplemental information". What type of support 5 was being provided to counsel? 6 A I don't know specifically. 7 Q Well, you weren't -- you didn't bill for 8 any of this, right? I mean this invoice doesn't 9 cover any time spent by you, correct? 10 A That's correct. 11 Q Okay, just by Miss Dunton and a quarter 12 of an hour spent by a technical assistant, 13 correct? 14 A Right. 15 Q So it's your testimony then that you 16 don't know what type of, I would assume that this 17 report that's being referenced to counsel would 18 have been provided by Miss Dunton, right? 19 A Correct. 20 Q And it's your testimony that you don't 21 know what actual support she was providing to 22 counsel? 23 A I just don't recall the specifics of what 24 that support was at that time but --</p>

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1 Q Do you have a general sense of what was
2 involved?

3 A **I'm sure she was responding to questions,
4 but the specifics of that I'm not sure of.**

5 Q Does Miss Dunton -- I mean you're the
6 project manager -- is Miss Dunton in the habit of
7 having conversations with counsel that you're not
8 a part of?

9 A **It's not unusual for support personnel on
10 projects to communicate directly with the client
11 when -- for whatever reason the primary client
12 person isn't available or they had been
13 traveling, I don't really know.**

14 Q In instances like that where let's say
15 Miss Dunton is speaking with counsel and you're
16 not a party of that conversation, do you
17 typically find out about those conversations
18 after the fact?

19 A **I can.**

20 Q Does she -- is she in the habit of
21 briefing you on what she would have discussed
22 with counsel when you weren't present?

23 A **Sometimes, but I don't know that in every
24 instance that happens.**

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1 Q And you don't make it a practice to say,
2 hey, I need to know if you speak to outside to
3 counsel, I need to know about it just, you know,
4 let me know what you said?

5 A **No.**

6 Q If I can direct your attention to the
7 last invoice, this is dated May 10th, 2019,
8 there's a note that says "Review of records
9 production. Review of depositions. Preparation
10 of Expert Rebuttal Supplemental Report and
11 supporting figures". Both you and Miss Dunton
12 billed during this time period; and then there's
13 also a little quarter hour billing by the
14 technical assistant, Miss Akers. Did you do the
15 review of records production?

16 A **Yes.**

17 Q And what did that consist of, do you
18 remember?

19 A **I was just looking at the documentation
20 that had been produced in response to the
21 deposition request for Mr. Gobelman and perhaps
22 Mr. Nguyen as well.**

23 Q And the reference to review of
24 depositions is that, would that be a reference to

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1 the Gobelman deposition and the Nguyen
2 depositions?

3 A **Yes.**

4 Q Any other depositions being referenced
5 there?

6 A **No.**

7 MR. MCGINLEY: That's all I have.

8 MS. BRICE: Okay, thanks.
9 We will take a copy.

10 THE COURT REPORTER: Oh, that's it?

11 MS. BRICE: Yes.

12 MR. MCGINLEY: Yes, ma'am.

13 THE COURT REPORTER: Is signature reserved or
14 waived?

15 MS. BRICE: Yes, we reserve.
16
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22
23
24

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF COOK)

4 The within and foregoing deposition of
5 the aforementioned witness was taken before
6 NANCY K. SPEARE, C.S.R, and Notary Public, at the
7 place, date and time aforementioned.

8 There were present during the taking
9 of the deposition the previously named counsel.
10 The said witness was first duly sworn and was
11 then examined upon oral interrogatories; the
12 questions and answers were taken down in
13 shorthand by the undersigned, acting as
14 stenographer and Notary Public; and the within
15 and foregoing is a true, accurate and complete
16 record of all of the questions asked of and
17 answers made by the aforementioned witness, at
18 the time and place hereinabove referred to.

19 The signature of the witness was not
20 waived, and the deposition was submitted,
21 pursuant to Rules 207 and 211 (d) of the Rules of
22 the Supreme Court of Illinois, to the deponent
23 per copy of the attached letter.
24

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1 The undersigned is not interested in
2 the within case, nor of kin or counsel to any of
3 the parties.

4 Witness my official signature and seal
5 as Notary Public in and for Cook County, Illinois
6 on this 2nd day of July, A.D. 2019.
7
8

9 NANCY K. SPEARE, C.S.R.,
10 Notary Public
11 License No. 084-001584
12
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18
19
20
21
22
23
24

Page 139

1 TOOMEY REPORTING
2 205 West Randolph Street
3 Suite 2210
4 Chicago, IL 60606

5 WITNESS CERTIFICATION

6 I hereby certify that I have read the
7 foregoing transcript of my deposition consisting
8 of pages 1 through 139 inclusive. Subject to the
9 changes set forth on the preceding pages, the
10 foregoing is a true and correct transcript of my
11 deposition taken on 6-12-19.
12
13

14 (Signed)
15 Douglas G. Dorgan, Jr.
16

17 SUBSCRIBED AND SWORN TO
18 before me this 2nd day of
19 July, A.D. 2019.
20

21 Notary Public
22
23
24



Nancy K. Speare

EXHIBIT 5

October 25, 2018

EXPERT REBUTTAL REPORT OF DOUGLAS G. DORGAN JR. ON DAMAGES ATTRIBUTABLE TO IDOT

**JOHNS MANVILLE VS
ILLINOIS DEPARTMENT OF TRANSPORTATION**

Former Johns Manville Facility
Site 3 and Site 6
Waukegan, Illinois

PREPARED BY



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Figure 1 – Gobelman Report Exhibit EX-2

Figure 2 – Figure 1 of the Dorgan Expert Report

Figure 3 – Property Boundary Comparison Layout

Figure 4 – Property Boundary Comparison Layout with Site Features

1 INTRODUCTION

1.1 Summary

The report presents my response to the Expert Rebuttal Report of Steven L. Gobelman, dated August 22, 2018 (herein referred to as the "Gobelman Report"). I am rebutting "opinions" expressed by Mr. Gobelman in the Gobelman Report and in his deposition. In addition, I have addressed various "factual" statements contained in the Gobelman Report and in his deposition. My opinions in my initial report and this rebuttal report are made to a reasonable degree of scientific certainty. I reserve the right to supplement this and my initial Expert Report of Douglas G. Dorgan Jr. on Damages Attributable to IDOT ("Dorgan Expert Report") if additional, relevant information becomes available.

1.2 Information Considered

For purposes of this report, in addition to reviewing the documents presented within the Gobelman Report and those noted in my Dorgan Expert Report, I have reviewed documents produced in response to a document request sent to Mr. Gobelman and the Deposition of Mr. Gobelman taken on October 2, 2018. Some specific documents referenced herein have been cited within this Expert Rebuttal Report.

2 REBUTTAL OPINIONS

The following provides my expert rebuttal opinions, followed by information supporting these opinions:

2.1 The Gobelman Report Relies on an Inaccurate, Inconsistent, and Unreliable Methodology

After reviewing Mr. Gobelman's Report and deposition, I affirm my opinions and methodology in my Dorgan Expert Report, which take into consideration the way in which the work was performed at the Sites and the way the Board crafted its Order by referencing areas and soil borings.

Mr. Gobelman and I agree on how JM's Implementation Costs were tabulated and allocated to Site 3 and Site 6. There appears to be no dispute over the total amount of Implementation Costs incurred by JM, the reasonableness of those Implementation Costs, that JM paid those Implementation Costs, how I assigned those Implementation Costs into task buckets, how I allocated those Implementation Costs between Sites 3 and 6, and/or how I assigned and attributed the collective Site 3 and 6 Implementation Costs. Mr. Gobelman agrees with the methodology on these points and incorporates it in the Gobelman Report. Our opinions, however, diverge on how the Implementation Costs are "attributed" to IDOT. My approach is more reasonable and accurate.

Mr. Gobelman does not have a consistent methodology for attributing costs to IDOT and mixes various approaches throughout his Gobelman Report. For example, in some instances, he uses linear feet to calculate the portion of costs attributable to IDOT for a non-uniform excavation (Utility/ACM Soils) and in others, he uses square feet (Northeast Excavation), again for a non-uniform excavation. While Mr. Gobelman agrees that using volume would be a reasonable approach, he never utilizes it.

