

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 9, 2019, I caused to be filed with the Clerk of the Pollution Control Board of the State of Illinois, *Complainant's Motion for Leave to File Reply Instanter and Reply to IDOT's Response to Complainant's Brief Regarding Motion to Exclude Base Maps and Related Figures and Testimony at Hearing*, 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 9, 2019

Respectfully submitted,

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Attorneys for Complainant Johns Manville

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Electronic Filing: Received, Clerk's Office 10/09/2019

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on October 9, 2019, I caused to be served a true and correct copy of *Complainant's Motion for Leave to File Reply Instanter and Reply to IDOT's Response to Complainant's Brief Regarding Motion to Exclude Base Maps and Related Figures and Testimony at Hearing* 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.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Respondent.)

**COMPLAINANT’S MOTION FOR LEAVE TO FILE REPLY INSTANTER TO IDOT’S
RESPONSE TO COMPLAINANT’S BRIEF REGARDING MOTION TO EXCLUDE
BASE MAPS, RELATED FIGURES AND TESTIMONY AT HEARING**

Complainant JOHNS MANVILLE (“JM”) hereby moves, pursuant to 35 Ill. Admin. Code 101.500, for leave to file its Reply to IDOT’s Response to Complainant’s Motion to Exclude Base Maps, Related Figure and Testimony at Hearing filed October 4, 2019 (“Response”) *instanter*, in order to prevent material prejudice that arises from Respondent ILLINOIS DEPARTMENT TRANSPORTATION (“IDOT”) Response. In support, JM states as follows:

1. JM filed its Motion to Exclude Base Maps, Related Figures and Testing at Hearing on September 13, 2019 (“Motion to Exclude”).
2. IDOT filed its Response on October 4, 2019.
3. In its Response, IDOT misrepresented facts and raised new arguments, both of which, if left unaddressed, would materially prejudice JM. *See, e.g., Elmhurst Mem. Healthcare & Elmhurst Mem. Healthcare & Elmhurst Mem. Hosp.*, PCB 09-066, 2009 WL 6506666, **1-2 (Aug. 6, 2009) (allowing filing of reply where movant alleged that material prejudice would result if movant was not allowed to rectify the non-movant’s misstatements of fact); *In the Matter of Ameren Ash Pond Closure Rules*, R0921, 2009 WL 6650323, *2 (June 18, 2009) (granting motion for leave to file a reply in support of motion where the movant requested that the Board accept the

reply “to prevent the material prejudice that would result if the Response was allowed to stand containing such misrepresentations.”); *Indian Creek Devel. Co. v. Burlington Northern Santa Fe Railway Co.*, PCB 07-44, 2007 WL 928718, **4-5 (Mar. 15, 2007) (accepting reply brief and finding that acceptance would prevent material prejudice where the non-movant’s response “paints a set of facts that are not true” and where “fairness dictates that [movant] be given the opportunity to respond and set the record straight”); *Sierra Club v. City Water, Light and Power*, PCB-18-11, 2017 WL 6568596, at *1 (Dec. 15, 2017) (finding that reply was unwarranted because “Complainants did not raise any new arguments in the motion response, and so there were no new arguments for CWLP to respond to in its proposed reply.”); *People of the State of Illinois v. Doren Poland, Lloyd Yoho, and Briggs Industries, Inc. a/k/a Briggs Plumbing Products, Inc.*, PCB 98-148, 2001 WL 505221, at *4 (May 3, 2001) (concluding that a response brief was not necessary to prevent material prejudice where new case theories and new arguments *were not* improperly injected into the case).

4. In its Motion to Exclude, JM argued, among many other things, that Mr. Gobelman was wrong to use ELM Figure 15 (Hearing Exh. 57-536) as the source for the placement of certain Site 3 soil borings because it is not the type of document “reasonably relied upon by [experts]” in the field *to place boring locations* on a Base Map. In order to defend his use of this unreliable document to locate these key Site 3 borings, IDOT misrepresented facts in its Response in at least two ways. First, IDOT states that the Board, in its Interim Opinion, relied generally upon the ELM Report “for determining the location of the Site 3 borings that the Board found IDOT liable for in its December 15, 2016 interim opinion and Order.” (Response at p. 2.) IDOT also claims that there is no “USEPA-approved” map of Site 3. Both of these statements are untrue as is set forth in the attached Reply. JM should be given an opportunity to fix the record so that these incorrect assertions do not mislead the Hearing Officer or the Board and so that JM will not be materially prejudiced.

5. JM should also be able to file a Reply because IDOT raised a new argument in its Response, one that attacks the trustworthiness of Mr. Dorgan's AutoCAD technician, Riah Dunton. IDOT made no arguments about Ms. Dunton or Mr. Dorgan's reliance upon Ms. Dunton in its Motion *in Limine*, yet it now tries to attack her through its Response. While this is procedurally improper, out of an abundance of caution, JM seeks to set the record straight and would be materially prejudiced if it were not allowed to rebut IDOT's assertions about Ms. Dunton that are belied by the record.

6. This Motion for Leave is timely as it is filed within fourteen days after service of IDOT's Response under 35 Ill. Admin Code Section 101.500(d).

7. The principles of substantial justice militate toward allowing JM to file its Reply in order to correct the misstatements of fact and new arguments made by IDOT in its Response. Material prejudice would result to JM if IDOT's Response is allowed to stand and if JM's Reply is not considered in the Hearing Officer/Board's ruling. It would work a substantial injustice on JM if IDOT were allowed to profit from misrepresenting the facts and trying to attack Ms. Dunton through its Response with unfounded characterizations.

8. JM's proposed Reply is attached hereto as **Exhibit A**.

WHEREFORE, Complainant JOHNS MANVILLE respectfully requests that the Hearing Officer/Board enter an Order granting JM's Motion for Leave to File its Reply and consider JM's Reply *instanter* to avoid substantial prejudice.

Dated: October 9, 2019

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

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EXHIBIT A

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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COMPLAINANT’S REPLY TO IDOT’S RESPONSE TO COMPLAINANT’S BRIEF REGARDING MOTION TO EXCLUDE BASE MAPS, RELATED FIGURES AND TESTIMONY AT HEARING

Introduction

Johns Manville (“JM”) files this Reply to IDOT’s Response to JM’s Motion to Exclude Base Maps, Related Figures and Testimony at Hearing (“Response”) to address two fundamental problems with IDOT’s Response. First, IDOT makes two factual misstatements that materially prejudice JM. Second, IDOT makes an entirely new argument in its Response – that if Mr. Gobelman’s Base Maps lack adequate foundation, then Riah Dunton, Mr. Dorgan’s “CAD Drafter similarly lacks adequate foundation, as his CAD drafter approached her work similarly to how Mr. Nguyen approached his work for Mr. Gobelman.” (Response at p. 20.) JM would be materially prejudice if it were not allowed to address this new and misleading argument, which is belied by the record.

I. IDOT Misrepresents the Record in its Response

The first subsurface investigations that took place on Site 3 were conducted by ELM in 1998. ELM generated a report regarding its Site 3 findings in early 1999 (“ELM Report”). The

ELM Report was marked “draft” and the figures contained in the ELM Report did not contain northings or eastings for Site 3 borings locations. (JM’s Motion to Exclude Base Maps, Related Figures and Testimony at Hearing “Motion to Exclude” at p. 18.) Mr. Gobelman used Figure 15 from the ELM Report to locate the Site 3 ELM borings on his Base Maps. (Gobelman Expert Report August 22, 2018 at p. 4.) Figure 15 from the ELM Report not only lacks important markings, but also states in its Legend that it is showing only the “approximate location of the surface and subsurface characterization boundary line.” (Hearing Exhibit 57-536, attached hereto as Exh. A, at Legend.) In fact, it does not even indicate what type of character or marking denotes a boring location. *Id.*

In its Motion to Exclude, JM argued, among many other things, that Mr. Gobelman was wrong to use ELM Figure 15 as the source for the placement of certain Site 3 soil borings on his Base Map because it is not the type of document “reasonably relied upon by [experts]” in the field *to place boring locations* on a Base Map, a point agreed to by Mr. Gobelman’s AutoCAD technician, Mr. Michael Nguyen.¹ (Motion to Exclude at p. 18.) Of utmost importance to Mr. Nguyen was the lack of surveying or GPS information needed to accurately place the boring locations on a Base Map. (Motion to Exclude at pp. 18-19.) In order to defend Mr. Gobelman’s use of this unreliable document to locate these key Site 3 borings, IDOT misrepresents the facts in at least two ways. First, IDOT states that the Board, in its Interim Opinion, relied generally upon the ELM Report “for determining the location of the Site 3 borings that the Board found IDOT liable for in its December 15, 2016 interim opinion and Order” and not Mr. Dorgan’s figures. (Response at pp. 2, 16-18.) IDOT also claims that there is no “USEPA-approved” map of Site 3. These statements are untrue.

¹ Note that none of Mr. Gobelman’s figures contain the Site 3 borings taken by LFR. *Compare* Gobelman Figure 1 from August 22, 2018 Report *with* Dorgan Figure 1 from June 13, 2018 Report. These borings begin with “S3.”

A. The Board Did Not Rely On ELM Figure 15 to Determine Liability But Did Rely on Dorgan's Figures

The Board's Interim Opinion did not rely on the ELM Report, including ELM 15, "for determining the location of the Site 3 borings that the Board found IDOT liable for in its December 15, 2016 interim opinion and Order," as claimed by IDOT. (Response at p. 2.)² The record is clear that when the location of a Site 3 boring needed to be examined in order for the Board to make a finding of liability, the Board relied upon Figures contained in Mr. Dorgan's Expert Reports, a fact IDOT mischaracterizes in its Response. (Motion to Exclude at pp. 6-7; Interim Opinion at pp. 7-10 (citing to Dorgan's Figure in Initial Report Exh. 06-27 (Figure 4) at pp. 7-8); citing to Dorgan Figure in Initial Report Exh. 06-28 (Figure 5) at p. 10; citing to Dorgan Figure in Rebuttal Report Exh. 16-17 (Figure 1) at p. 10; citing to Dorgan Figure in Rebuttal Report Exh. 16-18 (Figure 2) at p. 10; and citing to Dorgan Demonstrative Exh. 84 at pp. 8-10.) Indeed, when discussing the location of B3-45, the Board states that the sample "appears to be on the border of" Parcel No. 0393. (Interim Opinion at pp. 12, 13.)

While the Board does not expressly identify its source for this finding,³ neither ELM Figure 15 nor any of the maps contained in the ELM Report show the location of Parcel No. 0393. Thus, the Board must have relied on the only documents in the record that depicted the relationship between Parcel No. 0393 and boring B3-45, which were Mr. Dorgan's maps, Hearing Exhs. 16-18 and Exh. 84, and Mr. Gobelman's maps, Hearing Exhs. 90 and 202 – all of which were all based on the AECOM maps, not ELM Figure 15. (See Motion to Exclude at p. 7; Exh. M and N.) That the Board relied on these maps to find IDOT not liable in some instances

² IDOT's claim that the Board cited to the ELM Report for the finding that there was "waste" found generally on Site 3 is irrelevant to IDOT's argument that the Board relied on the ELM Report to identify boring locations for the purpose of making legal findings. (Response at p. 19)

³ It cites to Exh. 57 at 97-100 for the contents of the borings.

does not mean that the Board did not rely upon them. Moreover, IDOT cannot escape the fact that Mr. Gobelman relied on the AECOM maps at the first hearing and now wants to repudiate them and the fact that IDOT accepted those maps into evidence with no objection at the first Hearing.

As set forth in the record, like Mr. Gobelman's Exhibits 90 and 202 from the first hearing, all of Mr. Dorgan's figures contained in his Expert Reports were based upon AECOM maps generated in AutoCAD, not ELM Figure 15, as intimated by IDOT. (*See* Motion to Exclude at p. 6, Exh. J; Response at p. 4.)⁴ The AECOM AutoCAD maps/Dorgan Figures and ELM Figure 15 differed in the location of certain Site 3 borings. (Motion to Exclude at pp. 14-15, 18.) This appears to be because the boundaries of Site 3 on ELM Figure 15 do not match the final Site 3 boundaries, a point corroborated by Mr. Gobelman's statement in his Expert Report where he notes that the lengths of the southern and western Site 3 boundaries on ELM Figure 15 differ from those on Gobelman 1.⁵ (Gobelman August 22, 2018 Expert Report at p. 4.)

Since the Board looked to the Dorgan figures, which were based on AECOM maps, when issuing opinions that turned on the exact location of a boring, it follows that the Board did not rely on ELM Figure 15. While it is true that the Board cites to ELM Figure 20 generally for the proposition that ELM boring logs showed 16 locations containing ACM with six being located along Greenwood (Interim Opinion at p. 4), the statement is mere background and is not cited as

⁴ The fact that Mr. Dorgan relied on the ELM Report for other facts (such as the types of asbestos found in the borings), Response at pp. 2, 18-19, has no bearing on whether he relied on it for the purpose of locating the Site 3 borings on all of his maps contained in his expert reports at the first hearing and at for the second hearing in this case.

⁵ Just because a document is part of the Administrative Record does not mean that draft figures contained within it, which depict Site features as of a certain date, will never change as Site knowledge and work evolves. ELM Figure 15 was drafted in 1998, which is 18 years before the approval of the Final RAWP in March 2016.

part of the Board's in-depth analysis of the location of the borings in relation to work done by IDOT or in relation to Parcel No. 0393. As stated above, on every occasion where the location was significant to a Board finding, the Board looked to Mr. Dorgan's figures.

B. USEPA Approved Maps Do Exist

IDOT also erroneously claims that there is no "USEPA approved Figure" of Site 3. (Response at p. 15.) To the contrary, USEPA approved the final EE/CA and the final Remedial Action Work Plan ("RAWP"), both of which contain maps that AECOM produced using AutoCAD. USEPA reviewed four drafts of the EE/CA and four drafts of the RAWP. In doing so, USEPA reviewed and commented on errors it observed or additions it wanted to make, including on Figures. (*E.g.*, Hearing Exh. 120.) Thus, the USEPA's approval of the final EE/CA and the final RAWP served as an approval of the maps contained therein, including Hearing Exhs. 63-83 and 67-534. To claim that these maps were not approved by USEPA demonstrates a fundamental misunderstanding of the Administrative Order on Consent, the Enforcement Action Memorandum and USEPA's processes and protocols. (*See* Hearing Exhs. 62-9 through 62-13; 65.)

The fact that these USEPA-approved maps were not created for attribution purposes is a red herring. The figures created by Mr. Dorgan, such as Dorgan 1, were used only to indicate where key features were located, which was the same purpose they were used for by AECOM and USEPA. Indeed, IDOT's argument that maps created during the investigation and remedial phase of JM's work, which would include ELM Figure 15, cannot be used for attribution purposes undercuts Mr. Gobelman's entire opinion, as these maps served as his source information. (Motion to Exclude at p. 17.) Finally, it is entirely expected that USEPA would discuss ELM field work in its 2012 Enforcement Action Memorandum (Response at p. 18); but

doing so, does not mean it adopted the Site 3 boring locations in ELM Figure 15 as the exact location for those borings.

II. IDOT Injects a New Argument in Its Response Concerning Mr. Dorgan's CAD Expert

IDOT claims that *if* Mr. Nguyen's work was untrustworthy, *then* "Mr. Dorgan's CAD drafter similarly lacks an adequate foundation, as his CAD drafter approached her work similarly to how Mr. Nguyen approached his work for Mr. Gobelman." (Response at p. 20.) Initially, it should be stressed that JM did not argue that Mr. Nguyen himself lacked an adequate foundation, which IDOT seems to believe is the test. Rather, the argument was that the Base Maps, figures and testimony lacked foundation because Mr. Gobelman unreasonably relied upon Mr. Nguyen to create the Base Map and figures and to inform his testimony.

Furthermore, IDOT neither mentioned Ms. Dunton in its Motion *in Limine* to Strike the Opinions of Douglas G. Dorgan, Jr." nor attempted to strike Mr. Dorgan's figures or any work tied to Ms. Dunton. (*See* IDOT's Motion *in Limine* to Strike the Opinions of Douglas G. Dorgan, Jr.) As a result, it would be procedural improper to try and do so via its Response.

Nonetheless, out of an abundance of caution, JM seeks to set the record straight. JM argued that Mr. Gobelman was wrong to rely on Mr. Nguyen to create the Base Maps because he and his work were untrustworthy. It pointed out that Mr. Nguyen and his work were untrustworthy because: (1) he denied taking any "independent action or exercising any judgment in creating the Base Maps"; (2) he testified that if "Mr. Gobelman told him to make a change to the Base Maps, he would make that change even if he thought the change was wrong or inaccurate"; (3) he admitted that he used source documents "he did not believe were reliable . . . , yet did not bother to ask if better source documents were available"; and (4) he admitting to

using whatever Mr. Gobelman gave him, even though he knew Mr. Gobelman lacked the expertise to create a Base Map and to choose the right sources. (Motion to Exclude at p. 20.)

IDOT equates Ms. Dunton's work with Mr. Nguyen's work by cherry-picking quotes from her deposition about her methodology. But this misses the point and is grossly misleading. While it is true that Ms. Dunton said an AutoCAD technician must assume that a document he or she receives from a consultant, like AECOM, is accurate, this is not the same as determining that a document is unreliable and using it anyway. Ms. Dunton's testimony clearly evidences her desire to produce accurate and reliable figures. Unlike Mr. Nguyen, Ms. Dunton specifically testified: (1) if she were presented with documents and was unclear about the information contained in those documents, she would seek clarification and not blindly follow instructions (Deposition of Riah Dunton, attached hereto as Exh. A, at pp. 49:4-50:1); (2) she searched for additional documents to verify the validity of certain locations such as the placement of a fence (*id.* at pp. 85:19-88:1); (3) she obtained a tax parcel map to help create Dorgan 1 (*id.* at pp. 119:2-17; 121:21-122:15); and (4) she specifically emailed Mr. Dorgan and pointed out inconsistencies in Mr. Gobelman's Base Map. (*id.* at Exh. 5; Dunton Dep. at pp. 82:21-83:3).)