Further, as explained below, Mr. Gobelman's opinions are based upon a flawed Base Map (Figure 1 of the Gobelman Report). Mr. Gobelman's Site 3 IDOT attribution calculations are based on this flawed figure, which contradicts the USEPA-approved figure the Board relied on in entering the IPCB Order. Mr. Gobelman's Site 6 IDOT attribution calculations are based on a flawed understanding of the work done on Site 6. Because of this, Mr. Gobelman's attribution calculations for Sites 3 and 6 are incorrect.

The Gobelman Report fails to consider why certain cleanup activities were required and how the scope of the cleanup was driven by Site conditions and where visible ACM was observed during earlier investigation activities. As presented in Figure 2 of the Dorgan Expert Report, visual ACM was found predominantly in the IDOT Areas of Liability and the record suggests that the visual ACM drove the work mandated by the Enforcement Action Memorandum (EAM) and the work ultimately performed.

The work done for the North Shore Gas (NSG) line on Site 3 is a good example of how IDOT contamination drove the remedy. As explained in the Dorgan Expert Report, the only ACM found along the NSG line on Site 3 was attributed to IDOT by the Board (borings B3-15 and B3-50). In the EAM, USEPA required the creation of a 25-foot clean corridor for all of the NSG line on Site 3, notwithstanding whether ACM was found directly above a section of the line or not.

The Gobelman Report also too narrowly limits IDOT's areas of liability to the area immediately around soil borings specifically identified by the Board in the Order. This approach is inconsistent with USEPA's requirements, including but not limited to, 1) that each soil boring represents a 50 by 50-foot area and that JM remove all ACM contamination within this area, and 2) JM remove ACM contamination extending to the next clean boring. The Gobelman Report, therefore, improperly, incorrectly, and unreasonably takes too restrictive an approach in opining on the costs attributable to IDOT.

2.2 The Base Map (Figure 1) of the Gobelman Report Inaccurately Represents the Boundary and Features of Site 3

The Gobelman Report contains figures for Sites 3 and 6, with mapping of boundaries and boring locations, that are based on Mr. Gobelman's "interpretation" of a Google image that he indicates shows a fence around Site 3 (see **Figure 1 – Gobelman Report; Exhibit EX-2**). This methodology is not reasonably relied upon by experts in the field. It is also inconsistent with figures approved by USEPA and used by the Board in ruling on the issues from the first phase of this case after hearing. These Gobelman figures inaccurately plot the Site 3 boundaries, the soil boring locations, Parcel No. 0393 and the various areas (including utilities) where JM performed work. As a result, the overall Gobelman Report is inaccurate and misleading.

For example, Figure 1 of the Gobelman Report, which is the basis for Mr. Gobelman's other figures, presents an incorrect Site 3 boundary. Mr. Gobelman's fundamental argument, as stated in his deposition, is that the boundary of Site 3 should be further north (about ten feet) than where it is represented on Figure 1 of the Dorgan Expert Report (included herein as **Figure 2**) and the AECOM Final Report submitted to USEPA. As discussed further below, Mr. Gobelman's inaccurate relocation of the northern boundary of Site 3 leads to an improper plotting of the Parcel No. 0393 boundary. It even appears that Mr. Gobelman laid out Parcel No. 0393 incorrectly from his referenced IDOT Document #1517501, furthering the incorrect Parcel location. As a result, Mr. Gobelman comes to the incorrect opinion that various samples and areas where work was performed by JM are not located within Parcel No. 0393. By creating his own flawed map, Mr. Gobelman misleadingly and improperly reduces the areas where the Board has held IDOT liable (such as Parcel No. 0393) and the corresponding costs attributable to IDOT in those areas.

Mr. Gobelman claims (as represented within EX-1 of the Gobelman Report) that AECOM, Mr. Dorgan, and Atwell all incorrectly plotted the boundaries of Site 3 based on three source documents he claims do not match. It is my understanding that Mr. Gobelman created an overlay of the Site 3 boundary (see **Figure 1**) using these three documents:

1. The Atwell ALTA Survey presented as Exhibit G of the Dorgan Expert Report (Atwell Survey);
2. Figure 2 in the AECOM Final Report, Southwestern Site Area, Sites 3, 4/5, and 6, Waukegan Illinois dated March 20, 2018 (AECOM Figure 2); and¹
3. Figure 1 of the Dorgan Expert Report (Dorgan Expert Report Figure 1).

To properly compare boundaries on a map, you must have a reference to a common geographical point. This is a fundamental component of preparing such a comparison based upon my past experience. Mr. Gobelman admitted in his deposition that he did not have and did not use such a common reference point to compare the figure boundaries. Mr. Gobelman's methodology is therefore improper.

While Mr. Gobelman claimed that he used the State Plane Coordinate System as the reference point, he acknowledged in his deposition that these coordinates were not included on two of the three source figures. Without a consistent reference point, it was an improper and an unreliable methodology for Mr. Gobelman to try and compare the three figures. His conclusion that the figures do not match, and his depiction of the inconsistencies as represented in EX-1, are inaccurate.

To create his own Site 3 boundary figure, Mr. Gobelman used what he interpreted as a fence line on a Google Map image. He then "assumed that Site 3 was contained within the shown fencing except in the northwest and northeast corner of Site 3." He offers no basis for this assumption, and in his deposition acknowledges, "I would assume that my boundaries would be a little bit larger than – than what was depicted because I'm using a fence line and not the actual site."² This statement counters his logic that the fence line is the property boundary and in reality this makes his Site 3 larger than the correct boundary. He then superimposes his incorrect interpretation of the boundaries from EX-1 onto the Google Map image along with his interpretation of the Site 3 boundaries (see Gobelman Report at EX-2, included herein as **Figure 1**). He also includes on EX-2 his interpretation of where Parcel No. 0393 and the Northeast Excavation are located. Because his plots are based upon flawed Site 3 boundaries and faulty interpretation of Document 1517501, their locations are incorrect on EX-2 and the other Gobelman Report figures. Per the supported documentation provided by Mr. Gobelman regarding the legal description of Parcel 0393, I found multiple errors in his interpretation of Document

¹ Based upon the attachments to his Gobelman Report, I believe Mr. Gobelman's reference above to AECOM Figure 2 is intended to be a reference to Figure 2 of Appendix A of the AECOM Final Report (see Gobelman Report at Appendix D) that was prepared by CQM, Inc.

² Line 18 – 21, Page 98, Gobelman deposition.

1517501. He begins his description of the boundary for Parcel 0393 at the location where it turns south into Site 3, using a given bearing of S 0° 15' 49" E at 15 feet. At this point, the following errors are evident:

1. Document 1517501 states the parcel boundary to a bearing of S 81° 54' 31" W at 403.76 feet, however, Gobelman plotted this bearing as S 83° 3' 38" W at 365.53 feet.
2. Document 1517501 parcel boundary continues at a bearing of S 89° 44' 17" W at 140.0 feet, however, Mr. Gobelman plotted this at S 83° 16' 50" W at 180.66 feet; this appears to be continuing in the same direction as the previous bearing.
3. The lengths plotted by Gobelman as noted above are not consistent with the lengths referenced in Document 1517501.

The misinterpreted bearings and faulty lengths both contribute to the incorrect layout and location of Parcel 0393.

Based on Mr. Gobelman's claim that the boundary for Site 3 is not consistent on the referenced figures, I verified the boundary with my own overlay using AutoCAD and GIS.³ I have created my own figure showing an overlay of the Site 3 boundaries provided on the referenced figures (included herein as **Figure 3**). **Figure 3** presents boundaries based on the following figures:

1. Figure 2 of Appendix A of the AECOM Final Report (CQM Figure 2);
2. Dorgan Expert Report Figure 1;
3. The Atwell Survey; and
4. Gobelman Report Figure 1.

I used the above referenced four figures to demonstrate the differences between the boundaries depicted in my Dorgan Expert Report and in the Gobelman Report. My approach is a more technical and defensible methodology for assessing the boundary of Site 3 and one that is recognized as reasonably reliable by those in my field. **Figure 3**, which relies on this methodology, is accurate and aligns with the figures contained in AECOM's Final Report.

The varying boundaries for Site 3 as shown on **Figure 3** are based on the following:

1. CQM Figure 2 from the AECOM Final Report submitted to USEPA – The four corners of Site 3 contained coordinates aligning with the Illinois East State Plane Coordinate System NAD83, with the boundaries subsequently placed to those locations. The North, West, and South boundary lines were connected to those

³ The use of Autodesk AutoCAD Civil 3D software allows the global connection to the given coordinate systems of Illinois East NAD83 for more precise location. The base grid point N 2,083,000 & E 1,122,500 can be identified and a 100'x100' grid created for comparable construction of the different boundaries represented on the above referenced figures.

corners and the East curved boundary was drawn per visual interpretation of CQM Figure 2;

2. Figure 1 of Dorgan Expert Report – This Figure was created by obtaining the CAD drawing being used by AECOM. The original AECOM figure was produced using Illinois East State Plane Coordinates for the Site 3 corners. Certain features were then shown such as the samples exhibiting Visual ACM. The boundaries of Site 3 were laid out with measurements from the coordinates of Parcel No. 0393 and the Illinois East State Plane Coordinate grid anchored within the source AutoCAD file. It shows Parcel No. 0393 with bearings and directions located along the Greenwood Avenue right of way. The location of Parcel No. 0393 is illustrated on this Figure using the legal description referenced at Document 1649408;
3. Atwell Survey – The boundaries for Site 3 on the Atwell Survey were laid out using scaled measurements taken from the Illinois East State Plane Coordinate grid to locate the northwest corner of Site 3; from there, the boundary was plotted based on the bearings of length and direction described on the Atwell Survey;
4. Gobelman Figure EX-2 – The boundaries of Site 3 were laid out using Gobelman Figure EX-2, which shows the State Plane Coordinate grid and Parcel No. 0393 in relation to his Site 3 boundary based on his fence line interpretation and interpretation of Document 1517501. It is apparent that Mr. Gobelman created the southern and western boundaries to align with his interpretation of the fence line without any bearing or point of beginning, which is improper methodology.

As illustrated on the Property Boundary Comparison Layout (**Figure 3**), each description has been presented and color coded. As **Figure 3** demonstrates, there is strong consistency between the Dorgan Expert Report Figure 1 and the CQM Figure 2 from the AECOM Final Report. It is important to understand that the Site 3 boundary as shown on Dorgan Expert Report Figure 1 and CQM Figure 2 are comparable with the legal description boundary between the ComEd parcel and the IDOT Right of Way. The boundary of Site 3 on the Dorgan Expert Report Figure 1 and CQM Figure 2 have a direct relationship to the Illinois East State Plane Coordinate System NAD83. By contrast, Gobelman EX-2 (and each of his other figures) uses a fence line as an arbitrary reference point. Furthermore, the northern boundary of Site 3 has its origination in early negotiations with USEPA and the original Settlement Agreement executed in 2008. The boundary as represented on CQM Figure 2 (and on Figure 1 of the Dorgan Expert Report), has been accepted and deemed accurate by USEPA since inception of work on Site 3 and Site 6.

It is my opinion that Gobelman EX-1, EX-2, Figure 1, and the remaining figures contained in the Gobelman Report misrepresent the boundaries and features of Sites 3 and 6 and Parcel 0393. Mr. Gobelman's arbitrary use of a fence line in a Google Map image as a reference point for creation of his figures has the effect of moving the northern boundary of Site 3 more north. This incorrectly modifies how certain sample locations (e.g., B3-45)

and remedial activities (e.g., AT&T telephone line abandonment) are depicted on his figures. **Figure 4 - Property Boundary Comparison Layout with Site Features** presents the modified boundary compared with the key remedial areas (e.g., AT&T lines, NSG Line, NE Excavation, and City of Waukegan Water Line).

In his deposition, Mr. Gobelman admitted that he relied upon sources he claims contained the wrong Site 3 boundaries (e.g., Dorgan Figure 1, the Atwell Survey, CQM Figure 2) to plot the locations of soil borings/samples, remedial features, and other key elements on his same Base Map/Figure 1. This is an improper methodology that calls into question all of his opinions.

2.3 Mr. Gobelman Incorrectly Interprets the Scope of IDOT's Area of Liability on Site 3 based on the IPCB Order

Mr. Gobelman opines that IDOT's liability, as found by the Board, is confined to specific soil boring locations, specifically including B3-25, B3-15, B3-16, B3-50, and B3-45. He also says that his attributions for Site 3 are based upon the eastern edge of Parcel No. 0393. As noted above and on **Figure 3**, the location of Parcel No. 0393, the NSG line, the AT&T lines, the Northeast Excavation, and Site 3 boundary are inaccurate, making his attribution opinions incorrect.

Mr. Gobelman fails to consider that a soil boring, typically not more than 2 inches in diameter, is intended to be representative of a larger area. Test pits are similarly intended to be representative of a larger area. The record reflects that USEPA considered every soil boring/test pit to represent a 50-by-50-foot grid of contamination that needed to be remediated. Moreover, as Mr. Gobelman stated, the USEPA required the remediation work to travel to the first clean boring.⁴

Each soil boring/test pit served as a representation of the conditions at and under that location, a point Mr. Gobelman ignores. In many situations, the ACM contamination connected to a given soil boring/test pit was much larger in depth and width than what was collected in the sample. For example, as stated in the Dorgan Expert Report, Mr. Dave Peterson explained that, upon excavation, a consistent seam of ACM was observed along the entire transect from 1S-8S that had been placed there at the same time.

Once remediation began, the scope of the contamination present at each of the original soil sample locations was identified. USEPA required JM to remove soils to a depth where no visual ACM was present and where no ACM was detected. This caused the amount of ACM removed in certain locations to vary. For example, JM had to excavate deeper and remove more material on the western portion of the Northeast Excavation than on the eastern portion because the ACM had been buried at a greater depth on the western side.

⁴ Gobelman Deposition, Page 137, Line 4 and 5

JM was required to remove much more than the amount of soil depicted as a soil boring on a given figure contained in the AECOM Final Report or Dorgan Expert Report Figure 1. Mr. Gobelman does not take this into account. I therefore disagree with Mr. Gobelman's method of treating IDOT's liability so narrowly as it is not consistent with USEPA's required scope of work or with how experts in the field view what is represented by contamination found in a single boring.

2.4 Mr. Gobelman Misinterprets the Board's Decision on Parcel No. 0393

Based on Figure 1 of the Gobelman Report, as discussed above in Section 2.2, Mr. Gobelman concludes that B3-45 does not fall within Parcel No. 0393. This conclusion is based solely on his flawed Base Map/Figure 1, which misrepresents the Site 3 boundary. The location of soil boring B3-45 as presented on Figure 1 of the Dorgan Expert Report is accurate and shows B3-45 (which represents a 50-by-50 foot area) as falling within the IDOT Area of Liability. Any conclusions in the Gobelman Report based on soil boring B3-45 falling outside the boundary of Parcel No. 0393 are therefore faulty.

As stated in the Dorgan Expert Report, the Order specifically references areas of Site 3 where the Board determined IDOT is responsible for the presence of ACM:

1. Where IDOT restored Site 3 after construction (samples B3-25, B3-16 and B3-15);⁵ and
2. Where IDOT allowed open dumping through its control over Parcel No. 0393 at sample locations B3-25, B3-16, B3-15, B3-50, and B3-45 (to the extent sample B3-45 falls on Parcel 0393) on Site 3.⁶

Mr. Gobelman argues that IDOT's responsibility is for a "defined area based on soil sample locations within Parcel 0393."⁷ He is suggesting that IDOT's responsibility is limited to only those areas immediately in proximity to the specific soil borings referenced in the IPCB Order. Mr. Gobelman fails to consider the work mandated by USEPA that occurred well outside the immediate proximity of the referenced soil borings. As examples, work related to construction of a clean corridor for the City of Waukegan Water Line, sampling of the ramp area, and abandonment of AT&T telephone lines located across Parcel No. 0393 were driven in large part by ACM encountered at the boring locations identified by Mr. Gobelman on Parcel No. 0393.