Not only is the reliability of Ms. Dunton's work easily distinguishable from Mr. Nguyen's work, but IDOT's attempt to make Ms. Dunton look bad by claiming that she does not recall how she created Dorgan 1, is both wrong and hypocritical. First of all, Ms. Dorgan's testimony is not about Dorgan 1, which is a document created for Mr. Dorgan's June 6, 2018 Report for the second hearing in this case; the testimony is about a precursor document to Dorgan 1, which was created four years earlier. (Dunton Dep. at pp. 60:1-64:14.) With respect to Dorgan 1, Ms. Dunton explained the processes used to create it in detail. (*Id.*) Ms. Dunton's practices significantly depart from those of Mr. Nguyen, thus, IDOT's claim that "[e]ither Mr.

Nguyen's and Ms. Dunton's similar work practices both pass muster of they do not" is not based in reality. (Response at 20.) Because Mr. Gobelman unreasonably relied upon Mr. Nguyen, Mr. Gobelman's Base Maps, figures and testimony lack foundation.

WHEREFORE, Complainant JOHNS MANVILLE respectfully requests that the Hearing Officer/Board enter an Order granting its Motion to Exclude.

Dated: October 9, 2019

Respectfully submitted,
BRYAN CAVE LEIGHTON PAISNER LLP

Attorneys for Complainant Johns Manville

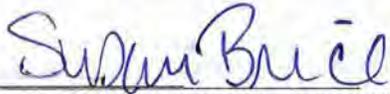
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EXHIBIT A

Transcript of the Testimony of
RIAH DUNTON

Date: July 24, 2019

Case: JOHNS MANVILLE VS. ILLINOIS DEPARTMENT OF
TRANSPORTATION

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2 deposition the following counsel:

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21
22
23
24

1 DEPOSITION OF
2 RIAH DUNTON
3 July 24, 2019
4

5 EXAMINATION BY: PAGE
6 Mr. McGinley 4

7 * * * * *
8

9 EXHIBITS

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1 RIAH DUNTON,
2 called as a witness herein, having been first duly
3 sworn, was examined upon oral interrogatories and
4 testified as follows:

5 EXAMINATION

6 by Mr. McGinley:

7 MR. MCGINLEY: Q Could you please state and
8 spell your name, for the record?

9 **A Riah Dunton. R-i-a-h. D-u-n-t-o-n.**

10 Q Okay. Thank you. Since we're on the
11 record, I think I know the answer to the question,
12 but I'm going to ask anyhow.

13 Have you ever been deposed before?

14 **A No.**

15 Q Have you ever testified in a court?

16 **A Not really.**

17 Q Okay.

18 **A No.**

19 Q Okay. So, the Court Reporter just sworn you
20 in, and the reason why they swear you in is because
21 this deposition is, in a sense, a substitute for
22 trial testimony.

23 So it's as if you are giving testimony in a
24 courtroom, it's on the record, the Court Reporter is

1 taking down everything we say. And it has the same
2 kind of formalities. One of the other things that's
3 going on here is because we're making a record of
4 what we're saying here today, is it's very important
5 to respond verbally to questions.

6 And so that means, in a sense, you have to
7 handle things a little bit differently than you
8 would in common every day conversations. So where,
9 you know, if you're talking with a friend, it's fine
10 if they ask you a question, a yes, no question, like
11 shake your head yes or no, you actually have to say
12 that on the record, just to make it easier, okay?

13 **A Understood.**

14 Q The other thing that helps, insofar as
15 making the record is concerned, is if you let me
16 finish asking a question, before you answer. And
17 I'll let you finish your answer, before I ask you
18 another question. It just makes it easier if we're
19 not talking over each other, and it just kind of
20 goes better that way.

21 **A Okay.**

22 Q It also helps for the Court Reporter if we
23 both speak up, and kind of speak clearly, so that
24 that way they're able to hear what we're saying.

1 Kind of make things a little bit easier for them,
2 kinder and gentler.

3 If I ask you a question today and you don't
4 understand the question, please tell me. I'll try
5 and rephrase it and give it to you back the easiest
6 way possible, okay?

7 **A Okay.**

8 Q All right. Let me just ask you this. Do
9 you have -- do you understand that there's a case
10 between Johns Manville and the Illinois Department
11 of Transportation, do you have an understanding
12 about that?

13 **A Some, yes.**

14 Q Okay. What is your understanding about this
15 case?

16 **A Former Johns Manville land, IDOT leased land**
17 **going across it for temporary roads, and**
18 **construction along the north Greenwood Road, that**
19 **was done by IDOT, that's adjacent to the land.**

20 Q Okay. And anything else that you understand
21 about the nature of the case?

22 **A That IDOT had permission to dump materials**
23 **on the land.**

24 Q Okay. And anything else, besides that?

1 **A Not entirely, no. No, nothing further,**
2 **really.**

3 Q Okay. So, your understanding about the
4 construction, about IDOT having a temporary road on
5 the property, about being allowed to dispose of
6 materials on the property, how did you acquire that
7 understanding?

8 **A I have worked on this project for a number**
9 **of years, through discussions with Doug Dorgan and**
10 **the plans from AECOM.**

11 Q How many years, would you say, you have
12 worked on this project?

13 **A Four, I think.**

14 Q Four years, okay. And with Mr. Dorgan,
15 Mr. Dorgan is the project manager for this,
16 correct?

17 **A Correct.**

18 Q Okay. During the entire four years that you
19 have been working on the case, has Dr. Dorgan been
20 the project manager?

21 **A Yes.**

22 Q Anybody else been the project manager?

23 **A No.**

24 Q Okay. Beside Mr. Dorgan, did you acquire

1 your understanding by speaking with anybody else?

2 **A Clarify, please?**

3 Q Sure. So, your understanding about the kind
4 of basic facts that you understand about the case,
5 you, if I understood your testimony before
6 correctly, you said that you have learned about some
7 of this through Mr. Dorgan, information apparently
8 Dr. Dorgan communicated to you, from looking at the
9 AECOM plans and just, I guess, from virtue of having
10 worked on this for four years; is that an accurate
11 summary?

12 **A Correct.**

13 Q Have you spoken with anybody else, besides
14 Mr. Dorgan, in acquiring your knowledge about the
15 case?

16 **A No.**

17 Q Okay. And when you say you have looked at
18 AECOM plans, is it plans, are we talking about
19 documents that you have looked at?

20 **A Correct.**

21 Q Okay. Do you recall, specifically, any
22 documents that you have looked at by AECOM that
23 you're understanding about this case is based on?

24 **A They're plans, they have a full set of**

1 **plans. I looked at several different pages from**
2 **those.**

3 Q Okay.

4 **A Including the documents provided to me.**

5 Q Okay. And the pages of those plans that
6 were provided to you, who provided those to you?

7 **A I don't recall who.**

8 Q Okay. What is the first discussion that you
9 recall about this matter?

10 **A The present matter or the construction?**

11 Q About -- let's just say Weaver's work on
12 this project. If I say Weaver's work on this
13 project, I mean would that help kind of frame things
14 for you?

15 **A Yes.**

16 Q Okay. So when is the first time that you
17 ever had a discussion with Dr. Dorgan about Weaver's
18 work on this project?

19 **A It was probably about four years ago.**

20 Q Okay. Do you recall anything about that
21 conversation, when you initially spoke with him?

22 **A No, I don't.**

23 Q Okay. Besides the fact that there was
24 construction that took place, that IDOT did work up

1 near Johns Manville'S former facility, which is up
2 in Waukegan, do you have an understanding that it's
3 in Waukegan?

4 **A Correct.**

5 Q Okay. Do you have any understanding about
6 what, currently, is taking place, what sort of work
7 Weaver is currently doing with respect to this
8 matter?

9 **A I am not sure if I understand.**

10 MS. BRICE: Yes, objection, assumes facts not in
11 evidence.

12 MR. MCGINLEY: Q Okay. Mr. Dorgan has worked
13 on this case for at least four years, as far as you
14 know, correct?

15 **A Correct.**

16 Q Okay. Do you have an understanding about
17 what kinds of work Dr. Dorgan is doing on this
18 project?

19 **A No.**

20 Q You don't, you don't understand anything at
21 all?

22 **A No. I do not know what Dorgan is doing. I**
23 **am only doing what I am doing.**

24 Q Okay. Are you aware that Johns Manville is

1 conducting, has conducted a clean-out of the site up
2 in Waukegan?

3 And when I say site, do you have an
4 understanding of the terms site?

5 **A Yes.**

6 Q Okay. What is your understanding of that
7 term?

8 **A Regarding this?**

9 Q This matter, yes.

10 **A It would be the property that's called**
11 **Site 3.**

12 Q Site 3, okay. Are there any other terms
13 that you're familiar with that refer to this matter,
14 Site 3, any other terms besides, Site 3?

15 **A The plan, the location.**

16 Q Have you ever heard of Site 6?

17 **A Yes, it's the Greenwood Avenue.**

18 Q Okay. So, if I, if I refer to Site 3 or
19 Site 6, during the deposition, you have an
20 understanding of what that means?

21 **A Yes.**

22 Q And Site 3 is what, specifically, what is
23 your understanding of Site 3?

24 **A It is the site in question.**

1 Q Okay. Where is that located, specifically,
2 in relation to Greenwood Avenue?

3 **A South of Greenwood Avenue.**

4 Q Okay. Do you have an understanding that, do
5 you have any understanding about what Johns Manville
6 currently, any understanding about what Johns
7 Manville is currently doing at the site or has done
8 recently?

9 **A No, I don't.**

10 Q Are you aware that they have conducted a
11 clean-up of the site?

12 **A I was not aware.**

13 Q What did you do to prepare for today's
14 deposition?

15 **A Reviewed the documents, including the
16 drawings that I was a part of.**

17 Q And when did you first start looking at
18 those drawings, to prepare for the deposition?

19 **A Looked at them a couple of weeks ago, when
20 the first deposition was planned.**

21 Q Okay. Did you review them by yourself? Did
22 you review them with -- in conjunction with anybody
23 else?

24 **A By myself and then a discussion with Susan**

1 **Brice.**

2 Q Okay. And that would have taken place a
3 couple of weeks ago, the discussion with
4 Miss Brice?

5 **A Correct.**

6 Q Okay. Did you talk about your then upcoming
7 deposition with anybody, besides Miss Brice?

8 **A Of what was going to be discussed, no.**

9 Q Okay. Did you speak with -- are you
10 familiar with a woman by the name of Lauren
11 Caisman?

12 **A Yes.**

13 Q Okay. Did you talk with Miss Caisman -- and
14 Miss Caisman works with Miss Brice, correct?

15 **A Correct.**

16 Q Did you talk with Miss Caisman about your
17 upcoming deposition?

18 **A No.**

19 Q Okay. Did you speak with Dr. Dorgan about
20 your upcoming deposition?

21 **A No. He is aware that it's happening.**

22 Q He was aware that it was happening?

23 **A Yes.**

24 Q Okay. How was he aware that it was

1 happening?

2 **A Well, I told him, and I'm presuming Susan**
3 **Brice might have mentioned it, I don't know.**

4 Q Okay. What was the nature of your
5 discussion with Miss Brice, what did you talk
6 about?

7 MS. BRICE: Objection, calls for attorney-client
8 privilege. I instruct her not to answer, I'm
9 representing her in this case.

10 MR. MCGINLEY: Well, I think because Miss Dunton
11 is working for Mr. Dorgan in this, that's not a
12 correct assertion of privilege.

13 MS. BRICE: I'm sorry, she's not being offered
14 right now as an expert, so I think it's a totally
15 appropriate assertion of privilege.

16 MR. MCGINLEY: I disagree with that, I mean she
17 is supporting Mr. Dorgan's work, she is one of the
18 people that's worked with him, and in the same way,
19 when you took Mike Wynn's (phonetic) deposition,
20 there was not assertion --

21 MS. BRICE: You didn't assert the privilege.

22 MR. MCGINLEY: Because it would not have been a
23 proper to assert the privilege.

24 MS. BRICE: Listen, I'll let her answer the

1 question, but I'm not waiving the privilege, got it?
2 She can answer the question, but I'm not waiving the
3 privilege in any way, shape, or form.

4 MR. MCGINLEY: Q So what did Miss Brice -- what
5 did you talk about with Miss Brice in the course of
6 preparing for your deposition?

7 MS. BRICE: Same objection, not waiving
8 privilege, but I'm allowing her to answer, for these
9 purposes.

10 THE WITNESS: We spoke about the documents that
11 were prepared for reports, and then she gave me a
12 heads-up on how depositions go.

13 MR. MCGINLEY: Q Okay. So, what did she tell
14 you about how depositions go?

15 **A That I shouldn't be nervous.**

16 Q That's good.

17 **A It didn't work.**

18 Q We all give that advice, it never works, no
19 one ever takes it for some reason.

20 What -- you said you looked at the reports;
21 is that right?

22 **A No, documents.**

23 Q Documents, okay. So what documents,
24 specifically, are we talking about?

1 **A The drawings that I had helped produce.**

2 Q Okay. And when you say helped produce, you
3 mean what, specifically?

4 **A AECOM's drawings that we further then**
5 **produced.**

6 Q So, when you -- but when you say produced,
7 and we'll get into this in more depth later on,
8 because it's probably something that's central to
9 what we need to talk about today.

10 When you say produced, though, what exactly
11 are you talking about? Creating additional figures
12 based upon work that was done by AECOM?

13 **A Correct.**

14 Q Okay. So, other than looking at the
15 drawings, speaking with Miss Brice, what else did
16 you do in order to prepare for the deposition?

17 **A That's about it.**

18 Q Okay. Did you go back and look at any --
19 you have had e-mails between yourself and
20 Mr. Dorgan, correct, during the course of this
21 project?

22 **A In the past years, I'm sure, yes.**

23 Q Okay. Did you look at any of those
24 e-mails, in the course for preparing for the

1 deposition?

2 **A In the course of preparing for the**
3 **deposition, I can't say that I recall any number of**
4 **them, but a couple.**

5 Q You looked at a couple?

6 **A Yes.**

7 Q Do you recall what you learned from reading
8 these couple of e-mails that you might have seen?

9 **A Just refreshing my memory.**

10 Q Okay. And what, specific, what memories
11 specifically were being refreshed by looking at
12 these e-mails?

13 **A The e-mail that he asked me for clarity on,**
14 **Gobelman's documents.**

15 Q Okay. Do you recall, approximately, when
16 that e-mail was sent to you?

17 **A September, last year.**

18 Q September, last year, okay. Any other
19 e-mails that you recall having looked at, in the
20 course of preparing for the deposition?

21 **A I did not look at any other ones, no.**

22 Q Okay. Just this one that you're recalling
23 from, you think, September of last year, right?

24 **A Correct.**

1 Q Okay. Did you speak with anybody else at
2 Weaver, in advance for preparing for your
3 deposition?

4 A I let them know that I was going to be at
5 the deposition.

6 Q Okay. Does Weaver have an in-house
7 counsel?

8 A They, there is an in-house counsel, yes, but
9 not for such things as this.

10 Q Okay. So you wouldn't have spoken to
11 Weaver's in-house counsel about your deposition?

12 A No.

13 Q Okay. Besides speaking with Miss Brice two
14 weeks ago, have you had any further occasions to
15 speak with her in advance of today's deposition
16 about the deposition?

17 A No.

18 Q Just the one time?

19 A Yes, and this morning.

20 Q Okay. And how long did you talk this
21 morning?

22 A Half an hour.

23 Q Okay. And what did you talk about this
24 morning?

1 MS. BRICE: Same objection. Objection on the
2 basis of attorney-client privilege, but I will allow
3 it for these purposes, but I am not waiving the
4 objection, with respect to anything else other than
5 this question.

6 THE WITNESS: Regarding this deposition, just
7 not to be nervous.

8 MR. MCGINLEY: Q Okay. And that's all you
9 spoke about during the half hour?

10 **A Regarding this, yes.**

11 Q What else did you talk about during the half
12 hour that you were together?

13 **A Personal things.**

14 Q Personal things, okay.

15 MS. BRICE: And just for the record, Evan, I
16 think you're aware of the situation that happened at
17 the company.

18 MR. MCGINLEY: Yes.

19 MS. Brice: So, if we could try to stay away
20 from that, it's pretty upsetting for her, so.

21 MR. MCGINLEY: Well, I wasn't --

22 MS. BRICE: I know you weren't, I know you
23 weren't intending to, I'm just saying, that's what
24 we were talking about.

1 MR. MCGINLEY: Okay. That's fine.

2 Q Prior to today's deposition, have you spoken
3 with Miss Brice, before the deposition, before two
4 weeks ago, have you ever had other occasions to
5 speak with Miss Brice?

6 **A Prior to two weeks ago?**

7 Q Yes. In anticipation of today's
8 deposition?

9 **A Not that I recall.**

10 Q Okay. How about with Lauren Caisman, you
11 indicated earlier that you know Miss Caisman, have
12 you ever had an occasion to speak with her?

13 **A We have chatted very little.**

14 Q Okay. And what about e-mail, have you
15 corresponded with her by e-mail?

16 **A Very little, that I recall. It would be
17 copied with Susan Brice.**

18 Q Okay. Do you recall, generally, what the
19 purpose of your communicating with Miss Caisman
20 would have been?

21 **A Probably documents for Doug Dorgan's
22 deposition.**

23 Q To arrange for -- what do you mean,
24 documents for Doug Dorgan's deposition?

1 **A The drawings that were in his last report.**

2 Q So, do you mean that you were providing
3 copies of these documents to Miss Caisman, is that
4 what I should understand?