Furthermore, Mr. Gobelman fails to consider the language and spirit of the Board's Order, which states, "IDOT's interest in Parcel 0393 therefore gives it the right to control a portion of Site 3. Within that portion of Site 3, ACM waste is present in the soil. By continuing to control the portion of Parcel 0393 falling within Site 3 (emphasis added),

⁵ IPCB Order page 10

⁶ IPCB Order page 13

⁷ Section 5.2 of Gobelman Report

IDOT continues to allow ACM waste in that soil.” The Board is clearly referencing the entirety of Parcel No. 0393 located within Site 3. As a result, it is my interpretation that the Board intended to attribute all work done by JM in, on and under Parcel No. 0393 (which IDOT controls given its easement interests) to IDOT, not just work done in areas in close proximity to certain boring locations within Parcel 0393. As a result, all costs associated with Parcel No. 0393 (including my attribution of \$61,0247 of the Waukegan Water Line, \$20,880 of ramp work, and other costs identified below) should be attributed to IDOT, which the Board found controls the parcel and the ACM present in the soil.

2.4.1 Northeast Excavation

Mr. Gobelman’s flawed approach does not consider what was driving the work in the Northeast Excavation, including the fact that the work had to be performed in 50 by 50-foot grids, the fact that the work had to extend to the nearest clean boring, and the fact that the ComEd Fiber Optic line that USEPA required be removed due, in part, to the fact it ran through 1S-4S (IDOT Area of Liability) also travels through the Northeast Excavation. Work performed for the Northeast Excavation included removal of soils from three square grids represented by the soil boring locations (see Dorgan Expert Report Figures 1 and 2). All the soil from within the grid was required to be removed based upon findings from the specifically referenced soil boring (e.g., B3-50 and B3-45). That is two thirds of the excavation. The eastern grid area was removed because B3-46 contained contamination as well as the fact that the ComEd fiber optic line attributed to an IDOT Area of Liability was located in this area.⁸ As a result, it is my opinion that all of the Northeast Excavation work should be attributed to IDOT. Additionally, Mr. Gobelman’s calculation that 1,905 square feet fall within Parcel No. 0393 is incorrect because it is based upon an inaccurate Base Map/Figure 1 and plotting of Parcel No. 0393 (see Gobelman Report Figure 6).

2.4.2 North Shore Gas

As stated in the Dorgan Expert Report, the portion of the NSG Line on Site 3 runs only through IDOT Areas of Liability. Mr. Gobelman ignores this fact and instead focuses on the areas surrounding B3-50 and B3-15 to attribute costs to IDOT. I disagree with this approach as noted above. Since the only ACM found along the NSG line on Site 3 was attributed to IDOT by the Board, Mr. Gobelman should have included all of the costs associated with work on the NSG line on Site 3 to IDOT. This is a more reasonable and accurate approach.

Mr. Gobelman’s restrictive view and approach to liability causes him to underestimate the costs attributable to IDOT with respect to the NSG line on Site 3 (see Dorgan Expert Report) as well as the Site 3 and 6 collective costs relating to NSG (see Dorgan Expert

⁸ USEPA Correspondence to Johns Manville dated February 1, 2012

Report). Mr. Gobelman underestimates this attribution by more than \$240,000 for Site 3 and more than \$30,000 for combined Site 3 and Site 6 costs.

Additionally, Mr. Gobelman's incorrect plotting of Parcel No. 0393 on his Base Map/Figure 1 results in less of the NSG line falling within Parcel No. 0393 (see **Figure 4**). Consequently, even using his own methodology, his conclusion that 3,278 square feet of the NSG line falls within Parcel No. 0393 (an IDOT Area of Liability) is incorrect.

2.4.3 AT&T

Mr. Gobelman used linear feet to calculate IDOT's liability related to the AT&T lines on Site 3. However, because his Base Map/Figure 1 is incorrect, he fails to account for AT&T lines that traverse Parcel 0393 that are shown correctly on Figure 1 of the Dorgan Expert Report and in the CQM Figure 2 contained in the Final Report. The actual linear footage of AT&T lines within Parcel 0393 is approximately 625 feet.

I continue to believe that my approach of considering how many AT&T lines ran through IDOT's Area of Liability (2 out of 3) and thus drove the remedial work to be a more reasonable approach. If one were to use Mr. Gobelman's approach, however, the IDOT attribution would not be materially different. As the total linear footage of the two AT&T lines that are within IDOT Areas of Liability is 625 feet, which is 57 percent of total linear footage of AT&T lines on Site 3.

2.5 Mr. Gobelman Incorrectly Interprets the Scope of IDOT's Area of Liability on Site 6

In Section 5.3 of the Gobelman Report, Mr. Gobelman again takes a narrow view of the scope of IDOT's responsibility based on the geographic limitations of soil sample locations 1S through 4S. I believe there are at least two important factors Mr. Gobelman fails to consider in his evaluation including:

1. The IPCB Order did not consider the full scope of soils removal and backfill plans for the south right of way of Greenwood Avenue; and
2. Mr. Gobelman does not consider the conditions that drove the scope of the cleanup on the south side of Site 6.

I have addressed each of these factors below.

2.5.1 Greenwood Avenue Construction Considerations

In Section 3.1.1 of the Dorgan Expert Report, I address in detail the Greenwood Avenue construction considerations that inform the scope of remediation and IDOT's liability for the work performed. I address the original construction plans, IDOT's requirement to remove unsuitable material from under the Greenwood Avenue Right of Way, and conditions observed by Mr. Peterson during remediation activities. Mr. Gobelman does

not address or rebut most of these points, including my discussion of Hearing Exhibit 21-A-26 (see Section 3.1.1.2 of the Dorgan Expert Report) and Mr. Peterson's visual observations. Consequently, I continue to believe that IDOT is responsible for Implementation Costs JM incurred for any and all work associated with and/or caused by contamination in sample grids 1S-8S.

2.5.2 Failure to Consider Remedy Drivers

As noted above, most of the visual ACM was encountered within IDOT's Area of liability (see Figure 2 of the Dorgan Expert Report). As a result of the buried visual ACM, USEPA required creation of a 25-foot clean corridor for all buried utilities on the Sites, "regardless of whether impacts from ACM were noted in the overlying soil during the assessment."⁹ Since IDOT is responsible for most of the visual ACM found on the relevant areas of the Sites, IDOT's unlawful disposal of ACM was the primary driver of the work required by USEPA in these areas, especially with respect to the clean corridors. For example, at the time the EAM¹⁰ was issued, no ACM had been found east of soil sample location 8S. Nonetheless, USEPA required a clean corridor for the entire NSG line from 4S and moving east regardless that ACM had not been found east of 8S.

2.5.2.1 AT&T

To determine IDOT's attribution for AT&T on Site 6, Mr. Gobelman calculates what he believes to be the length of the entire northern and southern corridor for Site 6. He says that this comes to 5,470 linear feet. He then calculates what he believes to be IDOT's responsibility based on linear feet, assuming the AT&T lines run the length of the entire corridor on both the north and south sides of Site 6. Based on the record, the AT&T lines do not run the entire length of the north and south corridor on Site 6. As a result, Mr. Gobelman's calculation is incorrect.

Given what was driving the removal of the AT&T lines (the visual ACM found along these lines) I believe my original approach that attributed costs to IDOT based on the number of lines running through the IDOT Area of Liability is more reasonable and more accurate than Mr. Gobelman's approach.

2.5.2.2 Utility ACM Soils Excavation

Mr. Gobelman's assessment of IDOT's responsibility for ACM soils excavation is based upon the assumptions that JM created clean corridors for the entire north and south sides

⁹ Correspondence dated December 20, 2012 from Bryan Cave to USEPA Re: Notice of Dispute Concerning Enforcement Action Memorandum dated November 30, 2012, Page 7 and Page 10.