5 **A Yes.**

6 Q Okay. Anything else?

7 **A Not that I recall, no.**

8 MR. MCGINLEY: Q Mark that, please, that's
9 Exhibit 1.

10 (Dunton Exhibit 1 marked.)

11 MR. MCGINLEY: Q Miss Dunton, the document that
12 I have had the Court Reporter give to you is a
13 notice of deposition, and this is for your original
14 deposition, which was to have taken place on
15 July 10th. Have you seen this document before?

16 **A Most of the pages, yes, they were e-mailed**
17 **me, to let me know that the deposition was**
18 **happening.**

19 Q Okay. If I could turn your attention to
20 page 5, a little bit above the middle of the page,
21 it says documents to be produced at your deposition.

22 Have you seen this portion of Exhibit 1
23 before?

24 **A Yes, I have.**

1 Q Okay. And do you recall when you saw the
2 deposition notice initially, just roughly speaking,
3 what date?

4 **A Maybe a week before the 10th.**

5 Q Okay. There's --

6 **A I don't recall the exact date, I'm sorry.**

7 Q That's fine. There's five categories of
8 documents that are listed under documents to be
9 produced.

10 You testified that you have seen the notice
11 before, and I take it that you have read through
12 each of these categories in the deposition notice;
13 is that right?

14 **A Yes.**

15 Q Okay. The first one says, copies of all
16 documents related to any work you performed on the
17 June 13th, October 25th, or April 30th Dorgan
18 Reports, which would have been June 13th,
19 October 25th of last year, and April 30th of this
20 year.

21 Did you produce all copies of documents
22 that related to your work on any of those three
23 reports?

24 **A They were already produced, yes.**

1 Q They were already produced. And how did you
2 determine that they had already been produced?

3 **A Through Dorgan's deposition.**

4 Q And when you say through Dorgan's
5 deposition, what do you mean exactly?

6 Did you read the transcripts of
7 Mr. Dorgan's deposition or --

8 **A I had read it, yes.**

9 Q Okay. And when did you read Mr. Dorgan's
10 deposition transcript?

11 **A When it was released.**

12 Q Okay. And, just so that I'm clear,
13 Mr. Dorgan has been deposed a few times in this
14 case.

15 **A The last one.**

16 Q The last one. So this would have been June
17 of this year?

18 **A Yes.**

19 Q Okay. Why did you read Mr. Dorgan's
20 deposition transcript?

21 **A He suggested I did.**

22 Q Okay. And did he say anything else, I mean
23 you're saying he suggested that you read the
24 transcript, did he say anything else at the time

1 that he made that suggestion to you?

2 **A If I recall, he suggested I read it, since**
3 **my deposition was coming up, so that items that he**
4 **had talked about may come up.**

5 Q Okay. Was there anything else that he told
6 you or suggested to you about reading the transcript
7 of his deposition?

8 **A No.**

9 Q Okay. After you read the transcript of his
10 deposition, did you talk with him about the
11 deposition at all?

12 **A No.**

13 Q Had no questions for him about what you had
14 read in the deposition?

15 **A No.**

16 Q Okay. And so, based upon your reading of
17 the deposition transcript, you determined that any
18 of the documents that might have been within the
19 scope of number one here in your deposition notice
20 had already been produced, is that your testimony?

21 **A Correct.**

22 Q Okay. With respect to number two, copies of
23 all documents you created or caused to be created,
24 which related to either the August 21st or

1 November 7 Gobelman Reports, and that's August 21st
2 and November 7th of last year, did you -- what
3 efforts did you take to try and locate any documents
4 that were related to number two?

5 **A Those were also previously produced.**

6 Q Okay. And you made that determination again
7 based upon reading Mr. Dorgan's deposition
8 transcript; is that right?

9 **A And knowing what he had produced, yes.**

10 Q Okay. And how did you know what he had
11 produced?

12 **A He asked me for information before his**
13 **deposition.**

14 Q Okay. And what information did he ask you,
15 before his deposition?

16 **A Clarification.**

17 Q What sort of clarification?

18 **A On what he had and if there was anything**
19 **further.**

20 Q What do you mean by what he had and if there
21 was anything further?

22 **A He had documents, he wanted to know if there**
23 **was anything else further produced, and there**
24 **wasn't, since we hadn't needed to.**

1 Q And where would you have looked for those
2 documents?

3 A In our system.

4 Q Okay. And --

5 A My mind.

6 Q But I'm asking you, because I'm trying, I
7 mean, one of the things that we have to deal with is
8 try and figure out like where information is kept,
9 right?

10 A Uh-huh.

11 Q I mean, so when you say, you know, the
12 documents, the documents that had been produced in
13 our system, you know, I have to sort of try and run
14 this to ground and try and figure out exactly what
15 you mean, because I might think I understand, but
16 I'm better off probably not assuming, is why I have
17 to ask.

18 So, Weaver maintains they have a computer
19 network, right?

20 A Correct.

21 Q Okay. And within the computer network, as I
22 understand it, based on testimony from Mr. Dorgan in
23 the past, you would, it would be the custom and
24 practice within Weaver to sort of have a specific

1 sub-directory or sub-folder in which the documents
2 that are being created relative to, let's say this
3 particular matter, are all kept, right?

4 **A Correct.**

5 Q And everybody kind of knows that that's the
6 place to keep all of the documents; is that
7 correct?

8 **A Correct.**

9 Q Okay. So, does that mean then that you
10 would have gone to that place on Weaver's computer
11 network to sort of see what was inside that file?

12 **A Correct.**

13 Q Okay. And you did that before Mr. Dorgan
14 was deposed; is that right?

15 **A Correct.**

16 Q Okay. So, then to go back to number 2 here,
17 in the deposition notice, that means that between
18 reading Mr. Dorgan's deposition transcript and your
19 knowledge about what people had done to locate
20 documents, prior to his deposition, you were able to
21 say, with respect to number 2, everything has been
22 produced; is that your testimony?

23 **A Yes.**

24 Q Okay. Number 3, copies of all documents you

1 reviewed or otherwise consulted in the course of any
2 work you performed on June 13th, June --
3 October 25th, or the April 30th Dorgan Reports.

4 How did you determine, how did you go about
5 trying to locate documents that were related to
6 number 3?

7 **A They were already produced.**

8 Q And you're saying that based upon efforts
9 that you had made, in advance of Mr. Dorgan's
10 depositions; is that right?

11 **A Correct.**

12 Q Is there anything else that you did to
13 ascertain that those documents had already been
14 produced that were related to number 3?

15 **A Nothing further needed to be done.**

16 MS. BRICE: Can we take a break for a second?

17 MS. BRICE: Yeah, sure.

18 (Whereupon a break was taken at 10:23.)

19 (Back on the record at 10:27.)

20 MS. BRICE: We're back. Sorry.

21 MR. MCGINLEY: Q So during your break, what did
22 you talk about?

23 MS. BRICE: Again, you know, attorney-client
24 privilege, but go ahead, I don't care.

1 MR. MCGINLEY: I understand the assertion.

2 Q Please, go ahead.

3 **A Clarification, I guess, there was, it must**
4 **have slipped my mind when documents were produced,**
5 **either before or after Dorgan's deposition, and**
6 **additional documents were produced with this**
7 **request.**

8 Q Okay. So, were you involved in assembling
9 the documents for the -- after, I'm sorry, let me
10 strike that.

11 So, after Mr. Dorgan's deposition, some
12 documents were produced to us. Were you involved in
13 getting those documents put together?

14 **A Yes.**

15 Q Okay. And in advance of your deposition
16 today, there were other documents that were
17 transmitted to us, were you involved in getting
18 those documents to us as well?

19 **A Yes.**

20 Q Okay. How did you determine, for purposes
21 of the documents that you put together, in advance
22 of your deposition, what steps did you take to
23 locate those documents?

24 **A I found them on the sever.**

1 Q Okay.

2 **A In the location that they would be at.**

3 Q Okay. Do you know if -- had you previously
4 thought to include any of those same documents that
5 you produced most recently, just for purposes of
6 your deposition, had you previously considered
7 producing any of those documents for Mr. Dorgan's
8 deposition?

9 **A It's possible.**

10 Q Okay. And when you say it's possible, what
11 do you mean by that?

12 **A There was possible, some duplicate documents**
13 **that Dorgan, for Dorgan's deposition, that I brought**
14 **together that also were for mine.**

15 Q Okay. Just go back to number 4, on the
16 document list, copies of documents you reviewed in
17 the course of any work performed or analyses you
18 conducted on the August 21st or November 7th
19 Gobelman Reports.

20 How did you determine that you had complied
21 with this portion of the document request?

22 **A Like previously, most of the documents were**
23 **produced, especially for those for Dorgan's**
24 **deposition.**

1 Q Okay. In order to know what documents you
2 reviewed, with respect to Mr. Gobelman's two
3 reports, do you maintain any notes or any lists of
4 what you have looked at at any point in time?

5 **A Just the documents that are on the server.**

6 Q Okay. So it's just the documents that are
7 on the sever; is that right?

8 **A Yes.**

9 Q Nothing else?

10 **A Correct.**

11 Q Did you go back and look at any e-mails that
12 would have been written or received around the time
13 that you were doing the review of Mr. Gobelman's
14 report to see if there were any documents that were
15 referenced in the e-mail that you needed to try and
16 locate?

17 MS. BRICE: Objection, asked and answered.

18 Go ahead and answer the question.

19 THE WITNESS: The e-mail that I talked about
20 prior. I had spoken about prior.

21 Q Okay. What about copies of any billing
22 statements or invoices for work performed by either
23 you or Weaver on this matter, number 5, did you take
24 any steps to try and locate any documents that were

1 relevant to number 5?

2 **A I don't have access to that.**

3 Q Okay. And who would have access to that,
4 the billing statements and invoices?

5 **A Doug Dorgan.**

6 Q Okay. And that's because he's the project
7 manager; is that right?

8 **A Correct.**

9 Q Okay. What is your, what is the highest
10 level of education you have?

11 **A Bachelor's degree.**

12 Q In what?

13 **A Bachelor's of Science for Architecture.**

14 Q Okay. And where did you get the degree?

15 **A University of Michigan.**

16 Q Do you take any, as part of your training in
17 architecture, did you learn how to use CAD systems,
18 CAD drafting?

19 **A Not through that school.**

20 Q Okay. You learned through some other
21 education?

22 **A Yes.**

23 Q And what was that?

24 **A An Associate's in Applied Science for**

1 **AutoCAD.**

2 Q And where did you get that?

3 **A Art Institute of Houston.**

4 Q And, approximately, when did you get that
5 degree?

6 **A 1995.**

7 Q Do you, as with lawyers, we have to do
8 continuing legal education, just to kind of advance
9 our knowledge. Do you, have you taken any sort of
10 continuing education classes in CAD since you got
11 your Associate's degree in 1995?

12 **A Yes.**

13 Q Okay. Like, so what sort of classes have
14 you taken?

15 **A There is a conference that is held in
16 Las Vegas, called Autodesk University.**

17 Q Okay. Is that something that takes place
18 annually?

19 **A Yes.**

20 Q Do you typically go annually?

21 **A No.**

22 Q How long have you worked at Weaver?

23 **A Over 13 years.**

24 Q Okay. What are your current job duties?

1 **A** **I am a CAD designer and drafter for**
2 **environmental, civil engineering, architecture. I**
3 **also do marketing, presentations, soft IT work.**
4 **That basically sums it.**

5 **Q** Okay. What kind of presentations do you
6 do?

7 **A** **Graphic and PowerPoint.**

8 **Q** Okay. And is that for like an internal
9 audience at Weaver, or is that for external
10 clients?

11 **A** **Both.**

12 **Q** When you say, and just give me an idea, just
13 of what would you give a presentation on? I mean
14 you're talking about graphics and things like that,
15 but I mean can you be more specific about any one
16 presentation you have given?

17 **A** **I create the presentations, I don't present**
18 **them.**

19 **Q** You create the presentations. Thank you,
20 okay. As a CAD designer, doing architectural, civil
21 engineering and environmental work, what kinds of,
22 is there some sort of like typical assignment that
23 you're doing, I mean what does that actually
24 entail?

1 **A There's no typical assignment.**

2 Q Okay. What kinds of things -- you're
3 creating drawings, though, I gather; is that
4 right?

5 **A Correct.**

6 Q Figures of some sort?

7 **A Yes.**

8 Q How do you actually refer to them? I mean
9 are they drawings, are they figures, I mean is there
10 a particular term that's used?

11 **A No.**

12 Q Okay. So, if I say figure, if I say
13 drawing, in referring to work that you have done for
14 Mr. Dorgan's reports, both terms would be correct;
15 is that right?

16 **A Yes.**

17 Q Okay. When you're creating figures or
18 drawings, are you just using CAD drafting
19 technology?

20 MS. BRICE: Object to the form of the question.

21 THE WITNESS: Could you clarify, please?

22 MR. MCGINLEY: Q Sure. When you create
23 figures, what tools, what technology do you use to
24 create those figures?

1 **A I do use RSR CAD.**

2 Q Okay.

3 **A And mapping systems.**

4 Q And when you say mapping systems, can you be
5 more specific, what do you mean?

6 **A Google Earth Pro is one of those. Map Card,**
7 **and, sorry, I'm trying to remember what we call it.**

8 MS. BRICE: Don't guess, if you don't remember.

9 THE WITNESS: They're Quarter Maps, it's a
10 topography website.

11 MR. MCGINLEY: Q Okay. Would that be sort of
12 like USGA Maps?

13 **A Yes.**

14 Q Okay. Your current duties, well, do you
15 have a specific title, are you a CAD technician,
16 CAD operator, I mean?

17 **A Designer.**

18 Q Designer. Okay. Thank you. Have you had
19 the same job title during your 13 years at Weaver?

20 **A Same job title, yes.**

21 Q Okay. Have the scope of your
22 responsibilities changed during the 13 years?

23 **A Yes.**

24 Q Okay. Over the course of that period of

1 time, how have they changed? What's different
2 between when you started and today?

3 **A What I do, how much work, and the number of**
4 **people I work with.**

5 Q Okay. When you say you're using Autodesk
6 and AutoCAD, are those the same thing, just two
7 different ways of referring to the same thing, or
8 are they two different types of, I don't know,
9 applications, programs?

10 **A I refer to them as the same, but they are**
11 **not the same. Autodesk is the brand. It's the top**
12 **brand.**

13 Q Uh-huh.

14 **A It's kind of like saying Kleenex when you**
15 **mean tissue.**

16 Q Thanks. I'm a layman, I need it broken down
17 like that.

18 **A I know, I'm used to breaking down things**
19 **like that.**

20 Q Good. Thank you. When you started at
21 Weaver, did you receive any kind of training in how
22 to be a Weaver CAD designer?

23 **A No.**

24 Q Okay. Are there any kind of -- when you

1 create figures or do drawings, do you have any like
2 sort of set company standards, set protocols for how
3 designs or drawings should be created?

4 **A Yes.**

5 Q Okay. And can you elaborate on those, like
6 how, what kind of standards apply to the drawings
7 that you create?

8 **A Such as colors and line weights and title**
9 **blocks that are used. How to label layers, which is**
10 **not enforced. How, how to, terminology, I guess,**
11 **would be the best way of saying that.**

12 Q Sometimes in publishing, or if you were a
13 journalist, newspapers will have things like style
14 sheets, style guides, is that kind of what you're
15 talking about here, that there's like a set sort of
16 style guide for designs and drawings are supposed to
17 be created by Weaver?

18 **A Yes.**

19 Q Okay. So, ideally, every time a CAD person
20 is sitting down and doing a drawing, whether it's
21 you, whether it's one of your colleagues, they
22 should all be applying the same standards and
23 producing a design, a drawings that looks more or
24 less the same?

1 **A Ideally.**

2 Q Okay. And how are these standards
3 communicated to you?

4 **A I developed them.**

5 Q You developed them, okay. So you have
6 developed the standards, you have people that aren't
7 following them, is that what I should understand?

8 **A We're a large company, that's correct.**

9 Q Okay. So when did you begin this, would you
10 say it's an effort at trying to standardize designs?

11 **A Correct.**

12 Q Okay. So when did you start the
13 standardization effort?

14 **A When I was hired.**

15 Q Okay. So for 13 years you have been working
16 on this?

17 **A It's progressive.**

18 Q Progressive, okay. An evolutionary
19 process?

20 **A Yes.**

21 Q Okay. Do you ever give presentations
22 internally on these standards?

23 **A Yes.**

24 Q Okay. When is the most recent presentation

1 that you gave?

2 **A I guess it would be two years ago. Yeah.**

3 Q Why do you want to see drawings and designs
4 standardized?

5 **A It holds the brand better.**

6 Q Okay. And when you say holds the brand
7 better, what do you mean specifically?

8 **A Weaver's brand.**

9 Q Okay. And what is Weaver's brand, as you
10 perceive it?

11 **A Our title block, our logo, our font, how
12 things are laid out for each type of project.**

13 Q Is there a different standard, so when
14 you're talking about, the work that you're doing on
15 Johns Manville, does this come under the rubric of
16 being an environmental project, is it civil
17 engineering, architecture, what is it?

18 **A Environmental.**

19 Q Okay. So for environmental projects,
20 there's a specific standard that should be applied
21 to each and every drawing that's done for an
22 environmental project; is that right?

23 **A If we produce that drawing, yes.**

24 Q Okay. How -- and in spite of your efforts

1 of standardizing, it sounds like that doesn't always
2 make its way into the final product; is that right?

3 **A It depends.**

4 Q I have noticed, in looking at the diagrams,
5 the drawings that have been done in this matter and
6 I assume it's true of other matters as well, that
7 the designer will be listed as well as the reviewer,
8 is that a kind of a standard practice that's
9 employed by Weaver?