¹⁰ USEPA Enforcement Action Memorandum dated November 30, 2012.

of Site 6¹¹ and that the amount of soil removed all along the south side of Site 6 was consistent. These assumptions are inaccurate based upon the record.

In part, given what was driving the removal of the soils, the visual ACM found along these lines, in particular those from 1S-4S and, in some instances 1S-8S, I believe my original approach of attributing the costs to IDOT based upon the number of lines running through the IDOT Areas of Liability was more reasonable and more accurate than Mr. Gobelman's approach.

2.5.2.3 North Shore Gas

Mr. Gobelman incorrectly claims that I said that "the length [of the NSG line] along the south side of Site 6 is approximately 2005 linear feet." Mr. Gobelman then calculates how much of this 2005 linear feet is located solely around 4S. He concludes it is 47 linear feet.

For the reasons stated herein, including that visual ACM in the IDOT Areas of Liability drove the need to remove the NSG line on the south side of Site 6 and the fact that JM was required to create clean corridors for the entire NSG line east of 8S, notwithstanding whether ACM was present, I disagree with Mr. Gobelman's approach and maintain that IDOT is responsible for all costs associated with the removal of the NSG line on the south side of Site 6. I did not include any costs associated with the removal of the NSG line on the north side of Site 6.

2.5.2.4 Ramp

Figure 7 of the Gobelman Report depicts what Mr. Gobelman believes to be the ramp referenced in the Dorgan Expert Report. The depiction is inaccurate. The "ramp" work identified in Mr. Dorgan's report included large portions of the northwest corner of Site 3 entirely within Parcel No. 0393. Accordingly, any opinions Mr. Gobelman makes about the "ramp" are incorrect. Since the ramp work was contained within Parcel 0393 and was driven by ACM found in this IDOT Area of Liability, I believe my approach was more reasonable and more accurate than Mr. Gobelman's approach.

2.6 Mr. Gobelman's Site 3 and Site 6 Cost Allocations are Inaccurate

2.6.1 Dewatering

Mr. Gobelman's dewatering calculations are inaccurate because they are predicated upon incorrect attributions of IDOT liability based upon narrowly defined boring locations, a flawed Base Map/Figure 1, a misunderstanding of the work done on Site 6, and an improper methodology that ignores what was driving the dewatering work. I believe my

¹¹ Gobelman Deposition, Page 126.

approach at looking at what was driving the need to do the dewatering work as more reasonable and accurate than Mr. Gobelman's approach.

2.6.2 Filling and Capping

Mr. Gobelman's filling and capping calculations are inaccurate because they are predicated upon incorrect attributions of IDOT's liability based upon narrowly defined boring locations, a flawed Base Map/Figure 1, a misunderstanding of the work done on Site 6 and an improper methodology that ignores what was driving the filling and capping work. I believe my approach at looking at what was driving the need to do the filling and capping work as more reasonable and accurate than Mr. Gobelman's approach.

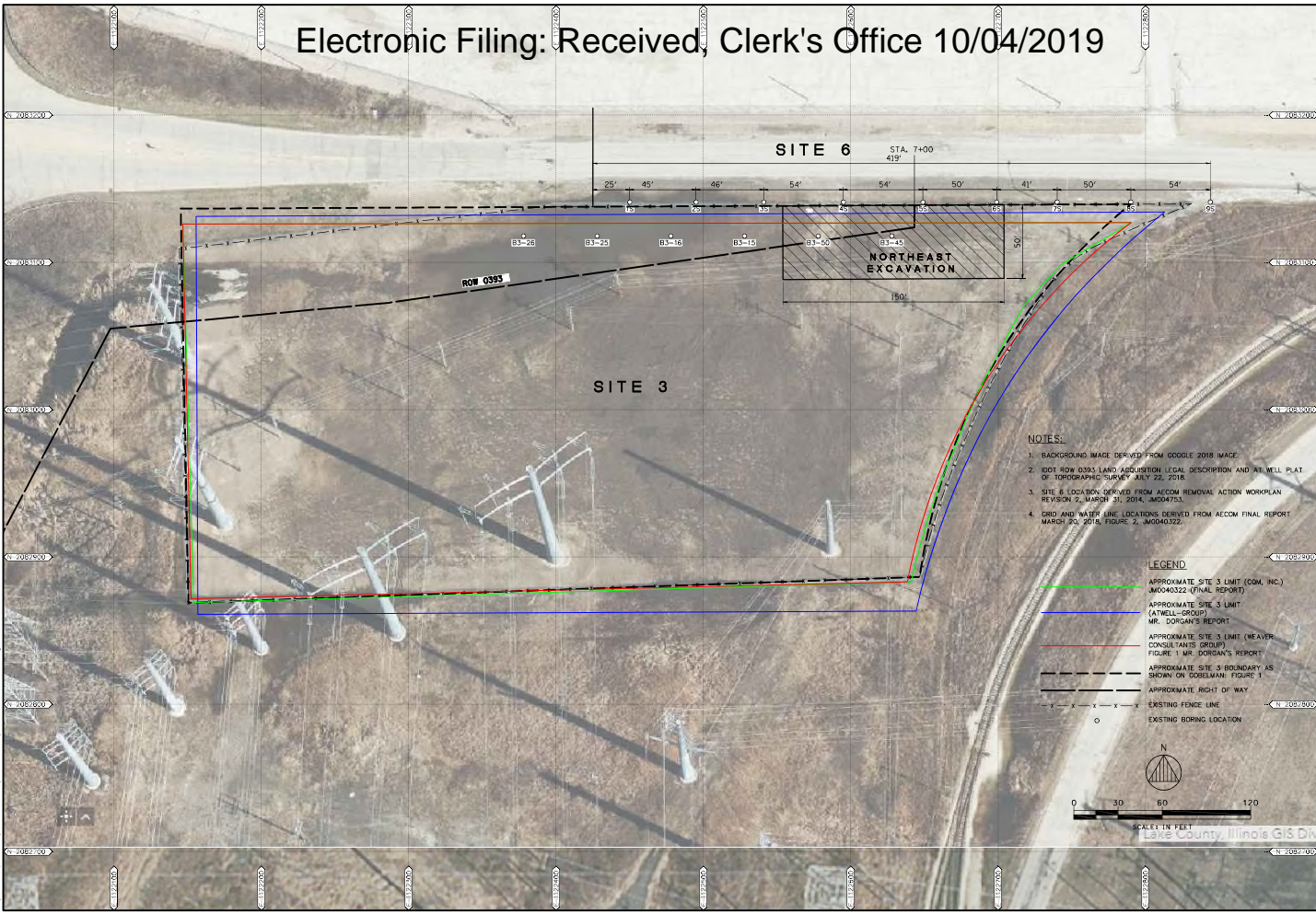
Moreover, his approach is unreasonably limited in that it does not include the total area of IDOT Areas of Liability to determine acreage. Rather, he calculates acreage based on calculations made in his flawed figures and based upon his incorrect view of the area and work required by USEPA in remediating various soil borings. For example, with respect to Site 3, he did not include acreage for Parcel 0393 (0.54 Acres), the entire Northeast Excavation or the entire NSG line.

2.6.3 General Site Prep, USEPA Oversight, Health and Safety and Legal Support Services on Site 3

Mr. Gobelman's attribution approach follows my method of assigning site-wide costs by dividing IDOT's share of the construction-related costs by the total construction-related costs. Because Mr. Gobelman miscalculated IDOT's share of the construction-related costs, all of his calculations for these site-wide costs categories are incorrect, unreasonable, and unreliable.

Figures

Figure 1
Gobelman Report Exhibit EX-2



- NOTES:**
1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
 2. IDOT ROW 0395 LAND ACQUISITION LEGAL DESCRIPTION AND A WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2018.
 3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REVISION 2, MARCH 31, 2018, M0040322.
 4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2018, FIGURE 2, M0040322.

- LEGEND**
- APPROXIMATE SITE 3 LIMIT (COM, INC.) M0040322 (TRIAL REPORT)
 - APPROXIMATE SITE 3 LIMIT (ATWELL-GROUP) MR. DORGAN'S REPORT
 - APPROXIMATE SITE 3 LIMIT (WEAVER CONSULTANTS GROUP) FIGURE 1 MR. DORGAN'S REPORT
 - APPROXIMATE SITE 3 BOUNDARY AS SHOWN ON COBOLIAN, FIGURE 1
 - APPROXIMATE RIGHT OF WAY
 - - - - - EXISTING FENCE LINE
 - o EXISTING BORING LOCATION



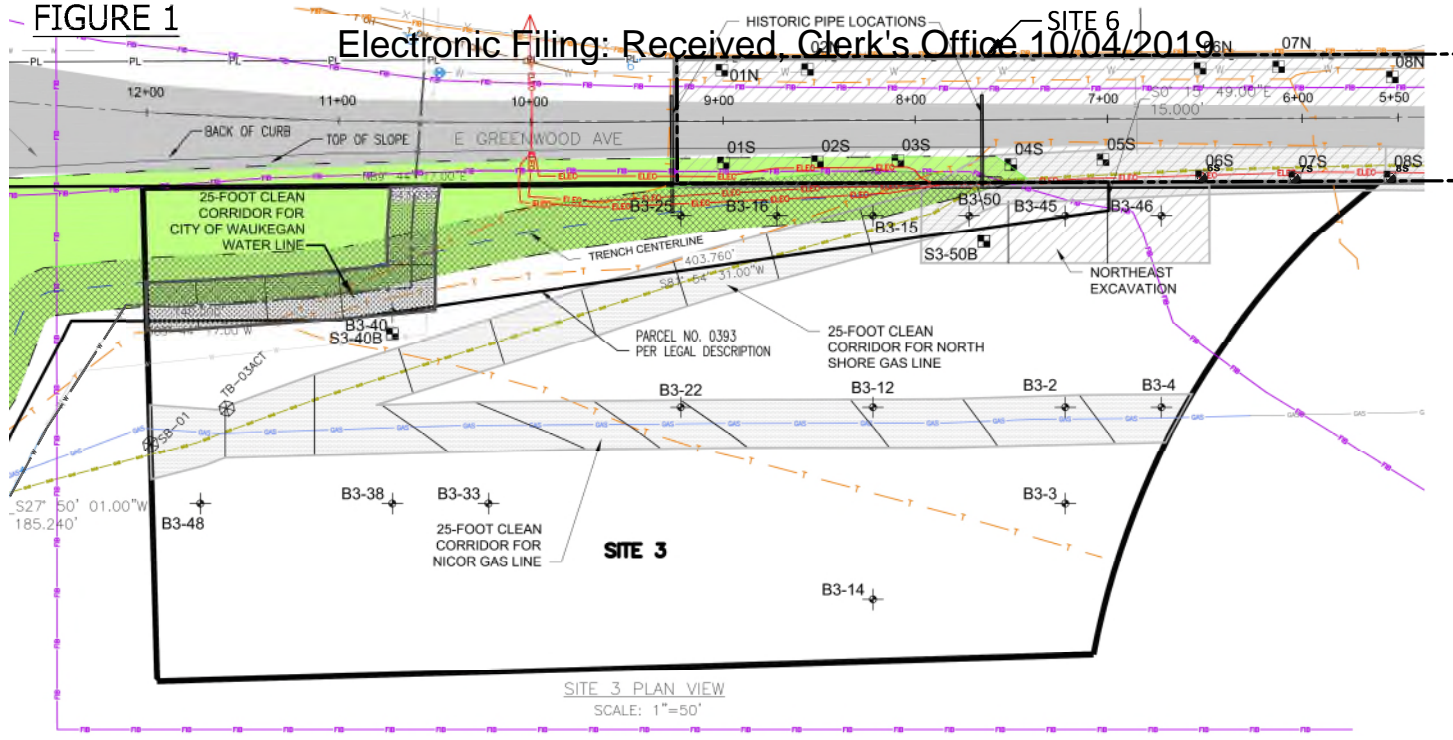
<p>ANDREWS ENGINEERING, INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-1723 TEL: 217-789-3324 FAX: 217-789-0695 PROFESSIONAL ENGINEERS AND SURVEYORS # 0430 54 APPROVED BY: SJC DATE: 8/27/18</p>	
<p>SITE 3 LIMITS</p>	<p>DATE: AUGUST 2018</p>
<p>PREPARED FOR: JOHN'S MACHINERY, IDOT PROJECT #: WALKERGAN, ILLINOIS</p>	<p>PROJECT #: 160001/0001</p>
<p>SHEET NUMBER: EX-2</p>	<p>DATE: AUGUST 2018</p>

Date: 8/27/18 1:51:23 PM
 User: Mike Noyes
 Project: Tunnel, August 21, 2018 11:21:23 AM
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Figure 2
Figure 1 of the Dorgan Expert Report

FIGURE 1

Electronic Filing: Received, Clerk's Office 10/04/2019



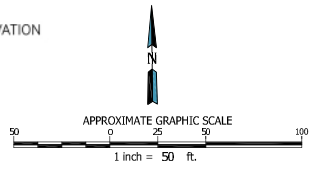
SITE 3 PLAN VIEW
SCALE: 1"=50'

NOTE:
SAMPLE LOCATIONS WITH ACM DETECTED ≥ 0.25 AND/OR VISIBLY OBSERVED ACM ARE SHOWN.

- LEGEND:**
- S3-50B ■ LFR TEST PIT (2008)
 - B3-33 + ELM BORING (1999)
 - SB-01 ⊗ AECOM BORING / TEST PIT (2013)
 - HISTORICAL TRENCH
 - EMBANKMENT
 - SITE 6 BOUNDARY
 - SITE 3 BOUNDARY

- CITY OF WAUKEGAN WATER LINE (10")
- INCORRECT CENTERLINE OF WATER LINE MARKED OUT BY CITY OF WAUKEGAN
- NORTH SHORE GAS HP GAS LINE (12")
- NICOR HP GAS LINE (20")
- AT&T UNDERGROUND PHONE CABLE (DASHED WHERE ASSUMED)
- AT&T FIBER OPTIC CABLE
- COMED FIBER OPTIC CABLE
- COMED UNDERGROUND 12KV POWER LINES (3X)