10 **A Yes.**

11 Q Okay. Who -- so I guess the designer is
12 whoever has been assigned to that project, right?

13 **A At that time.**

14 Q Okay. Who gets to be the reviewer, I mean
15 how, who does the review, is there any standards
16 that decide who's the reviewer?

17 **A I believe it's who the project manager is or
18 the one in charge at that moment.**

19 Q Okay. Is that something that's actually
20 laid out in standards that have been developed by
21 Weaver for your drawings or is that just kind of
22 custom, if you know?

23 **A Custom.**

24 Q Okay. So the standardization, if I am

1 hearing you correctly, that's important because you
2 want continuity, to maintain brand, is that a fair
3 way of summarizing what you're trying to do?

4 **A Yes.**

5 Q Okay. And why is -- besides maintaining or
6 developing a brand and an identity, are there other
7 reasons why standardization is important?

8 **A With this company, with mine, or in**
9 **general?**

10 Q Well, in general, and I guess, more
11 specifically, in my mind, are there other reasons
12 why standardizations is important when you're
13 talking about creating diagrams, like how does
14 standardization -- does standardization benefit the
15 output, the diagram that's created?

16 **A Just in clarity.**

17 Q In terms of clarity, okay. And that's the
18 only reason?

19 **A As far as the output, yes.**

20 Q When you sit down to create a new figure,
21 what is your -- let me strike that.

22 What is your goal, when you sit down to
23 create a new figure or new drawing?

24 **A The goal is to have a finished product for**

1 **the project manager.**

2 Q Okay. And what is important in creating
3 that, I mean is, do you want the diagram to be
4 accurate, do you want --

5 **A Yes.**

6 Q Okay. What do you need to do to ensure the
7 accuracy of a drawing or figure that you're
8 creating?

9 **A That I have all the information needed.**

10 Q Okay. What kind of steps do you have to
11 take to ensure that you have all the information
12 that you need in order to produce an accurate
13 drawing?

14 **A Make sure the project manager has given me
15 all that information.**

16 Q Okay. Are there times when you have not had
17 all the information that you have needed and still
18 had to create a diagram?

19 **A I have started a diagram but never finished
20 one without all the information.**

21 Q Okay. The -- so those are practices that
22 you adhere to. Would you say that other people at
23 Weaver adhere to the same practices?

24 **A I have no idea.**

1 Q Okay. If you don't have all the information
2 that you need, how do you go about getting that
3 information?

4 **A I ask the project manager.**

5 Q Okay. What kind of things, when you're
6 sitting down to start on a project, to create
7 drawings, what is it, I mean do you have to sit down
8 and talk with the project manager and just kind of
9 get a sense of what it is that they are trying to
10 visualize through this diagram or this drawing that
11 you're going to create?

12 **A Sometimes.**

13 Q Why do you say sometimes? Like what, what
14 kinds of situations warrant having a conversation?

15 **A Sometimes it's in an e-mail.**

16 Q Okay. Well, sometimes it's in an e-mail.
17 So why do you need to have that communication with
18 the project manager? Are there times when you're
19 not sure what the output is supposed to be? What
20 the final product is supposed to look like?

21 **A Correct.**

22 Q Okay. I take it that there's differences in
23 CAD drawings between, fair to say, there's a range
24 between simple CAD drawings, simple diagrams and

1 complicated ones, correct?

2 **A Yes.**

3 Q Okay. When you're involved in a complicated
4 kind of project, does that require more discussion
5 input with the project manager to make sure that
6 you're creating something that's going to fit the
7 project manager's needs?

8 **A Yes.**

9 Q Okay. Would you say, how would you
10 characterize the drawings in the designs that you
11 have done on this project, for Johns Manville, with
12 Mr. Dorgan, were they more complicated drawings or
13 were they simpler ones?

14 **A In the middle.**

15 Q In the middle, okay. Can, in your mind, can
16 a figure ever be a hundred percent accurate, a
17 diagram?

18 **A I have no idea.**

19 Q And why don't you have an idea?

20 **A I can't verify the information to
21 perfection, if it's unsure of when it's given to
22 me.**

23 Q Okay. So, does that mean that you have to
24 exercise some degree of judgment in creating

1 diagrams or figures that you produce for a project?

2 MS. BRICE: Objection, mischaracterizes the
3 testimony.

4 MR. MCGINLEY: Q You can answer the question,
5 please?

6 **A Can you clarify that a little bit?**

7 Q Sure. So, you can't, if I understand your
8 testimony, you can't say that every diagram is a
9 hundred percent accurate, in terms of representing
10 what is portrayed in the diagram, correct?

11 **A I can't verify what other people have done.**

12 Q Okay. When you say you can't verify what
13 other people have done, what do you mean exactly,
14 like what people with respect --

15 **A I can only do what is given to me.**

16 Q Okay. So, and when you say what people,
17 what you have been given, when you refer to what has
18 been given to you, what kind of things are you
19 getting to use?

20 **A Other drawings, other documents that may be
21 used to create these final figures.**

22 Q Okay. So, you're getting other drawings and
23 then you have to, would it be fair to say that
24 you're interpreting those drawings and putting them

1 into drawings that you're creating?

2 **A I don't know about interpret. I don't**
3 **understand what you mean by that.**

4 Q Maybe a better way to put it is you're
5 taking drawings from other people, from perhaps
6 other consulting firms or something like that; is
7 that right?

8 **A Yes, correct.**

9 Q When you take those drawings from other
10 consulting firms, and your project manager comes to
11 you and says, Riah, I would like you to do a diagram
12 that shows, you know, the site of this landfill,
13 right, I mean do you ever do work on landfills?

14 **A I have done some work, yes.**

15 Q Okay.

16 **A And it's pronounced Riah.**

17 Q Riah, I'm sorry.

18 **A And Miss Dunton would be fine.**

19 Q Okay. Sure. I apologize, I didn't mean no
20 offense.

21 When you are doing a diagram for a
22 landfill, you, presumably, are getting a plan from
23 somebody upon which you're making, you're using
24 those plans in order to make whatever diagram you

1 need to make for a landfill; is that right?

2 **A Correct.**

3 Q When you get those plans, are you just
4 accepting that they're accurate?

5 **A I am accepting the information given to me.**

6 Q Okay. Do you ever have to have occasion to
7 look into the accuracy of the information that's in
8 those plans that have been provided to you, or do
9 you just accept them as given?

10 **A I accept them.**

11 Q Okay. In accepting things as given, though,
12 -- strike that

13 To what extent -- I take it that creating
14 diagrams or drawings is not, it's not a science, I
15 mean there's a degree of art to it, is that a fair
16 statement?

17 **A In presenting the information, is the art,
18 not the science.**

19 Q Okay. In presenting the information then
20 does that require some degree of judgment to
21 determine how best to make that presentation, how to
22 create that diagram?

23 **A To make it look good, not look wrong.**

24 Q I don't understand what you mean between

1 saying --

2 **A If the art is to make it look good, not to**
3 **change the information.**

4 Q Okay. Fair enough. If you were presented
5 with a diagram from an outside -- or plans from an
6 outside consultant, that you had to use as the basis
7 for creating a diagram, and you were not certain
8 about some of the information that was being
9 portrayed in those plans, have you ever been
10 confronted with a situation like that? Where you
11 were uncertain about how to interpret information in
12 plans that you were, in turn, going to be using in a
13 diagram that you were creating?

14 **A I have questioned clarifications on**
15 **documents by others.**

16 Q Okay. And so can you just describe how that
17 process would play out? I mean so you're presented
18 with plans, and you see some information that's
19 portrayed in those plans, and you're not quite sure
20 what to make of that information?

21 **A Uh-huh.**

22 Q So how would you then go out and seek the
23 clarification that you required in order to produce
24 a diagram?

1 **A I would ask the project manager.**

2 Q Okay. And you always go through the project
3 manager to go out and get that clarification, is
4 that what I should understand?

5 **A Yes.**

6 Q Because I'm a layman, and I don't entirely
7 understand, even though we have been talking about
8 CAD systems, CAD drafting in this case for the past
9 few months, I probably could benefit from a
10 discussion of the process. I mean how, from start
11 to finish, how do you go about creating a CAD
12 diagram?

13 **A A typical CAD diagram, if given all the**
14 **information, you would start the drawing, itself.**
15 **If it's a site diagram, we would actually geolocate**
16 **it, which is through the system, itself, and with**
17 **the information given, we would lay it out with an**
18 **aerial and find the information for the property**
19 **boundaries, and you can have road information,**
20 **applying all the information that was given. Like I**
21 **say, it depends on the project.**

22 Q Sure.

23 **A I work on a large variety of projects.**

24 Q So, the starting point is what, I mean what

1 do you actually, you start, I suppose, you want to
2 create a base, upon which you're putting all these
3 other layers, is that a fair understanding of what
4 you're saying?

5 **A Yes.**

6 Q Okay. So how do you actually identify that
7 base, where does that base come from?

8 **A If the site is located, we get the**
9 **information from that, such as if we were to find**
10 **this building, we would geolocate it through**
11 **AutoCAD, which is connected to the Portnis**
12 **(phonetic) systems, and then you would look to find**
13 **if there's any kind of property information, if it**
14 **wasn't given, such as Cook County has a very**
15 **extensive system in their website that gives you**
16 **property boundaries, lengths, pin numbers,**
17 **information such as that.**

18 Q Uh-huh.

19 **A That would be able to layout property**
20 **boundary for it. It would have the address and the**
21 **pin information. If we didn't have ownership, that**
22 **does get a little bit harder, Cook County doesn't**
23 **have that anymore, they used to.**

24 Q Okay. When you're getting plans, if you're

1 getting, let's say, again, to go back to the
2 scenarios using before, about a land fill. So,
3 let's say, somebody else has developed the design
4 for a landfill and the site location. So they have
5 plans for a landfill, right, and you need to base,
6 to create drawings to show that landfill, some
7 aspect of the landfill.

8 How do you actually incorporate the
9 information in those plans into your CAD system? I
10 don't really understand that, can you help me?

11 **A It depends on if they have given us AutoCAD**
12 **drawings or not.**

13 Q Okay. So, if it's AutoCAD, I assume it's
14 just a matter of you're basically downloading a file
15 into your network and then you can just work with it
16 off of your AutoDesk, right?

17 **A Correct.**

18 Q Okay. If it's not, if it's just a hard
19 copy --

20 **A Uh-huh.**

21 Q -- let's say, you know, you're talking about
22 a landfill that was created back in 1950, when it
23 would have just been, you know, blue lines and
24 things like that, how do you get that information

1 into your CAD system?

2 **A I have done that.**

3 **Q I'm sure you have.**

4 **A If hard copies are only available, or if a**
5 **PDF version of the hard copy is available, you can**
6 **actually put that image into AutoCAD, but first I**
7 **would make sure that I have the location set, I**
8 **would find a current aerial, it just makes**
9 **everything easier when you can see what it is now.**

10 **You can actually take those PDFs and**
11 **directly import them into AutoCAD, to be able to**
12 **see, depending on that imagine, and image being PDF,**
13 **how the quality of it is, will depend on its**
14 **usefulness.**

15 **Q If you had, if you had property description,**
16 **let's say you have, you're looking at like a deed or**
17 **something like that, it's, you know, saying like**
18 **150.5 feet from this initial spot, you know how**
19 **those things work --**

20 **A Yes.**

21 **Q -- and they lay out all the dimensions and**
22 **things like that, how would you incorporate**
23 **something like that into an AutoCAD system?**

24 **A I am not a survey director. I would hope,**

1 **although I can read that information, I wouldn't**
2 **accurately plot it out in AutoCAD. I would have the**
3 **survey drafter that would actually be able to lay**
4 **that out, and it would also be geolocated and then I**
5 **would use that CAD drawing.**

6 Q Okay. So you would be looking to the
7 surveyor to actually provide you with that
8 information; is that correct?

9 **A Correct.**

10 **I need a break.**

11 MR. MCGINLEY: Sure, absolutely.

12 (Whereupon a break was taken at 11:00.)

13 (Back on the record at 11:03.)

14 MR. MCGINLEY: Back on the record.

15 Q Have you ever seen figures that were created
16 by other CAD techs at Weaver that you didn't think
17 were accurate?

18 **A I can't say.**

19 Q Okay. Is it possible that other CAD
20 technicians, not yourself, but other CAD technicians
21 might have produced work that was not accurate?

22 **A Anything is possible.**

23 Q Okay. But you're not specifically aware of
24 any such circumstances, is that your testimony?

1 **A Correct.**

2 Q Are there times when one CAD tech would be
3 replaced by another on a project?

4 **A Yes.**

5 Q Okay. And why might that occur?

6 **A Depends on workload.**

7 Q Workload, okay. Is it -- so, it would not
8 be the practice to have one person work on the
9 project from beginning to end?

10 **A It's not a practice, I guess. It happens,**
11 **but it also happens where we share work.**

12 Q Okay. In a situation where you have a
13 succession of CAD technicians, designers, working on
14 a project, are there any efforts to make sure
15 there's continuity, in terms of the diagrams, the
16 drawings that are being produced?

17 **A I believe with conversation.**

18 Q Okay.

19 **A Communications.**

20 Q Do CAD designers, CAD techs ever sort of
21 write out or memorialize the process by which they
22 created various diagrams or designs?

23 **A I am not sure I understand what you mean.**

24 Q Okay. If you're, let's look at it a

1 different way. Let's say you're looking at a design
2 today that was done by another CAD technician, let's
3 say they did it, two, three years ago, and you're
4 not stepping into the project. Let's say that
5 person is no longer working for Weaver, they have
6 gone someplace else.

7 How, if you have a question about why
8 certain elements were put into a diagram, is there
9 going to be some way for you to figure that out
10 after the fact? Does that make sense?

11 **A For certain elements, I would imagine, I**
12 **would ask the project manager or whoever was in**
13 **charge of it at that time.**

14 Q Okay. But there's no, but there's no formal
15 way that that's actually marked down, like why
16 certain elements were used, what the sources might
17 have been for a given diagram?

18 **A We hope that we put the sources down, but**
19 **it's not always caught.**

20 Q Okay. So, there are instances where sources
21 might, there might not be a source that's listed
22 that was used in the creation of a diagram, is that
23 a fair summary of your testimony?

24 **A Listed at that moment, yes.**

1 Q When you say listed at that moment, I mean
2 is that something, do people ever come back later
3 and say, oh, we dropped something, we need to
4 include something, after the fact, and add that
5 source information back into a diagram?

6 **A Yes.**

7 Q But it's also, if I understand what you're
8 saying, it could be the case that there are times
9 when source information is not included in a
10 diagram, and never actually gets included into a
11 diagram, would that also be correct?

12 **A I guess that's a correct statement.**

13 Q Okay. Your work with Mr. Dorgan on this
14 matter, who is the client for the work that you're
15 doing on this matter?

16 MS. BRICE: Objection, calls for speculation.

17 MR. MCGINLEY: Q If you know, I mean do you
18 know who the client is that this project is being
19 done for?

20 **A I'm, I think it started off as Bryan Cave.**

21 Q Okay. It started off as being Bryan Cave.
22 And is that still your understanding today, is Bryan
23 Cave still the client?

24 **A I think so.**

1 MS. BRICE: Objection, calls for speculation.

2 MR. MCGINLEY: Q You think so?

3 **A I don't know.**

4 Q You don't know?

5 **A I am not a project manager.**

6 Q Okay. Do you ever -- does your project
7 manager ever, typically, tell you who the client is
8 that you're doing the work for?

9 **A It happens, yes.**

10 Q Okay. Has Mr. Dorgan told you, in this
11 case, who the client is?

12 **A I don't recall, it's been a long project.**

13 Q What did you -- what was the first thing
14 that you did for this project, do you recall?

15 **A I don't recall.**

16 Q Let's go with 2.

17 (Dunton Exhibit 2 marked.)

18 MR. MCGINLEY: Q For the record, I'm going to
19 represent one thing, which is Exhibit 2, which has
20 been handed to the witness, is the expert report of
21 Douglas G. Dorgan, Junior on damages attributable to
22 IDOT, dated June 13, 2018.

23 I have not included, this is not a complete
24 copy. This has all the figures, all the text, but

1 there are lots of charts and tables that are part of
2 the report that I did not include because I wouldn't
3 have had any reason to believe that Miss Dunton
4 would have worked on that, and I only wanted to
5 include the portions that Miss Dunton would have
6 worked on in order to save a couple of hundred
7 sheets of paper.

8 MS. BRICE: Okay. Thank you for that
9 clarification.

10 MR. MCGINLEY: Sure.

11 Q With that clarification, let me just ask you
12 this. Have you seen Exhibit 2 before?

13 **A I haven't read it. I have seen the cover.**

14 Q You have seen the cover, okay.

15 **A Uh-huh.**

16 Q If I could direct your attention to, this is
17 about 30 odd pages in, there's a series of figures
18 that are included, and that's really what I wanted
19 to talk to you about.

20 Just take a look, and after you have had a
21 chance to familiarize yourself with the figures,
22 just let me know and I'd like to ask you some
23 questions at that point.

24 **A Okay.**

1 Q If I could call your attention to figure 1,
2 if you look in the lower right-hand corner, just
3 above where it says figure 1, it says drawn by and
4 says RMD/JDT. I take it RMD is yourself --

5 **A Correct.**

6 Q -- Miss Dunton, right?

7 **A Yes.**

8 Q And JDT would be James Treece; is that
9 right?

10 **A Correct.**

11 Q And that's T-r-e-e-c-e.

12 So, this was actually a figure that was
13 created by two people, is that, I mean were you
14 working on this simultaneously or how did that, how
15 did the fact that there are two people listed on
16 this figure come about?

17 **A Started in, by James or myself, and at times**
18 **he would be working on it, I would be working on it,**
19 **depending on our availability.**

20 Q Okay. What were you attempting to portray
21 in figure 1?

22 **A The overall site, the construction features**
23 **of it, utilities, locations of other features.**

24 Q Okay. Anything else?

1 **A That, in general.**

2 Q If you look also, just kind of to the left
3 of where it's noted as figure 1, it says, note, site
4 layout supplied by AECOM. Do you see that?

5 **A Yes.**

6 Q Okay. How -- what do you mean site layout,
7 what does that actually refer to?

8 **A It means the site itself, the boundaries,**
9 **the utilities, boring locations. I can't specify**
10 **all of it, but I would imagine all the information**
11 **that is in the legend is supplied by them.**

12 Q And how would that information have been
13 supplied by AECOM to Weaver?

14 **A Documents sent to us.**

15 Q Okay. When you say documents, are you
16 talking about, I mean how would those documents have
17 been sent, what form?

18 **A I can't say. I don't know.**

19 Q Okay. Would they have been sent in paper,
20 electronic form?

21 **A Again, I don't know.**

22 Q Was the site layout at the time, so this is,
23 the date on this is June 12th of 2018. Do you see
24 that?

1 **A Yes.**

2 Q Okay. On June 12th of 2018, was this
3 information by AECOM -- you don't know how it was
4 actually, what form it was supplied, right?

5 Do you know when that information would
6 have initially been received by Weaver from AECOM?

7 **A I believe we received it years prior.**

8 Q Years prior, okay. When you created figure
9 1, you and Mr. Treece, were you working, I mean were
10 you creating this figure 1 from whole cloth, if you
11 will, or were you basing this off of any prior work
12 that had been done by Weaver in this project?

13 **A AECOM supplied the information, the**
14 **document.**

15 Q I understand that, but were you actually
16 creating brand new, this map, or was there some
17 other variation or version of this map, figure 1,
18 already laying around in-house at Weaver, that's my
19 question?

20 **A It was produced years before, so, yes.**

21 Q So, you were actually working off of an
22 existing map that had been done by Weaver in order
23 to create figure 1, that's what I am trying to get
24 at?

1 **A It was created by AECOM.**

2 Q I understand the site layout was created by
3 AECOM, but did you simply sit, did you pull up this
4 information, the site layout information and then
5 create figure 1, or was there an, already existing
6 version of something approximating figure 1 in-house
7 at Weaver at the time that you were creating this
8 map?

9 Do you understand what I am trying to get
10 at?

11 **A AECOM had produced the drawing, and we have**
12 **had this project for, as I said, four years now, and**
13 **something like figure 1 probably already existed and**
14 **something that we have edited, may have been some**
15 **title block information. I do not recall exactly**
16 **what was done for this specific site, for this faded**
17 **map.**

18 Q Okay. So, just so that I am clear, you did
19 not sit down and pull this up and create this
20 yourself, right, figure 1, this was an already
21 existing figure, created, in part, based on
22 information provided by AECOM, and there was also a
23 prior version of figure 1 that had been created by
24 Weaver?

1 MS. BRICE: Objection, mischaracterizes the
2 testimony, as created, information in part provided
3 by AECOM.

4 THE WITNESS: Yes.

5 MR. MCGINLEY: Q Well, let me, let's approach
6 it a different way then.

7 How did you go about creating figure 1, you
8 and Mr. Treece?

9 **A I don't recall. It was four years ago.**

10 Q Well, actually, this is last year.

11 **A This one was.**

12 Q Yes. So how did you go about creating
13 figure 1?

14 **A I don't recall.**

15 Q Okay.

16 **A It was last year.**

17 Q Okay. Is it possible then that you were
18 working, I mean from an existing figure, created by
19 Weaver, somebody else at Weaver?

20 **A AECOM created the drawing.**

21 Q Yes, I understand that.

22 **A We're using their site. We put our title
23 block on it.**

24 Q So this is just a, all this is is an AECOM

1 site layout, on which you're putting markers, like
2 this legend around the side, construction figure,
3 prepared for JM, Weaver Consulting Group, this
4 block, and the figure one, that's the only
5 difference?

6 **A I don't recall all the information I**
7 **provided to create this, but this is an AECOM**
8 **drawing.**

9 Q Okay.

10 **A Their site layout.**

11 Q If all that's being done is putting this
12 legend information -- can we refer to this as legend
13 information, what's on the right-hand side --

14 Title block.

15 Q Title block, thank you, sorry, you're right,
16 you had said title block.

17 If all that's being done is putting title
18 block information onto figure 1, why do you have two
19 people doing the design?

20 **A It's the set of drawings. James had started**
21 **and worked periodically with it, as well as I did,**
22 **that's why we have both of our names, giving us both**
23 **credit for this.**

24 Q Okay. If I can turn your attention to

1 figure 2, which is on the next page. I assume,
2 based on your testimony about figure 1 -- why don't
3 we just say, say this first. This also notes the
4 site layout was supplied by AECOM.

5 So, would I be correct in understanding
6 that with respect to figure 2, which is entitled
7 Construction Features and Visual Transite Pipe, the
8 only, the only thing that would have been done here
9 was to take the existing AECOM drawing and then to
10 put the Weaver Consultants Group title block onto
11 the page; is that right?

12 MS. BRICE: Objection, mischaracterizes her
13 testimony.

14 THE WITNESS: It is the same drawing.

15 MR. MCGINLEY: Q Okay. So, essentially, that's
16 the only thing that's different between what was
17 created by AECOM and this figure too, is the
18 addition of the title block, right?

19 **A Correct.**

20 Q Okay. So, with respect to both figure 1 and
21 figure 2, the site layout being supplied by AECOM,
22 we had talked previously about this issue of when
23 you're getting plans or drawings from outside
24 parties, and then having to base diagrams off of

1 them, you're not making any efforts to verify the
2 accuracy of those drawings that are coming from
3 outside parties, right?

4 **A Correct.**

5 Q And, in this case, you would not have done
6 any sort of verification of the site layout supplied
7 by AECOM, right?

8 **A I would have no reason to.**

9 Q You would have no reason to, okay. Turning
10 your attention, please, to a figure 3. Again, this
11 is drawn by both yourself and Mr. Treece. And I --
12 could you read the note in the upper right-hand
13 corner of the page, please?

14 **A Note, profile has adapted from IDOT plans**
15 **per contract number 28266, dated December 17, 1970.**
16 **Information from these plans has been replicated as**
17 **accurately as possible.**

18 Q Okay. Was this -- this is not, I take it,
19 something that was supplied by AECOM, figure 3, is
20 that right?

21 **A Correct.**

22 Q Do you recall how this figure 3 was
23 created?

24 **A I don't recall precisely.**

1 Q Okay. Now, when you referred to IDOT plans,
2 these would have been construction plans, correct?

3 **A Correct.**

4 Q Okay. And you would have, in some fashion,
5 inputted those plans into your AutoCAD system; is
6 that right?

7 **A Correct.**

8 Q Okay. Because those plans were done in
9 1970, there's, obviously, no electronic version of
10 those plans. So, again, what is the way in which
11 you actually get those paper plans or copies of
12 paper plans inputted into your system, so you can
13 work with them?

14 **A I don't recall doing this one specifically.**

15 Q Okay. How might that have taken place
16 then?

17 **A We take those plans, as I had mentioned**
18 **before, it is a PDF or an image, and you can import**
19 **that into AutoCAD.**

20 Q Okay. With respect to the note here that
21 says, information from those plans has been
22 replicated as accurately as possible, you,
23 obviously, want to try and create an accurate
24 figure, correct?

1 **A Correct.**

2 Q Okay. What kind of obstacles, though, might
3 stand in the way of actually being able to replicate
4 those plans, for purposes of figure 3, as accurately
5 as possible?

6 **A We are taking drawings that were done in**
7 **1970, and the quality of those drawings can be**
8 **harsh. So, our interpretation is, as best as we can**
9 **with the information that we can interpret.**

10 Q Okay. So interpretation involves a degree
11 of judgment, right?

12 **A I guess.**

13 Q You have to employ your knowledge to try and
14 make sense of plans, which, as you characterize as
15 being harsh, and try and put them into what,
16 ultimately, is now here in figure 3, right?

17 MS. BRICE: Objection. She said she didn't do
18 this figure, so she doesn't know what was actually,
19 you asked her a hypothetical about what was going
20 on, but now you're acting as if she actually drew
21 this figure, when she said she didn't. So I think
22 that's an improper line of questioning.

23 MR. MCGINLEY: Q With respect to -- you are
24 familiar with the IDOT plans, though, and you

1 characterize them as being harsh. What do you mean
2 by that exactly?

3 MS. BRICE: You mischaracterize her testimony.
4 She did not characterize those specific plans as
5 being harsh. She said in general plans in 1970.

6 MR. MCGINLEY: Q Okay. Okay. So when you say
7 harsh, what do you mean by that?

8 **A Not very crystal clear, not this clear.**

9 Q Okay. So, in general, when you're presented
10 with something like old plans that you have to input
11 and work with in a CAD system today, in 2019, it can
12 be the case where you have to do some degree of
13 interpretive work, some degree of judgment work, in
14 order to be able to take that information and put
15 that into a contemporary diagram; is that your
16 testimony?

17 MS. BRICE: Objection, mischaracterizes the
18 testimony.

19 MR. MCGINLEY: Q Is that your testimony?

20 **A Correct.**

21 Q Thank you. If I can turn your attention to
22 figure 4, please. And this is plan and profile for
23 Greenwood Avenue. Again, you're listed as being one
24 of the people who drew this figure.

1 Can you tell me what you're trying to
2 actually show here or depict in this figure?

3 **A This is a plan profile. The plan is from**
4 **the previous figure, figure 3, and the profile is**
5 **of, let's see, of Greenwood Avenue.**

6 Q Do you recall, and, again, the note here,
7 same note as figure 3, and that being that the
8 profile was adapted from IDOT plans from back in
9 1970. And, again, that the information from those
10 plans has been replicated as accurately as possible.

11 Do you see that?

12 **A Yes.**

13 Q Okay. Do you recall having created
14 figure 4?

15 **A I recall working with this figure, yes.**

16 Q Okay. And what do you recall about, when
17 you say working with the figure, what do you mean
18 specifically?

19 **A Helping create the profile.**

20 Q And what did that involve exactly, can you
21 recall what steps you had to take?

22 **A If you see on the plan, itself, there are**
23 **land contours, those are the lighter lines with**
24 **numbers, those were actually elevations to show what**

1 **grades are.**

2 **And that grade will tell you what the**
3 **actual profile line would be. If you were to slice**
4 **the road where the central line is, and then look at**
5 **it, this, basically, is what the profile is**
6 **illustrating.**

7 Q Okay. And in order to do this, you were
8 looking at plans from 1970, correct?

9 A I believe that's where the contours and
10 other information came from, yes.

11 Q Do you recall if -- would you characterize,
12 to the extent that you can recall, what those plans
13 looked like, were they harsh, difficult to read and
14 interpret?

15 A I don't recall.

16 Q But they could have been difficult to
17 interpret, is that --

18 MS. BRICE: Objection.

19 THE WITNESS: I don't recall.

20 MR. MCGINLEY: Q And if they were difficult to
21 interpret, you would have to read, you would have to
22 make some sort of interpretation, correct?

23 MS. BRICE: Objection, improper hypothetical.
24 It has nothing to do with, she doesn't even remember

1 if she, the document.

2 MR. MCGINLEY: Q You can answer the question.

3 **A Best judgment, correct.**

4 Q Thank you. There's 1, I'm going to
5 introduce this. This goes along with Exhibit 2.
6 And this is simply a blowup of the last two pages of
7 Exhibit 2, which I think you have got on the back of
8 that as well.

9 MS. BRICE: No.

10 THE WITNESS: No.

11 MR. MCGINLEY: You don't, okay. We're going to
12 do this as Exhibit 3 then.

13 (Dunton Exhibit 3 marked.)

14 MR. MCGINLEY: Q Miss Dunton, what has been put
15 before you is Exhibit 3, is entitled, Plat of
16 Topographic Survey.

17 Are you familiar with this document?

18 **A I have seen it before.**

19 Q Okay. And what occasion have you,
20 circumstances, rather, did you see this document?

21 **A It was one of the documents I looked at
22 prior to this deposition.**

23 Q Okay. And was there any particular reason
24 that you were looking at this document, prior to

1 your deposition today?

2 **A I believe it was also discussed in Dorgan's**
3 **deposition.**

4 Q Okay. And was there anything in particular
5 that you were hoping to, any purpose in particular,
6 besides the fact that it had been referred to in
7 Dorgan's deposition, that caused you to look at this
8 document?

9 **A Nothing more, I don't believe.**

10 Q Prior to Mr. Dorgan's deposition, and you
11 preparing for this deposition today, had you seen
12 this Plat of Topographic Survey, Exhibit 3,
13 before?

14 **A Yes, I have.**

15 Q Okay. And what were the circumstances under
16 which you had seen this Exhibit 3 previously?

17 **A I don't recall specifically.**

18 Q Okay. Do you know if this Exhibit 3, did
19 you, have you ever made use of this in the course of
20 creating any of the diagrams or drawings that you
21 have done on this project?

22 **A I did not need to use Atwell's information,**
23 **since I the AECOM's.**

24 Q Okay. Did AECOM provide a plat of

1 topographic survey?

2 **A They provided us with the documents that you**
3 **have seen.**

4 Q That's not my question though. I mean, did
5 AECOM create any sort of plat of topographic
6 survey?

7 MS. BRICE: Objection, calls for speculation.

8 MR. MCGINLEY: Q Just --

9 MS. BRICE: You can answer, if you know.

10 **A The only documents I am familiar with AECOM**
11 **is what you have seen, which is the site layout.**

12 Q The site layout, okay. So, the only thing
13 you would need the site layout for -- the site
14 layout would be, in essence, the foundation for
15 everything that you have done, by way of drawing,
16 would that be a fair characterization.

17 **A AECOM's site layout, yes, it is.**

18 Q And that is, would it be fair to say that
19 every drawing that you have done -- well, I take
20 that back.

21 Would it be fair to say that for a number
22 of the drawings that you have done, in the course of
23 this project, that you have relied upon the AECOM
24 site figures to make those drawings?

1 **A Yes.**

2 Q Okay. But you -- is it your testimony then
3 that you have never relied upon the Plat of
4 Topographic Survey to create any of your drawings in
5 it case?

6 **A Correct.**

7 Q Have you ever relied upon Exhibit 3, the
8 Plat of Topographic Survey to, in the course of any
9 of your work on this project?

10 **A Yes.**

11 Q Okay. And how did you make use of
12 Exhibit 3, the Plat of Topographic Survey?

13 **A Looking at the boundary and using it as a
14 comparison.**

15 Q Looking at the boundary and using it as a
16 comparison to what, in particular?

17 **A Gobelman's.**

18 Q To Gobelman's, okay. Did you use it as a
19 way of comparing plat of topographic survey's
20 depictions of site boundaries with AECOM's site
21 information, their site boundaries?

22 **A Yes.**

23 Q Okay. So, you have used the Plat of
24 Topographic Survey to compare site boundaries as

1 depicted by AECOM on one hand, and also by
2 Mr. Gobelman on the other; is that right?

3 **A Correct.**

4 Q Have you used the Plat of Topographic Survey
5 to compare site boundaries with any other depiction
6 of site boundaries?

7 **A Yes.**

8 Q Okay. Which would that depiction be?

9 **A With CQM's.**

10 Q CQM, okay. Who is CQM?

11 **A I have no idea.**

12 Q What did they produce, that you're looking
13 at?

14 **A There was another drawing that I looked at
15 and they had a boundary.**

16 Q Okay. And when you say another drawing,
17 like what did the drawing actually depict?

18 **A I had the site for sure, I don't recall
19 anything else.**

20 Q Okay. So, AECOM site boundaries,
21 Mr. Gobelman's site boundaries, CQM, any other site
22 boundaries that you looked at and compared to the
23 Plat of Topographic Survey depiction of site
24 boundaries?

1 **A Not that I recall.**

2 Q Okay. To your knowledge, is there just the
3 one Plat of Topographic Survey or is there more than
4 one Plat of Topographic Survey?

5 **A I don't recall.**

6 Q Has this information, the Plat of
7 Topographic Survey, been input into your CAD system
8 files for this matter?

9 MS. BRICE: Objection, asked and answered.

10 THE WITNESS: Just for the reference of
11 boundaries.

12 MR. MCGINLEY: Q Okay. So, when you're
13 actually inputting this Plat of Topographic Survey,
14 you have input the Plat of Topographic Survey into
15 your CAD system, right?

16 **A I put this drawing in there, yes.**

17 Q Okay. When you put the drawing in, was it
18 provided in as an electronic file, or did you have
19 to actually just work off like a drawing and then
20 sort of input it that way?

21 **A I believe it was provided as a PDF.**

22 Q As a PDF, okay. And then, am I
23 understanding you correctly, that you would have
24 just sort of taken out all the other detail in the

1 Plat of Topographic Survey, and then just looked at
2 the site boundaries as depicted here?

3 **A You can't take things off of a PDF.**

4 Q Okay.

5 **A You get what you see.**

6 Q Okay. If you had -- if it was provided as
7 some form of CAD file, though, you would be able to
8 sort of --

9 **A Yes.**

10 Q -- just pull out different layers?

11 **A You can freeze the layers, yes. You don't**
12 **change the layers, you modify them to where you can**
13 **see them or not.**

14 Q Okay. Did you take, as far as you know --
15 strike that.

16 Did you undertake any effort to determine
17 whether the Plat of Topographic Survey was
18 accurate?

19 **A I cannot verify its accuracy.**

20 Q Okay. You just have to take the Plat of
21 Topographic Survey, the site boundaries that are
22 depicted in the Plat of Topographic survey as given;
23 is that your testimony?

24 **A Yes, I did not create that drawing.**

1 MR. MCGINLEY: Okay. This is going to be 4.

2 (Dunton Exhibit 4 marked.)