- CLEAN CORRIDOR
- EXCAVATION



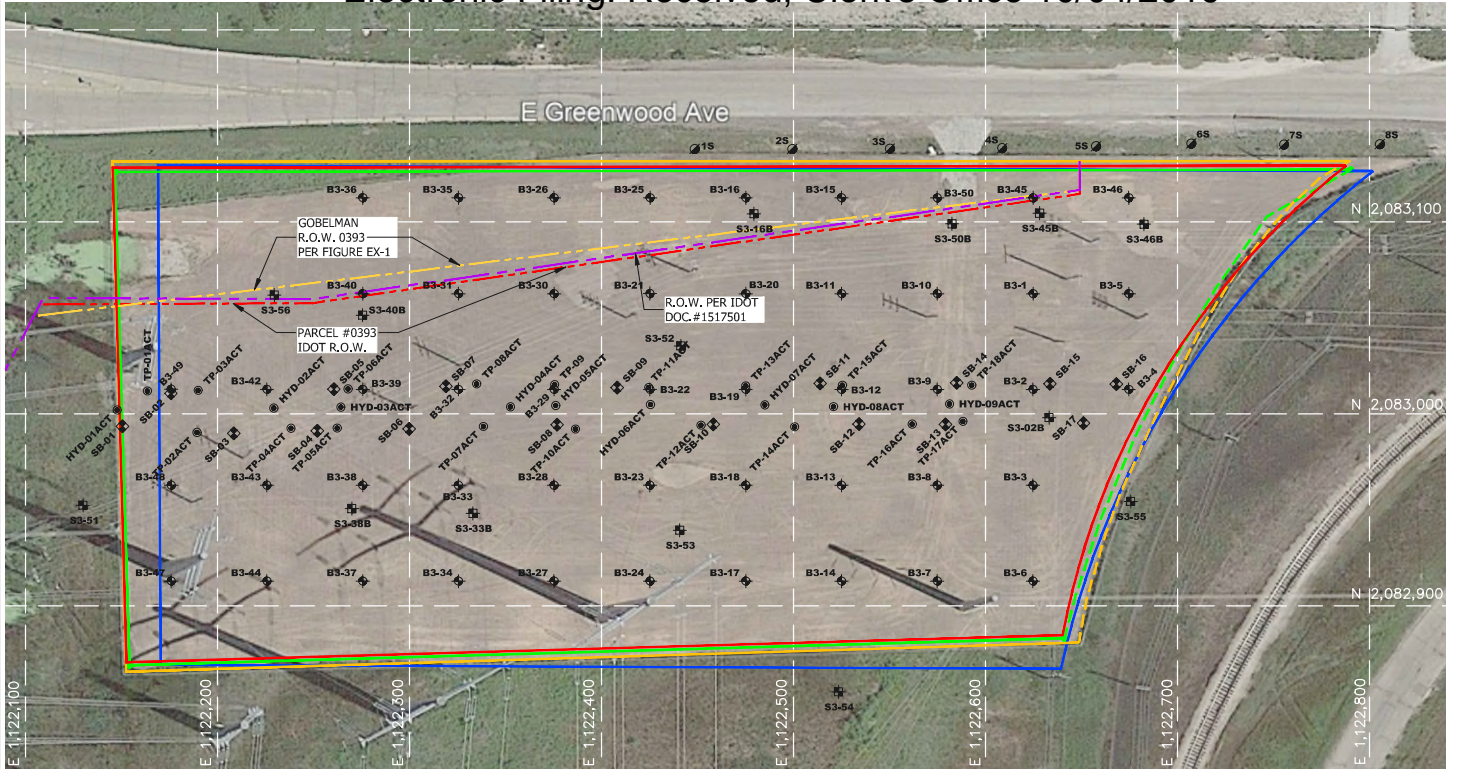
NOTE: Site layout supplied by AECOM.

PROJECT NO:
 Construction Features
 Site 3 & Site 6 - Former John A. Martinelli Manufacturing Facility
 WAUKEGAN, IL
 REVISION DESCRIPTION
 DATE
 WEAVER CONSULTANTS GROUP

 WEAVER CONSULTANTS GROUP
 751 WEST WISCONSIN STREET, SUITE 200
 WAUKEGAN, ILLINOIS 60087
 (815) 924-1030
 www.wcgroup.com
 RELEASE OF DOCUMENTS
 This document and the design incorporated herein are prepared in the name of Weaver Consultants Group, and shall not be used for any other project without the written consent of Weaver Consultants Group.
 DRAWN BY: EMD/PTD
 PROJECT NO.: 19-04
 DATE: 07/27/2018
 SHEET: 2503-111-01
 PLOT DATE: 10/04/2019

FIGURE 1

Figure 3
Property Boundary Comparison Layout



NOTE: DASHED BOUNDARY LINES ARE ESTIMATED FROM VISUAL INSPECTION OF SUPPORTED DOCUMENTS, NOT ACTUAL MEASUREMENTS.
SOURCE: AERIAL IMAGE ADAPTED FROM GOOGLE EARTH IMAGERY, DATED 7/6/2018. GRID BASED ON ILLINOIS EAST LATITUDE/LONGITUDE.

- LEGEND**
- PROPERTY BOUNDARY BY ATWELL PER COORDINATES AND DIRECTION, BASE LOCATION MEASURED FROM LAT/LONG GRID INTERSECTION N 2085000, E1122500.
 - PROPERTY BOUNDARY BY AECOM/WCG MEASURED FROM PARCEL NO. 0393 COORDINATES.
 - PROPERTY BOUNDARY BY CQM, INC PER CORNER COORDINATES GIVEN IN DOCUMENT
 - PROPERTY BOUNDARY BY GOBELMAN-FIGURE 1 ILLUSTRATION AND MEASURED FROM LAT/LONG GRID
 - - - IDOT R.O.W. FOR PARCEL 0393, PER DOCUMENT # 1517501

REV.	DATE	REVISION DESCRIPTION

Weaver Consultants Group

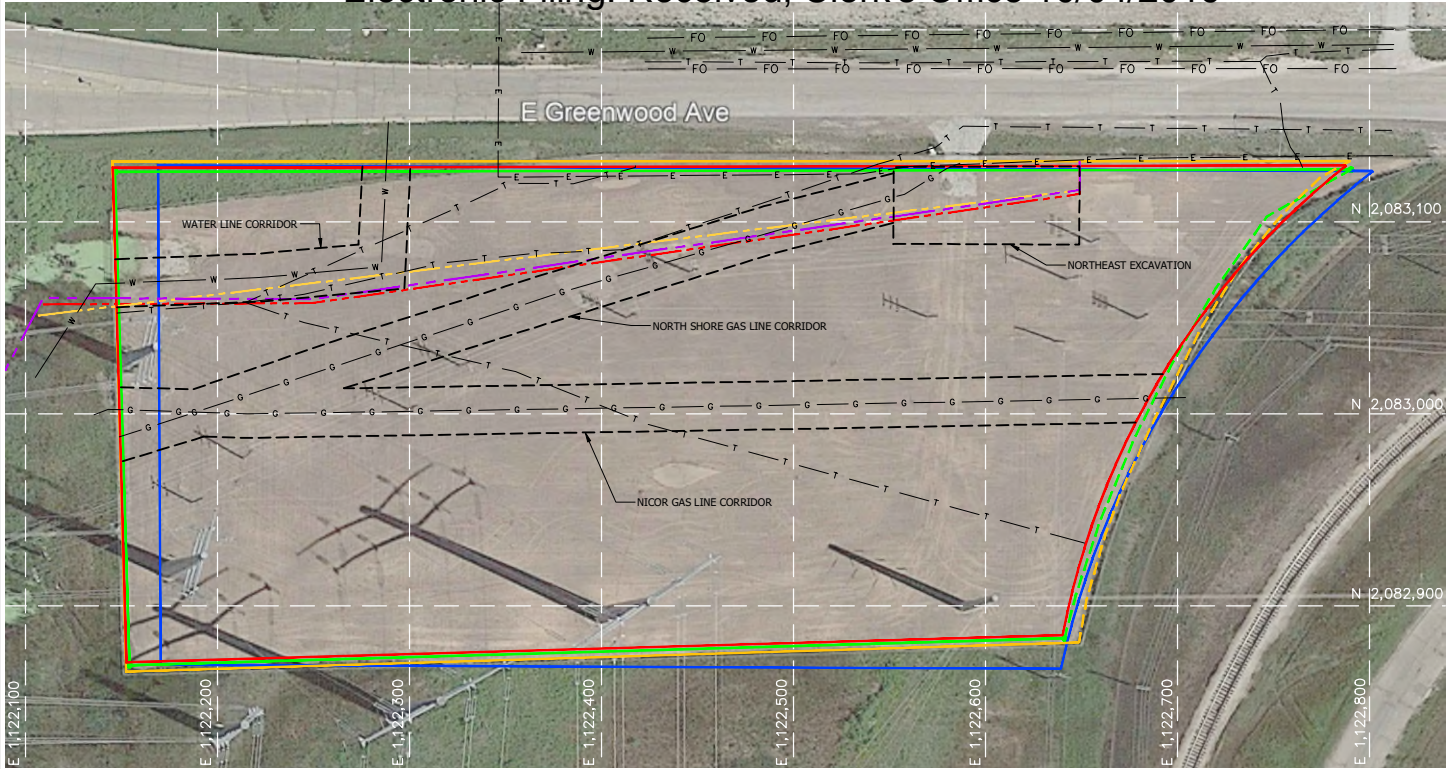
REGISTERED CONSULTANTS
STATE OF ILLINOIS
CONTRACT LICENSE NUMBER
(312) 922-1030
www.wcgroup.com

RECORD OF DOCUMENTS
This document and the design incorporated herein are the intellectual property of Weaver Consultants Group, and shall not be used, copied, or otherwise reproduced without the written permission of Weaver Consultants Group.