3 MR. MCGINLEY: Q Miss Dunton, what has been
4 handed to you as Exhibit 4, is the expert rebuttal
5 report of Steven Gobelman on Damages Attributable to
6 IDOT, based on IPCB Order on December 15, 2016.
7 It's dated August 22nd of 2018.

8 Have you seen this document before, ma'am?

9 **A I have seen the cover.**

10 Q Okay. Have you ever read the document?

11 **A No.**

12 Q Looked it over?

13 **A No.**

14 Q No. Is that your testimony?

15 **A No.**

16 MR. MCGINLEY: Let's mark this a 5.

17 (Dunton Exhibit 5 marked.)

18 MR. MCGINLEY: Q I will represent to you,
19 Miss Dunton, that Exhibit 5 is an e-mail thread with
20 attachment. This was produced to us by Mr. Dorgan.
21 It's Bates stamped Dorgan 0001064 through 1071.
22 It's, the e-mail thread actually begins August the
23 22nd and ends on September the 27th, with an e-mail
24 from yourself to Mr. Dorgan. Are you familiar with

1 this e-mail and the attachment, ma'am?

2 **A Yes.**

3 Q Okay. Could I turn your attention, please,
4 to Dorgan 1066, it's the third page of the exhibit.
5 And, in particular, I would call your attention to
6 the e-mail from Mr. Dorgan to yourself, dated
7 August the 23rd of 2018 at 9:29 a.m. Do you see
8 that?

9 **A Yes.**

10 Q Okay. And what is the -- can you read the
11 text of the e-mail, please?

12 **A From Doug to me?**

13 Q Yes?

14 **A Per our discussions, section 5.**

15 Q Okay. And if you turn to the succeeding
16 pages 1068 through 71, that appears to be something
17 saying, starts with a series of bullet points and
18 then a section 4, do you see that?

19 **A Yes.**

20 Q Okay. And then below that is number 5, cost
21 attributed to IDOT's Responsibility as Defined by
22 IPCB, do you see that?

23 **A Yes.**

24 Q Okay. So, did Mr. Dorgan, this is, I'll

1 represent to you that section 5 here is from
2 section 5 of Exhibit 4. So, it's your testimony
3 that you have only seen the cover of this and never
4 looked further; is that right?

5 **A No, I said I haven't read the report.**

6 Q You haven't read the report. But you have,
7 I assume that you must have read section 5; is that
8 right?

9 **A I did read section 5.**

10 Q And that is part of the report, right?

11 **A But I didn't read the report.**

12 Q But you did read part of it, right?

13 **A I read section 5 only.**

14 Q Okay. Turning your attention, please, to
15 the e-mail from yourself to Mr. Dorgan, dated
16 September 5 of 2018?

17 MS. BRICE: What page?

18 MR. MCGINLEY: This would be 1065.

19 Q I would like to -- could you read the first
20 paragraph for us, please?

21 **A Doug, I read section 5 and have marked a few**
22 **inconsistencies within that section on that attached**
23 **PDF. I measured as Andrews Engineering claims to**
24 **have dimensions highlighted, slash, commented. In**

1 **the section 5.2, even Andrews Engineering states**
2 **that the exact location was not identified for**
3 **B3-45.**

4 Q Okay. A couple of questions about that.
5 Did you make any efforts to locate the exact
6 location of B3-45 on the work that you did in this
7 project?

8 **A AECOM had that located, B3-45.**

9 Q Okay. So AECOM had the location located.
10 Did you attempt to verify that location?

11 **A I have no reason to verify AECOM's**
12 **documents.**

13 Q Okay. If, in the second paragraph down,
14 there's a sentence that says, the use of AECOM
15 SITE 3, Figure 1, and its Legal Description supplied
16 us with the boundary for PARCEL 0393.

17 What did you mean by that?

18 **A That AECOM supplied us the documents for**
19 **SITE 3 and SITE 6.**

20 Q Okay.

21 **A And the description for the parcel 0393.**

22 Q Okay. And the legal --

23 **A Legal prescription of 0393.**

24 Q Sure. And the legal description refers to

1 what, specifically, what do you mean by that?

2 **A It's the description of the parcel itself,**
3 **giving its bearings, distances and such.**

4 Q Okay. And when you refer to the legal
5 description, was that a separate document from
6 SITE 3, Figure 1?

7 **A I don't recall where we got the legal**
8 **description offhand.**

9 Q Okay. The next paragraph down says, please
10 note that the Plat of Topographic Survey by ATWELL
11 has the contours and survey information we had used
12 for supporting base information. However, it does
13 not have the boundary of SITE 3 or SITE 6.

14 I take it your reference to Plat of
15 Topographic Survey, is that also Exhibit 3?

16 **A I would imagine it was a prior one, since it**
17 **states there that SITE 3 was not on there, and on**
18 **that one SITE 3 is.**

19 Q Okay. So, you're making reference to a
20 prior Plat of Topographic Survey then, is that what
21 you interpret this to mean?

22 **A Yes.**

23 Q Do you recall, was there any effort made by
24 Weaver to obtain an updated Plat of Topographic

1 Survey that did show the site line?

2 **A I have no idea.**

3 Q Do you have any idea how the Plat of
4 Topographic Survey, Exhibit 3, came to be in
5 Weaver's possession?

6 **A I have no idea.**

7 Q Okay. But at least in September 5th of last
8 year, you didn't have Exhibit 3 yet; is that right?

9 **A Correct.**

10 Q And it's your testimony that you don't know
11 how Exhibit 3 came to be in possession of Weaver,
12 right?

13 **A Correct.**

14 Q Are there two different versions of the Plat
15 of Topographic Survey on -- as part of your CAD
16 system? Are they files that are on your network,
17 both topographic surveys?

18 **A I don't know.**

19 Q The last sentence you say, having no
20 knowledge of where Andrews Engineering got their
21 SITE 3 boundary, other than following a fence line,
22 I can't confirm its location.

23 **A Uh-huh.**

24 Q Can you explain what you mean by that

1 sentence, please?

2 **A Andrews Engineering provided the boundary**
3 **for their SITE 3. They describe it in that section**
4 **5 as following a fence line.**

5 Q What do you mean by, I can't confirm its
6 location though?

7 **A I can't confirm where they got their site**
8 **boundary.**

9 Q Okay. Did you attempt to, did you, you
10 presented that information to Mr. Dorgan, correct?

11 **A Yes.**

12 Q Did Mr. Dorgan have any feedback to you
13 about that, did you have any discussions about that
14 particular issue, about this Andrews Engineering and
15 how they got their SITE 3 boundary?

16 **A I don't recall.**

17 Q I would like you, if you would take a look
18 at the first page, it's the last most recent e-mail,
19 1064. This is an e-mail from yourself to
20 Mr. Dorgan, dated September 27th of 2018.

21 **A Uh-huh.**

22 Q The second bullet point, could you read that
23 for us, please?

24 **A The fence Andrews Engineering is referencing**

1 around SITE 3 was installed sometime between
2 June 16 -- 2016 and April of 2017. Its basic
3 location must be per some construction documents or
4 contractors instruction. No evidence of legal
5 papers to support its location in relation to
6 boundary lines.

7 Q Okay. No evidence of legal papers, what do
8 you mean by that?

9 A I have no evidence of any kind of documents
10 stating the construction of that fence or the
11 boundary line.

12 Q Okay. Did you make any attempts to acquire
13 any such papers?

14 A They're provided -- Andrews Engineering
15 produced those drawings.

16 Q That's right, but, but you're referring to
17 legal papers. I'm just wondering, and also
18 referring to construction documents or construction
19 instructions, I'm sorry, contractors instruction.

20 Did you make any attempt to locate any
21 construction documents related to the placement of
22 the fence?

23 A I was looking in our system to find if there
24 was any other documents that may have been provided,

1 **and there were none.**

2 Q Okay. And contractor's instruction, did you
3 make any attempt to track those down?

4 **A I would have no idea who the contractor was.**

5 Q Okay. Did you ask Mr. Dorgan to make an
6 effort to attempt to locate the construction
7 documents?

8 **A No.**

9 Q Did you ask Mr. Dorgan about trying to track
10 down contractor's instructions?

11 **A No.**

12 Q Okay. With respect to parcel 0393, I'm
13 sorry, the third bullet point down, could you read
14 that, please?

15 **A Parcel 0393 per document 1649408 is located**
16 **on Atwell's topo survey. AECOM figures in same**
17 **location. Without the document, I cannot verify**
18 **which bearing section line it was read from and if**
19 **the grid is laid out by this document.**

20 Q Without the document, which document are you
21 referring to here or what would that be exactly?

22 Are you talking about a legal description,
23 a property description, something like that?

24 **A Let's see. I would imagine it's a legal**

1 **description.**

2 Q Okay. Were you aware that a property
3 description for 0393 was included in Mr. Gobelman's
4 report?

5 **A I believe that, I don't know. I think it's**
6 **the document 1649408.**

7 Q Did you ever look, if I can turn your
8 attention, please, there's, in the back of
9 Mr. Gobelman's report.

10 **A Okay.**

11 Q Towards the end, you will see there's a very
12 old, old document here. It's next to, yeah, I guess
13 it's actually the last page in the document.

14 Do you see that?

15 **A Yes.**

16 Q Did you ever -- have you ever seen this at
17 any point in time, the Grant for Public Highway?

18 **A Yes.**

19 Q Okay. This would be IDOT 2838. Do you see
20 that in the lower right-hand corner, there's a Bates
21 number?

22 MS. BRICE: Mine says 2845.

23 THE WITNESS: Which number was that again?

24 MR. MCGINLEY: 2838.

1 MS. BRICE: Are you talking about the legal
2 description, not the drawing?

3 MR. MCGINLEY: I'm working up to that, to that
4 drawing, yeah. I am just asking if --

5 MS. BRICE: 283, it says here.

6 THE WITNESS: Okay.

7 MS. BRICE: It's labeled Grant for Public
8 Highway, is that what you're talking about?

9 MR. MCGINLEY: Yes, right.

10 THE WITNESS: Okay.

11 MR. MCGINLEY: Q And the drawing is attached to
12 that?

13 **A Uh-huh.**

14 Q So have you seen the Grant for Public
15 Highway before?

16 **A I have.**

17 Q You have, okay. And would that have been
18 the document -- and without, going back to bullet
19 point 3, parallel 0393, without the document, you
20 can't verifying bearing section line, right, is that
21 what you're referring to here, not having access to
22 a Grant for Public Highway, where the diagram at the
23 back?

24 **A I don't recall.**

1 Q Sorry?

2 A I don't recall.

3 Q Would you have been able to have discerned
4 the information that you were seeking in referencing
5 the third bullet point from looking at this Grant
6 for Public Highway, the drawing attached to it?

7 A I am not sure.

8 Q Okay. Do you know if the drawing, IDOT
9 2845, the last page of Mr. Gobelman's report, is
10 this part of, has this been inputted into your CAD
11 system, is this something that you have access to
12 currently?

13 A It's an image, it would not have been an
14 AutoCAD drawing.

15 Q Do you know if this has ever been used at
16 all in the course of preparing any of your diagrams
17 for this matter?

18 A I don't recall.

19 Q Okay. And, again, I'm referring to 2845,
20 you don't have any recollection of having used IDOT
21 2845 in any of your diagrams?

22 A I don't recall where our line for 0393 came
23 from. My belief is that it was part of AECOM that
24 came later.

1 Q Okay. I would like to ask you about the
2 fifth bullet point. It says, I found no evidence on
3 where Atwell located SITE 3, they have the base grid
4 but no measurements off of it. Also, a note in the
5 General Notes that states not to use a scale for
6 dimensions.

7 Can you elaborate on that, please?

8 **A This appears Atwell has the SITE 3 on the**
9 **line. They have the grid, itself, which is the**
10 **northeast excavation or LAT/LONG, same thing.**

11 Q Sure.

12 **A But in their notes, they say do not use**
13 **scale.**

14 Q Is that unusual to include something like
15 that in a topographic survey, that note, not to use
16 the scale?

17 **A I am not a surveyor, I don't know.**

18 Q Ever seen any general note like that
19 before?

20 **A Yes.**

21 Q So it is something, you have seen notes in
22 the past on other topographic surveys that say not
23 to use a scale for dimensions?

24 **A I have seen that note before.**

1 Q Okay. But not, I'm not -- not just on the
2 Atwell survey, but in other surveys; is that your
3 testimony?

4 A In another documents.

5 Q Okay. Other documents related to this case
6 or other matters?

7 A Other matters.

8 Q Okay. Thank you. The 6th bullet point, can
9 you read that for us, please?

10 A The bearings on the Atwell topo of SITE 3
11 show that the ROW line, aka, Parcel 0393, are not
12 parallel to each other and, therefore, neither is
13 parallel to the grid. Measuring off the grid to
14 locate SITE 3 boundary corners would require
15 multiple points.

16 Q And why would that require multiple points?

17 A Since it's not parallel, and you're
18 measuring off of a grid, you would have to have more
19 than one point to know where the line are.

20 Q Okay. The last thing I would like to ask
21 you about, this exhibit, is the last paragraph, and
22 there's a sentence that says, starts with
23 unfortunately, could you read that, please?

24 A I'm sorry, where?

1 Q The last, the very last paragraph?

2 A Oh, the last.

3 Q Just above your signature?

4 A Unfortunately, as I had mentioned, many
5 documents are no longer available for reference or
6 how our drawings came about. I wasn't the only one
7 working on these.

8 Q Okay. Do you know how many people have
9 worked on this project, creating diagrams or
10 drawings?

11 A From my understanding, James and myself.

12 Q Okay. Is it possible that there were more
13 than the two of you that have worked on this?

14 A It's possible, yes.

15 Q Okay. If I was to tell you that at least --
16 well, I'm not going to tell you, you tell me. How
17 about that. Let's see.

18 Would you mark that, please.

19 (Dunton Exhibit 6 marked.)

20 MR. MCGINLEY: Q Miss Dunton, what I have
21 handed to you is Exhibit 6. Do you recognize this?

22 A I have seen it before.

23 Q Okay. Is this a document that was created
24 by Weaver or was it created by AECOM?

1 **A It was not created by Weaver.**

2 Q Okay. Brian Ranstead is who, do you know?

3 **A I have no idea who he is.**

4 Q No idea. As best you know, it's not
5 somebody that works for Weaver; is that right?

6 **A He is not, correct.**

7 Q Okay. So, let's return back to this
8 statement on the bottom of 1064. Many documents are
9 no longer available for reference or how our
10 drawings came about.

11 What's, why weren't, what documents are you
12 making reference to? What was no longer available
13 at this point, at the time that you wrote this on
14 December the 27th of last year -- I'm sorry,
15 September the 27th of last year?

16 **A I would imagine previous draft drawings.**

17 Q Previous draft drawings, okay. Anything
18 else that you can think of?

19 **A No.**

20 Q Any sort of like source documents that might
21 have been relied upon in creating drawings that were
22 no longer available?

23 MS. BRICE: Objection, asked and answered.

24 THE WITNESS: No.

1 MR. MCGINLEY: Q You state, as I had mentioned,
2 many documents are no longer available for reference
3 and/or how our drawings came about. Okay. How our
4 drawings came about, you're referring to Weaver
5 drawings; is that right?

6 **A Yes.**

7 Q Okay. Did you take any steps to try and
8 determine how these drawings came about?

9 Actually, strike that, for a second.

10 What drawing are you referring to
11 specifically, when you say how our drawings came
12 about?

13 **A Probably the documents that were AECOM site**
14 **base maps. The ones that we used to create our**
15 **drawings.**

16 Q Okay. So you didn't know how those drawings
17 came about, that's, when you say how our drawings
18 came about, your testimony is that's actually
19 referring to AECOM site maps?

20 **A I don't know where, or who provided those**
21 **AECOM documents to us.**

22 Q Okay. And your statement, I wasn't the only
23 one working on these either, what do you mean by
24 that?

1 **A As I had mentioned, James Treece and I, and**
2 **if anybody else was.**

3 Q Were there any, did you go back and talk
4 with Mr. Treece about this, to try and figure out
5 answers to any of your questions here?

6 **A I don't recall.**

7 Q After you wrote this to Mr. Dorgan, did
8 Mr. Dorgan have any response to you with respect to
9 these last two sentences on Dorgan 1064, this
10 e-mail, September 27th?

11 **A I don't recall.**

12 Q Did you consider this to be a significant
13 issue that you didn't have, that documents are no
14 longer available for reference?

15 **A No.**

16 Q No? It's not, you write, unfortunately, as
17 I had mentioned, many documents are no longer
18 available for reference?

19 **A Uh-huh.**

20 Q Is that not a significant issue?

21 **A There's no reason to keep draft documents.**

22 Q Why then say unfortunately?

23 **A Because perhaps we wouldn't have had this**
24 **long of an issue with this project.**

1 Q You had mentioned this previously to
2 Mr. Dorgan, it seems like, from reading of that
3 sentence, is that a fair way to read that?

4 MS. BRICE: Objection, mischaracterizes the
5 testimony.

6 THE WITNESS: I don't know.

7 MR. MCGINLEY: Q I'm simply asking what this
8 sentence is, and all I'm saying is, you had
9 mentioned, as I had mentioned, so, I take it from
10 that statement that you had had at least one prior
11 communication with Mr. Dorgan about the issue that's
12 being highlighted in these last few sentences here
13 in this e-mail; is that right?

14 **A I don't know.**

15 Q What was the -- what were you trying to
16 figure out at this point -- strike that.

17 Were you trying to figure out something
18 that, having access to documents that were no longer
19 available, would have helped answer for you?

20 **A I don't know.**

21 Q Is there some question that you were trying
22 to answer?

23 **A I don't recall.**

24 MR. MCGINLEY: Mark this.

1 (Dunton Exhibit 7 marked.)

2 MR. MCGINLEY: Q Miss Dunton, I'll represent to
3 you that what has been handed to you as Exhibit 7 is
4 the same as the attachment that's included on the
5 back of the e-mail thread that we previously we're
6 talking about, Exhibit 7. The difference is that
7 this attachment also includes comments, which you
8 are the author for.

9 Have you seen this before?

10 **A I haven't seen this with all the comments**
11 **like this, this way.**

12 Q Right, because normally you just hover over
13 it with a cursor and you would see it pop up, yes,
14 but for purposes of the deposition, this is how we
15 have to do it.

16 Any reason to believe that the comments
17 that are listed and attached on this are not
18 accurate?

19 **A No reason that they wouldn't be accurate.**

20 Q Okay. I just want to ask you few questions
21 here. Oh, if you could look at comments, page 2,
22 and this is referring to figure 15, and you note
23 that figure 15 is a draft figure and has been
24 scanned at least two times, making the exact

1 measurements very approximate, due to the resizing.

2 Do you see that?

3 **A Yes.**

4 Q And this will be Exhibit 8.

5 (Dunton Exhibit 8 marked.)

6 MR. MCGINLEY: Q That's the exhibit, figure 15,
7 that you're referring to in your comments here; is
8 that right?

9 **A Uh-huh, yes.**

10 Q All right. Does the fact that it's marked
11 as draft, is there anything significant about that
12 in your mind?

13 **A Usually means it isn't complete or**
14 **finalized.**

15 Q Okay. If the -- if I was to represent to
16 you that that was the only version of figure 15,
17 that was ever created, would that make any
18 difference?

19 MS. BRICE: Objection, assumes facts not in
20 evidence.

21 MR. MCGINLEY: Q Well, I'm making a
22 representation, I mean.

23 **A I have no idea.**

24 Q How do you know that it was scanned at least

1 two times?

2 **A By the quality.**

3 Q Okay. What about the quality tells you that
4 it had been scanned more than once, or at least two
5 times?

6 **A Fading of the line.**

7 Q Okay.

8 **A And then the smear that's across it.**

9 Q Okay. Figure 15 is, and this is, again,
10 Exhibit 8, Soil Boring Location Map, Site 3.

11 Do you know if you have ever seen a better
12 representation of the soil boring locations for Site
13 3?

14 **A We have the soil boring locations that were
15 provided to us on the AECOM drawing.**

16 Q Okay. Do you know what these soil boring
17 locations were based, on what AECOM's representation
18 of those soil boring location was based on?

19 **A No idea. They located them.**

20 MR. MCGINLEY: So this will be Exhibit 9.

21 (Dunton Exhibit 9 marked.)

22 MR. MCGINLEY: Q Exhibit 9 has been handed to
23 you. Have you seen this document before?

24 **A I don't think so. I may have seen the**

1 **cover.**

2 Q Okay. Turning your attention, please,
3 towards the back, you will see that there's a series
4 of figures, there are 4 in total that have been
5 attached to this.

6 Do you see the figures?

7 **A Yes.**

8 Q Okay. Am I correct that you created these
9 figures?

10 **A No.**

11 Q No? What about for figure 3 and figure 4?

12 **A Figure 3 and figure 4 were.**

13 Q Yes, okay. So let's talk about figure 3 and
14 figure 4 then. Did you do anything else for this
15 report, besides creating these two figures, figure 3
16 and figure 4?

17 **A I don't recall. I haven't seen the, I
18 didn't read the report either.**

19 Q Okay. Is it your habit, when you're
20 creating figures for, or a report that's being done
21 by somebody else, do you typically not read the
22 report?

23 **A Correct.**

24 Q Okay. Can I, with respect to figure 3, the

1 yellow lines that are listed here, the legend says,
2 property boundary by Gobelman figure 1, illustration
3 and measured from Lat/Long, l-a-t, forward slash,
4 l-o-n-g grid. Do you see that?

5 **A Yes.**

6 Q Okay. How did you input this information or
7 bring this information into this figure?

8 **A Gobelman's drawings had his Lat/Long grid**
9 **formation, and I used that measurement to lay out**
10 **his property boundary onto this drawing.**

11 Q So, tell me everything that you did to
12 actually create this figure, figure 3, how did you
13 start out with this, because this is not, as
14 compared to, let's say, the prior figure, figure 1,
15 which is figure 1 of the Dorgan expert report. What
16 did you actually do to create this?

17 **A For this, I created a drawing that is**
18 **geolocated, used the most current aerial I could**
19 **find, which was dated July 6th, 2018. Since it's**
20 **geolocated on AutoCAD, the Lat/Longs are actually**
21 **provided. So I showed those to give the same base**
22 **that Andrews Engineering had their grid, same**
23 **Lat/Long grid.**

24 I was able to input AECOM WCG's boundary,

1 since we have those in AutoCAD, into there. I used
2 the measurements off of the Lat/Long grid to input
3 in Atwell's boundary, since they have a grid on
4 their drawing as well.

5 Then I did the same for Gobelman's, which
6 is also Andrews Engineering, through the same
7 process. And the CQM, which per their corner
8 coordinates on the CQM drawing, they actually have
9 the corner coordinates of their lot lines or the
10 site layout line on there. I have them on different
11 layers and colors so that you can see them.

12 Q Okay. And so you started with geolocation
13 on AutoCAD, you bring up the latitude and longitude
14 lines, which I guess are the white dotted lines,
15 right?

16 A Correct.

17 Q And they have the numbers on the bottom and
18 the right-hand side, correct?

19 A Yes.

20 Q Okay. And you find the current aerial, and
21 then you just simply bring up all of these different
22 layers and put them onto the same map, correct?

23 A Yes.

24 Q How long does it take to do something like

1 this, to create something like this?

2 **A A few hours.**

3 Q When you say AECOM WCG, property boundary by
4 AECOM WCG. What do you mean by that exactly?

5 **A AECOM is the original drawing, and as you**
6 **have seen on previous figures, figure 1, and since**
7 **we have our title block on that, we're taking dual**
8 **credit.**

9 Q I see, okay. So that's all that means, it's
10 not that you actually went out and created another
11 map --

12 **A No.**

13 Q -- it's just that you're taking the existing
14 AECOM map and bringing it forward and putting your
15 title block onto it, right?

16 **A Yes.**

17 Q Okay. Mark this 10.

18 (Dunton Exhibit 10 marked.)

19 MR. MCGINLEY: Q Miss Dunton, the document that
20 has been handed to you, Exhibit 10, have you seen
21 this document before?

22 **A Maybe the cover.**

23 Q Okay. Could I draw your attention, please,
24 to the figures that are at the back of this.

1 Are you familiar with the figures that are
2 included in here, these are Andrews Engineering
3 figures, right?

4 And, just for the record --

5 **A I just have the one, on appendix B.**

6 Q I think, there should be more than that.

7 **A There is not.**

8 **MS. BRICE: No.**

9 MR. MCGINLEY: Okay.

10 MS. BRICE: Oh, wait, here they are.

11 MR. MCGINLEY: Yes. Okay.

12 THE WITNESS: Are they further back?

13 MR. MCGINLEY: Yes.

14 THE WITNESS: Oh.

15 MS. BRICE: They're interspersed.

16 MR. MCGINLEY: Q Just for the record,
17 Exhibit 10 is Expert Rebuttal Supplemental Report of
18 Steven Gobelman, dated November 7, 2018. I have
19 abbreviated the title, but that's, essentially, the
20 gist of it.

21 Have you seen these figures before, ma'am?

22 **A Yes, I believe I have.**

23 Q Okay. After -- and the date of this report,
24 again, Exhibit 10, is November 7, 2018, did you,

1 would you have seen these figures approximately in
2 November at some point of last year?

3 **A Possibly, I don't recall.**

4 Q How did you actually come to see these
5 figures?

6 I mean did you get a copy of the report,
7 itself, or did somebody give you these figures, I
8 mean how did you actually come to see them for the
9 first time?

10 **A I don't recall exactly, but I was given the**
11 **figures.**

12 Q Okay. And why were you given the figures?

13 MS. BRICE: Objection, calls for speculation.

14 THE WITNESS: I don't recall why.

15 MR. MCGINLEY: Q Well, did somebody just hand
16 them to you and say, hey, this is interesting, or
17 was there some, were you, was there some purpose in
18 why you got them?

19 **A I would imagine Doug showed me them so that**
20 **I could see what Andrews has done.**

21 Q Okay. Did you have any discussions with
22 Dr. Dorgan about these figures?

23 **A I don't recall.**

24 Q Did Mr. Dorgan ask you to do any work in

1 looking into how those figures were created?

2 **A Could you rephrase that?**

3 Q Sure. Would Mr. Dorgan have asked you to
4 look into how the figures were created that are in
5 exhibit, in this exhibit?

6 **A I don't believe Mr. Dorgan would ask me how
7 these drawings were created.**

8 Q Would he have asked you to -- would he have
9 asked you anything about the figures themselves,
10 asked for any insight into the figures?

11 **A Maybe.**

12 Q Okay. Can you recall anything he might have
13 asked you to look at specifically?

14 **A Not specifically, no.**

15 Q Do you have any general recollection of what
16 he might have asked you to do?

17 **A Just look at the drawings.**

18 Q And then what, just look at them for the
19 sake of --

20 MS. BRICE: Hold on. Objection, calls for
21 speculation. She said she doesn't, I mean she's
22 just saying what he might have done. I mean this is
23 nothing based in reality.

24 MR. MCGINLEY: Q Did you end up looking at the

1 figures? Yes, right?

2 **A Yes, I looked at the figures.**

3 Q Did you have any conversations with
4 Mr. Dorgan after having looked at the figures?

5 **A Possibly.**

6 Q Can you, sitting here today, recall anything
7 that you might have said to him about the figures?

8 **A I don't know, but possibly about there were**
9 **boundaries, the boundary that he has established in**
10 **this one.**

11 Q Okay. And why might have you talked about
12 boundaries, if, assuming that you had spoken to
13 Mr. Dorgan about the boundaries?

14 MS. BRICE: Again, objection, calls for
15 speculation.

16 MR. MCGINLEY: I am asking her why she might
17 have spoken to Mr. Dorgan about the boundaries.

18 MS. BRICE: Why she might have spoken to him,
19 yes, I mean you haven't established it was actually
20 a conversation. She doesn't recall one.

21 MR. MCGINLEY: Q Can you answer the question,
22 please?

23 **A I don't recall what was said or why we would**
24 **have talked, spoken about the boundary, but the**

1 **difference between ours and his.**

2 Q Okay. And with respect to Mr. Gobelman's
3 prior, his initial rebuttal report, you would
4 actually gone and reviewed content in the report,
5 taken measurements that were, taken, attempted to do
6 measurements that were listed in the record,
7 correct?

8 **A Between his prior one and this one?**

9 Q No. With respect to Mr. Gobelman's initial
10 report, you looked at -- Mr. Dorgan asked you to
11 look at section 5 of that report, right?

12 **A Correct.**

13 Q And you provided commentary back to
14 Mr. Dorgan about that report, correct?

15 **A Correct.**

16 Q Do you recall having done anything like that
17 here, with respect to this exhibit?

18 **A I don't recall.**

19 MR. MCGINLEY: Okay. Mark this 11.

20 (Dunton Exhibit 11 marked.)

21 MR. MCGINLEY: Q What has been presented to you
22 as Exhibit 11 is Mr. Dorgan's August 30, 2019 expert
23 rebuttal supplemental report. The question to you,
24 ma'am, is have you seen this before?

1 **A I have seen the cover.**

2 Q Okay. If I can draw your attention to the
3 back, there are two figures listed as 1A and 1B, do
4 you see those?

5 **A Yes.**

6 Q Okay. You created those figures, correct?

7 **A Yes.**

8 Q Why did you create these figures? What were
9 you trying to show?

10 **A Doug requested that I create these figures,
11 similar to what I had done previously, that
12 illustrates Gobelman's property boundaries from his
13 previous report, from August 22nd, of 2018, and his
14 more recent report of November 7th, 2018.**

15 Q Okay. Did you create -- so, if I can draw
16 your attention to the date of the bottom right-hand
17 corner, it looks to me to be April the 15th of this
18 year; is that right?

19 **A Correct.**

20 Q And that's true for both figure 1A and 1B;
21 is that right?

22 **A Yes.**

23 Q Okay. Around this same period of time,
24 April 15th of 2019, did you create any other

1 figures?

2 **A I don't --**

3 Q That relate to this matter, excuse me?

4 **A I don't remember.**

5 MR. MCGINLEY: Okay. Mark this as 12.

6 (Dunton Exhibit 12 marked.)

7 MR. MCGINLEY: Q Miss Dunton, what the Court
8 Reporter has handed to you is Exhibit 12 is a
9 document with the title, Property Boundary Layout
10 with Utilities. Boundary comparison between
11 Gobelman's 8-22-18 rebuttal report map, Gobelman's
12 11-17-18 supplemental report map, and WCG October
13 Rebuttal Report, right, is that what that says?

14 **A Yes.**

15 Q Okay. Lower right-hand corner, I'll note
16 that it was drawn by you, RMD; is that right?

17 **A Correct.**

18 Q Reviewed by SB. Who is SB?

19 **A It would be Susan Brice.**

20 Q Susan Brice reviewed this, okay. And I note
21 that this is dated April the 10th of 2019, correct?

22 **A Yes.**

23 Q This report, this diagram, Exhibit 12, was
24 not included in the, and it's marked as Exhibit 1U.

1 What, anything significant about calling it 1U?

2 **A No.**

3 Q Okay. It's also, I'll note for the record,
4 it's marked as, Bates stamped Dunton 00001.

5 Is it unusual to have an attorney review
6 drawings that you're creating?

7 **A No.**

8 Q No, it's not, okay. Had there been other
9 instances where Counsel had reviewed drawings that
10 you had done for this matter?

11 **A No.**

12 Q This is the first time that she, Miss Brice,
13 has done this, reviewed drawings that you have done
14 for this matter?

15 **A I don't recall specifically.**

16 Q Did Dr. Dorgan review this drawing,
17 Exhibit 1U?

18 **A I'm sure he had.**

19 Q Do you know why this wasn't included in the
20 report, Mr. Dorgan's April 30th report?

21 **A No idea.**

22 MR. MCGINLEY: Mark this as 13.

23 (Dunton Exhibit 13 marked.)

24 MR. MCGINLEY: Q Miss Dunton, what's being

1 handed to you as Exhibit 13, is Bates stamped Dunton
2 00006 through 000021. This was produced to us with
3 the file name Dunton Number 6 by Counsel. Take a
4 look at it, and after you have had a chance to
5 familiarize yourself to it, let me know?

6 **A Okay.**

7 Q Okay. Can you tell me, I mean why, what is
8 the relationship between all of the pages in this
9 one exhibit? I mean up to this point, it seems like
10 there had been individual diagrams or drawings. I
11 mean was this actually maintained this way as one
12 separate document with all of these pages?

13 MS. BRICE: I can tell you, I don't think so. I
14 think we might have stapled them.

15 MR. MCGINLEY: Well, I think they were scanned
16 together as one document, that's what I am trying to
17 get at.

18 MS. BRICE: I don't think they were.

19 THE WITNESS: I have no idea if they were one
20 document. I can tell you that since I didn't draw
21 the Andrews ones, that they were not.

22 MR. MCGINLEY: Q Well, we'll get to that in one
23 second, actually.

24 The Dunton 11 and Dunton 12, can you tell

1 me what these are?

2 **A They are aerial images of the site.**

3 Q Okay. And if I look at, though, what you
4 have done, why do these look different, than, let's
5 say, what's in Exhibit 12, Dunton 11, Dunton 12
6 versus Dunton number 1?

7 **A Versus Dunton 1?**

8 Q Right.

9 **A 11 and 12?**

10 Q Yes. So that would be Dunton 1 being
11 Exhibit 12, now we're talking about Dunton 11 and 12
12 and Exhibit 13?

13 **A They are all the same aerial.**

14 Q The exact same aerial or are they just,
15 because it has different, it doesn't seem to have
16 exactly the same dimensions or show the, exactly the
17 same portions of the site?

18 **A Let's say Dunton 12 --**

19 Q Uh-huh.

20 **A -- is when you are further out.**

21 Q Right.

22 **A 11 is same aerial, you're just looking at a**
23 **smaller section.**

24 Q Okay.

1 **A Dunton 1, same section.**

2 Q So you just capture these and then you're
3 trying to figure out what is the best aerial
4 photograph to use for purposes of presenting and
5 creating the actual drawing?

6 **A I am not sure why these were included, I**
7 **know that the aerial image that you see in Dunton 1,**
8 **which is the same aerial as, you know, 11 and 12,**
9 **were in the AutoCAD drawings because they are**
10 **referenced in that drawing to create Dunton 1.**

11 Q Okay. Dunton 13, if I could ask you to look
12 at that. You will notice that there is some red
13 marking along the bottom and the left-hand side of
14 the drawing, and this is, Dunton 13 is Gobelman
15 figure 1, August 22nd, 2018, Rebuttal Report Map.

16 The red lines that I was just referencing
17 on the bottom and the left-hand side of the, SITE 3,
18 would those included in the original drawing or were
19 those added by somebody at Weaver?

20 **A They were added.**

21 Q They were added, okay. And what was the
22 purpose of adding that, those lines, and they're
23 really, they're distances that are being noted here;
24 is that right?

1 **A Correct.**

2 Q Okay. And what is the purpose of adding
3 that information in?

4 **A To show the distance of the site.**

5 Q And what is the blue lines at the top, what
6 are you trying to show there, the arrows?

7 There's a series of four arrows, two on the
8 left-hand side of the Northeast Excavation, and two
9 on the right-hand side, do you see that?