Drawn by: DMC
Checked by: DCP
Date: 07/25/2018
Scale: AS SHOWN
Address: 4444 Waukegan Rd.
Waukegan, IL 60087

FIGURE 3

Figure 4
Property Boundary Comparison Layout with Site Features



- LEGEND**
- T — T — EXISTING UNDERGROUND TELEPHONE LINE
 - G — G — EXISTING UNDERGROUND GAS LINE
 - FO — FO — EXISTING UNDERGROUND FIBER OPTIC LINE
 - E — E — EXISTING UNDERGROUND ELECTRIC LINE
 - W — W — EXISTING UNDERGROUND WATER LINE

- LEGEND**
- PROPERTY BOUNDARY BY ATWELL
PER COORDINATES AND DIRECTION, BASE LOCATION MEASURED FROM LAT/LONG GRID INTERSECTION N 2085000, E1122500.
 - PROPERTY BOUNDARY BY AECOM/WCG
MEASURED FROM PARCEL NO. 0393 COORDINATES.
 - PROPERTY BOUNDARY BY CQM, INC
PER CORNER COORDINATES GIVEN IN DOCUMENT
 - PROPERTY BOUNDARY BY GOBELMAN-FIGURE 1
ILLUSTRATION AND MEASURED FROM LAT/LONG GRID
 - IDOT R.O.W. FOR PARCEL 0393, PER DOCUMENT # 1517501

NOTE: DASHED BOUNDARY LINES ARE ESTIMATED FROM VISUAL INSPECTION OF SUPPORTED DOCUMENTS, NOT ACTUAL MEASUREMENTS.

SOURCE: AERIAL IMAGE ADAPTED FROM GOOGLE EARTH IMAGERY, DATED 7/6/2018. GRID BASED ON ILLINOIS EAST LATITUDE/LONGITUDE.

PREPARED FOR:
JM
Johns-Manville

PROPERTY BOUNDARY COMPARISON
LAYOUT WITH SITE FEATURES
Site 3 & Site 6 - Former Johns-Manville Manufacturing Facility
WILKENSVILLE, ILL.

REVISION	DATE	DESCRIPTION

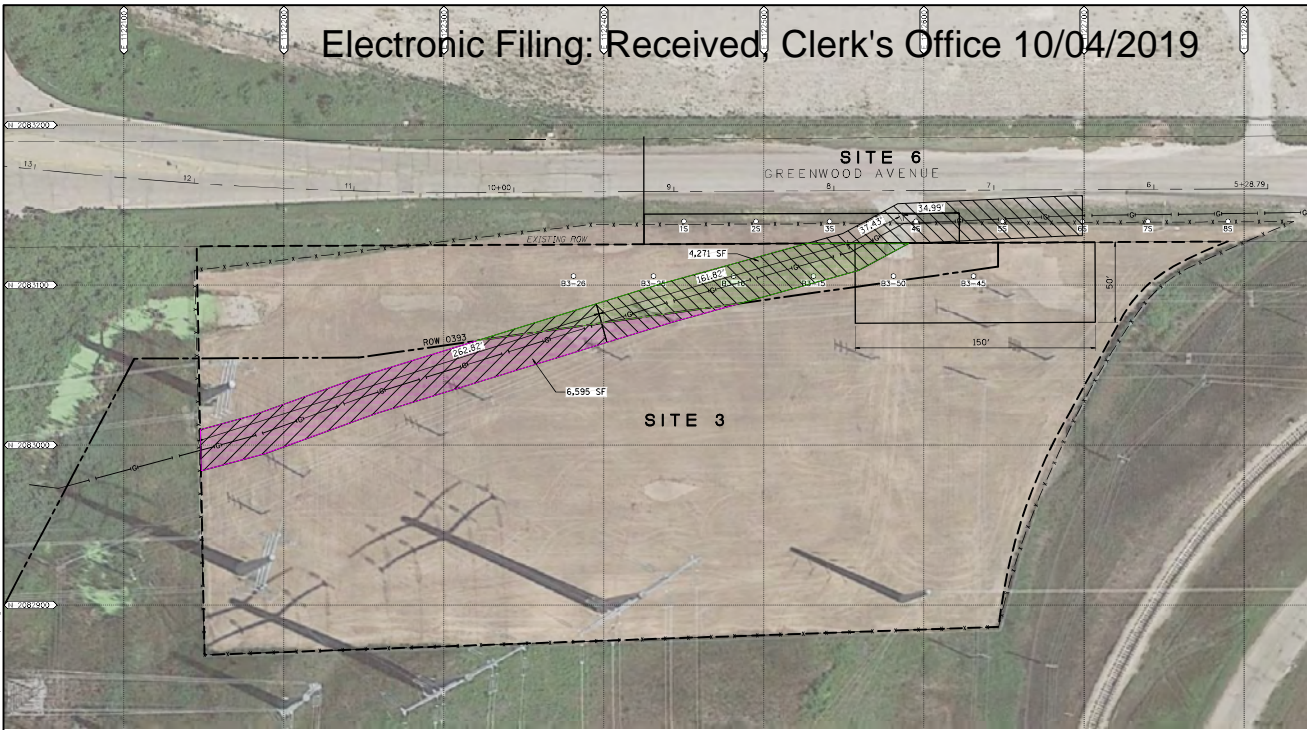
Weaver Consultants Group

WEAVER CONSULTANTS GROUP
100 S. WILKENSVILLE
CHICAGO, ILLINOIS 60607
(312) 922-3030
www.wcgroup.com

ISSUED BY: **DMC**
PROJECT NO.: **0393**
DATE: **03/25/2019**
SCALE: **AS SHOWN**
DRAWN BY: **DMC**

FIGURE 4

EXHIBIT 6

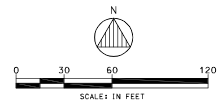


NOTES:

1. BACKGROUND IMAGE DERIVED FROM GOOGLE 2018 IMAGE.
2. DOT ROW 0353 LAND ACQUISITION LEGAL DESCRIPTION AND AT WELL PLAT OF TOPOGRAPHIC SURVEY JULY 22, 2015.
3. SITE 6 LOCATION DERIVED FROM AECOM REMOVAL ACTION WORKPLAN REMISON 2, MARCH 31, 2014, JMO04753.
4. GRID AND WATER LINE LOCATIONS DERIVED FROM AECOM FINAL REPORT MARCH 20, 2016, FIGURE 2, JMO040322.

LEGEND

- APPROXIMATE SITE 3 BOUNDARY
- APPROXIMATE RIGHT OF WAY
- APPROXIMATE NSGC 12" H.P. GAS LINE
- - - - - EXISTING FENCE LINE
- EXISTING BORING LOCATION
- ▨ NORTH SHORE GAS CLEAN CORRIDOR
- ▨ NORTH SHORE GAS LINE ATTRIBUTABLE TO IDOT BASED ON IPCB GRID



Date: 10/04/2019 1:48:40 PM
 User: jgiblin
 Project: North Shore Gas Location Map
 Path: S:\Projects\2018\North Shore Gas Location Map\2018\North Shore Gas Location Map.dwg

<p>ANDREWS ENGINEERING INC. 3300 GINGER CREEK DRIVE SPRINGFIELD, ILLINOIS 62711-7233 TEL: 217-281-3333 FAX: 217-281-9495 PROFESSIONAL ENGINEERS AND LAND SURVEYORS / ILLINOIS APPROVED BY: SJC [Signature] DATE: 10/04/2018</p>	<p>NORTH SHORE GAS LOCATION MAP PREPARED FOR JOHN'S MAPLE VS. IDOT PCB 14-3 WAUKEGAN, ILLINOIS</p>
<p>DATE: AUGUST 2018 PROJECT NO: 160001/0001 SHEET NUMBER: GOBELMAN FIGURE 5</p>	<p>DATE: 10/04/2018 USER: jgiblin PROJECT: North Shore Gas Location Map PATH: S:\Projects\2018\North Shore Gas Location Map\2018\North Shore Gas Location Map.dwg</p>