10 **A Yes.**

11 Q What are you showing there?

12 **A They are representing two different things.**

13 Q And what are the two different things that
14 they are representing?

15 **A The one that is on the right is showing
16 where the corner of the property is in relation to
17 the grid. The one that is centrally located is
18 showing the distance between the test pits and the
19 boring, site boring 315.**

20 Q Okay. What is the, what is, there's a
21 yellow line that goes from what appears to be
22 station 7 plus 00, down to a portion of the
23 Northeast Excavation area, what is that depicting?

24 **A It is in relation to the station 7 plus 00,**

1 **which is an IDOT stationing, and where parcel 0393**
2 **lines up.**

3 Q Okay. And why is it marked presumed IDOT
4 center line, why is it presumed?

5 **A I don't have any information that gives me**
6 **that precise location, so it's presumed.**

7 Q Okay. And where might you find that
8 information, if you were looking for it, typically,
9 if you were trying to find a center line?

10 **A The IDOT drawings.**

11 Q Okay. Did you have access to the IDOT
12 drawings?

13 **A I had looked at them, yes.**

14 Q Okay. But you weren't able to discern where
15 the center line was from the drawings, is that --

16 **A Just by the fact that it's in the center of**
17 **the road.**

18 Q But it wasn't, actually -- would it
19 typically be marked in the drawings, where the
20 center line is?

21 **A It would be marked in the center of the**
22 **road.**

23 Q Okay.

24 **A It has stationing, that's part of the**

1 **construction process.**

2 Q Right. If I could direct your attention to
3 Dunton 15, this is a tax parcel map. Did you rely
4 on the tax parcel map at all, in the course of
5 creating any of your drawings for this project?

6 **A Most recently, yes.**

7 Q How did you rely on the tax parcel map?

8 **A If you have noticed on Dunton 1, it is**
9 **actually on that map.**

10 Q Okay. Prior to, so this would have been
11 just done back in April, correct, that you would
12 have used the tax parcel map for the first time?

13 **A Yes.**

14 Q Because Dunton 1, again, is dated April 10
15 of 2019?

16 **A I presume so, yes. I don't recall doing it**
17 **prior to that.**

18 Q Okay. If I can just turn your attention
19 back to Exhibit 12. You noted that Miss Brice had
20 provided comments on Exhibit 12?

21 MS. BRICE: Objection, mischaracterizes the
22 testimony. She said Miss Brice --

23 MR. MCGINLEY: I'm sorry, she reviewed it.
24 Miss Brice is listed as having reviewed Exhibit 12,

1 correct?

2 **A Yes.**

3 Q Okay. What was -- did you, did she provide
4 you with any feedback, based on her review?

5 **A I don't recall.**

6 Q You don't recall at all?

7 **A I'm sure there was some discussion.**

8 Q Can you recall -- is there anything about
9 that discussion that you believe would have happened
10 that you can recall today?

11 MS. BRICE: Objection, asked and answered.

12 THE WITNESS: I don't recall.

13 MR. MCGINLEY: Q Do you recall making any
14 changes to what is Exhibit 1U, Exhibit 12, for
15 deposition purposes, did you make any changes to
16 this drawing, based on discussion with Miss Brice?

17 MS. BRICE: Objection, calls -- mischaracterizes
18 the testimony. You can answer.

19 THE WITNESS: Well, I don't recall, since I
20 don't recall what we spoke about.

21 MR. MCGINLEY: Q So, as far as you know, it's
22 possible that, sitting here today, you can't rule
23 out the possibility that you made changes to
24 Exhibit 1U, based on conversations that you have had

1 with Miss Brice; is that right?

2 **A I don't recall.**

3 Q But you can't rule it out is my question,
4 right?

5 **A I have no idea.**

6 Q Because you can't recall --

7 **A Correct.**

8 Q -- So you can't rule it out, right?

9 MS. BRICE: Objection, badgering the witness.

10 MR. MCGINLEY: Q I am just asking a question.

11 Can you, so you can't rule it out,
12 correct?

13 **A I don't recall.**

14 Q Is there anything that could help you
15 recall?

16 **A A time machine.**

17 Q Who suggested that you make use of the tax
18 parcel map, or how did you decide to use the tax
19 parcel map?

20 **A I really don't remember precisely.**

21 Q How did you acquire it? Did you acquire it
22 or was it given to you?

23 **A You can find it on-line.**

24 Q I understand that, but did you acquire it

1 yourself or was it provided to you?

2 **A I don't recall, but I remember getting it as**
3 **well.**

4 Q Getting it as well, okay. How did you get
5 it? Do you recall that?

6 **A It's on-line.**

7 Q So, I wasn't sure when you said getting it,
8 so whether you meant getting it yourself?

9 **A It's literally on an on-line website,**
10 **anybody can get it.**

11 Q Thank you, I understand that, but I wasn't
12 sure from how you were saying it whether you were
13 also indicating that somebody had also provided --

14 **A I don't know if somebody else had provided**
15 **it as well, but I do recall getting it, one as well.**

16 Q Okay. Thank you. Directing your attention
17 to the last three pages of this exhibit, Exhibit 13,
18 that would be Dunton 19, 20, and 21. Are these --
19 who created these documents?

20 **A AECOM.**

21 Q Okay. What was actually, when you talked
22 about AECOM, and what was provided to you by AECOM,
23 we have, in prior Mr. Dorgan's depositions, referred
24 to something as the AECOM CAD file, is that

1 something that has any meaning to you, that term,
2 are you familiar with something that's referred to
3 as the AECOM tag file?

4 **A I believe there was an AECOM CAD file.**

5 Q Okay. Have you ever -- you believe there
6 was something to that effect. Have you used it,
7 made use of it at, the AECOM CAD file, in --

8 **A It's our base drawing.**

9 Q It's the base, okay. And that drawing was
10 in-house at Weaver before you started working on the
11 project, would that be a fair summation of your
12 prior testimony?

13 **A I don't recall when it was acquired.**

14 Q At the time that you started working on this
15 project, was it available to you?

16 **A It -- I was already working on the AECOM
17 drawing.**

18 Q Okay. So it wasn't something that came in
19 in-house after you had started working on the
20 project, right?

21 **A I really couldn't tell you. I don't recall
22 when. It may have, I am not precisely sure what day
23 I started working on this project.**

24 Q Would you -- you have no recollection when

1 you started working on the project?

2 **A No, not precisely, no.**

3 Q Because I don't actually have an AutoCAD
4 computer I can wheel in here, the best I could do
5 with creating something from the AutoCAD file was to
6 do this. This is going to be 14.

7 (Dunton Exhibit 14 marked.)

8 MR. MCGINLEY: Q Does this, in any way,
9 resemble how the AECOM AutoCAD file would look if
10 you were bringing it up on your station at work?

11 **A It would look something like this.**

12 Q Okay. I'll represent to you that we had an
13 AutoCAD file produced to us, and this is the best
14 way that we could figure out how to actually print
15 this thing out and use it for purposes of
16 deposition.

17 I recognize that a hard copy is, we're
18 talking like dynamic electronic file and information
19 on the one hand and, you know, the limitations of
20 the deposition on the other.

21 But this, essentially, would be, the AECOM
22 CAD file is what you worked on, right, I mean have
23 you worked off of that to create these documents and
24 diagrams in this case, correct?

1 **A Yes.**

2 Q Okay. I just have one real question about
3 this, which is, where is this actually residing in
4 your system at Weaver, like where is it actually,
5 how is it maintained or stored, that file?

6 **A Well, it's our base drawings, so it's in our**
7 **sever, in the drawing folder of this project.**

8 Q Okay. And you can just call it up and work
9 with it whenever you need to create new drawings,
10 correct?

11 **A Yes.**

12 Q I am curious about one thing, which is, if
13 you look at -- I take it that the yellow lines that
14 are shown in this, that those represent the
15 boundaries of SITE 3, would that be a correct
16 interpretation on my part?

17 **A Yes.**

18 Q Okay. And the -- this gray strip across
19 the, sort of the upper half of the, the drawing,
20 that would represent Greenwood Avenue; is that
21 right?

22 **A Yes.**

23 Q Okay. With the yellow boundary, generally
24 speaking, what we have seen is that there's a curve

1 on the right-hand side of where SITE 3 is?

2 **A Yes.**

3 Q Why is it, and here it's more angled, right,
4 the boundary on the right-hand portion of SITE 3?

5 **A It's how you have it, and how you have dealt**
6 **with the AutoCAD drawing.**

7 Q Okay. So, generally speaking, it would show
8 up. How would you make it look the way it is shown
9 and depicted in site in Exhibit 12?

10 **A It actually is curved, it's just that you**
11 **have settings on your AutoCAD that prevents it to do**
12 **so.**

13 MR. MCGINLEY: Okay. Thank you.

14 Let's take a break for a minute.

15 MS. BRICE: You only got 15 minutes left, so.

16 MR. MCGINLEY: Well, yeah, okay. That's fine.

17 (Whereupon a break was taken at 12:48.)

18 (Back on the record at 12:51.)

19 MR. MCGINLEY: Back on the record.

20 Q So, Miss Dunton, if the AECOM CAD file had
21 ever been updated, would you know about that, I mean
22 if AECOM ever changed any aspect of its CAD file
23 that you have been working with, would you
24 necessarily know about that?

1 **A No.**

2 Q Okay. If AECOM had changed any kind of
3 information that it had learned about features at
4 the site, you wouldn't necessarily have that
5 information, they wouldn't automatically provide
6 that information to you, if they were updating
7 things?

8 **A They wouldn't automatically, no.**

9 Q In your experience, if an outside consultant
10 does change features in plans, things like that,
11 that they had been using, is it common to provide
12 updated plans or files to use, so that you can work
13 with them and make sure that you have got the most
14 up-to-date information?

15 **A It depends on the project.**

16 Q Okay. In the course of this project, has
17 AECOM provided you or Weaver with any updated
18 information?

19 **A I don't recall. It may have been through
20 PDF formats.**

21 MR. MCGINLEY: Okay. That's it. Thank you.

22 MS. BRICE: Okay. I just want to stated, for
23 the record, that to the extent I objected on the
24 attorney-client privilege, that, you know, just

1 throughout the deposition, just consider that
2 limited only, that my, I am only waiving it as to
3 that answering of that particular question. Done.

4 MR. MCGINLEY: Good. Thank you.

5 MS. BRICE: Reserve.

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF C O O K)

4 The within and foregoing deposition of the
5 aforementioned witness was taken before DENNIS M.
6 HARTNETT, CSR, at the place, date and time
7 aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10
11 The said witness was first duly sworn and
12 was then examined upon oral interrogatories; the
13 questions and answers were taken down in shorthand
14 by the undersigned, acting as stenographer and the
15 within and foregoing is a true, accurate and
16 complete record of all of the questions asked of and
17 answers made by the forementioned witness, at the
18 time and place hereinabove referred to.

19 The signature of the witness was not
20 waived, and the deposition was submitted, pursuant
21 to Rules 207 and 211 (d) of the Rules of the Supreme
22 Court of Illinois, to the deponent per copy of the
23 attached letter.

24

1 The undersigned is not interested in the
2 within case, nor of kin or counsel to any of the
3 parties.
4
5
6
7
8
9
10

11 Witness my official signature in and for
12 Cook County Illinois on this 5th day of August A.D.
13 2019.
14
15

16 _____'
17 DENNIS M. HARTNETT, CSR
18 TOOMEY REPORTING
19 205 West Randolph Street
20 Suite 2201
21 Chicago, Illinois 60606
22 Phone: (312) 853-0648
23
24

RIAH DUNTON
July 24, 2019

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

I, RIAH DUNTON, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on 7-24-19; that I have read the foregoing transcript of my deposition, consisting of pages 1 through 134 inclusive, and affix my signature to same.

RIAH DUNTON

SUBSCRIBED AND SWORN TO
before me this ____ day of

A.D. 2019.

Notary Public

TOOMEY REPORTING
(312) 853-0648

RIAH DUNTON

July 24, 2019

TOOMEY REPORTING
205 West Randolph Street
Suite 2201
Chicago, Illinois 60606
(312) 853-0648
August 5, 2019

Ms. Susan Brice
Bryan Cave Leighton Paisner
161 North Clark - Suite 4300
Chicago, Illinois 60601

CASE: Johns Manville v. IDOT CASE NO.: PCB 14-3
DEP OF: Ms. Riah Dunton DATE TAKEN: 7-24-19

Dear Ms. Brice:

Enclosed is your copy of the deposition transcript, along with the original signature page and errata sheet.

Pursuant to the rules of court in this matter, please have the deponent read the transcript and sign the signature page before a notary public.

If any corrections/changes are to be made, please TYPE or PRINT them on the attached errata sheet, giving the page and line number, desired correction/change, and reason.

Please arrange for accomplishment of same and transmittal of the signature page and errata sheet back to our office within 30 days from the date of this letter.

Upon failure to comply, we shall forward an appropriate affidavit of noncompliance to all counsel of record.

Sincerely yours,

SANDY TOOMEY

cc: Mr. Evan McGinley

TOOMEY REPORTING
(312) 853-0648

TOOMEY REPORTING
312-853-0648

RIAH DUNTON
July 24, 2019

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Y	60:1,3,21	112:12	111:24	111:24	74:12,16,18
	61:3 62:9	11:00 54:12	16 87:2	112:21	76:7,12

83:15,19	<u>5</u>	8 3:18 100:4		
84:6,13,15	5 3:15 21:20	100:5		
84:17,18	31:23 32:1	101:10		
85:4,8,11	80:16,17,19	8-22-18		
85:21 86:3	81:14,20	112:11		
86:15 87:1	82:1,2,7,9	80 3:14,15		
90:19 92:3	82:13,16,21	853-0648		
92:8 93:10	86:4 110:11	130:18		
93:14	132:4	131:24		
101:10,13	5.2 83:1	132:3,26		
102:11,12	58 3:12	133:26		
102:13,15	5th 85:7	134:26		
102:24	130:12	<u>9</u>		
103:12	<u>6</u>	9 3:19 101:20		
116:17	6 3:16 11:16	101:21,22		
125:15	11:19 83:19	9:29 81:7		
126:1,4	84:13 94:19	94 3:16		
30 59:17	94:21 114:3	99 3:17		
110:22	60601 2:7			
132:18	132:6			
30th 22:17,19	60602 2:13			
28:3 113:20	60606 130:18			
312 130:18	132:2			
131:24	69 1:15 2:12			
132:3,26	6th 93:8			
133:26	103:19			
134:26	<u>7</u>			
312-602-5124	7 3:17 25:1			
2:7	99:1,3,6			
312-814-3153	106:18,24			
2:14	117:22,24			
315 117:19	7-24-19			
<u>4</u>	131:12			
4 3:6,14	132:8 133:1			
30:15 70:22	134:1			
71:14 80:1	71 81:16			
80:2,4	73 3:13			
81:18 82:2	7th 25:2			
102:4,11,12	30:18			
102:14,16	111:14			
4300 2:6	<u>8</u>			
132:6				

Electronic Filing: Received, Clerk's Office 10/09/2019

From: Dunton, Riah
To: Dorgan, Doug
Subject: FW: Johns Manville v. IDOT, PCB 14-3 - Service of Gobelman Rebuttal Report
Date: Thursday, September 27, 2018 6:12:21 PM
Attachments: Report Section 5.pdf

Doug,

Further review of the Section 5 report, in addition to my previous comments attached is the section in question. Plus, following notes:

- I found the grid used on Atwell Topographic Survey and the AECOM Action Work Plan set also showing Site 3 boundary appears to be the same grid. This is also the grid Gobelman is referring.
- The fence Andrews Engineering is referencing around Site 3 was installed sometime between June 2016 and April 2017, its base of location must be per some construction documents or a contractors instruction, no evidence of legal papers to support its location in relation to boundary lines.
- Parcel 0393 per document 1649408 is located on Atwell's topo survey, AECOM figures in the same location. Without the document, I cannot verify which bearing/ section line it was read from and if the grid is laid out by this document.
- Parcel 0393 does have bearings/distances noted on AECOM figures we had used for the base of our figures.
- I found no evidence on where Atwell located Site 3, they have the base grid but no measurements off of it. Also, a note in the General Notes that states NOT to use a scale for dimensions.
- The bearings on the Atwell topo of Site 3 show that the ROW line (aka Parcel 0393) are not parallel to each other and therefore neither is parallel to the grid. Measuring off of the grid to locate Site 3 boundary corners would require multiple points.
- Please also note that if measuring with a scale(ruler), the thickness of the lines noting Site 3 boundary and Parcel 0393 are thick and overlap, this can cause faults in distances. It is common practice to use the center of a thick line as the 'actual' line.

This is a link to the documents I collected that I used for review.

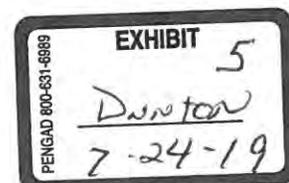
<J:\Projects\2500-2999\2570\312\07\01\Review of Rebuttal Reports>

I will be out of the office Friday and Monday, I may be available via phone on Monday or possibly come into the office if need be on Monday as well. Call/text me if you want to discuss more. Unfortunately, As I had mentioned many documents are no longer available for reference or how our drawings came about. I wasn't the only one working on these either.

Thanks,

Riah

Riah M. Dunton



DORGAN-0001064

Designer

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From: Dunton, Riah

Sent: Wednesday, September 05, 2018 1:10 PM

To: Dorgan, Doug

Subject: RE: Johns Manville v. IDOT, PCB 14-3 - Service of Gobelman Rebuttal Report

Doug,

I've read Section 5 and have marked a few inconsistencies within that section on the attached pdf. I measured as Andrews Engineering claims to have for the dimensions highlighted/commented. In the section 5.2, even Andrews Engineering states that the exact location was not identified for B3-45.

We have noted that the site layout was supplied by AECOM, this would have included the boundary for SITE 3 and SITE 6. The use of AECOM " 'SITE 3' Figure 1" and its Legal Description supplied us with the boundary for PARCEL 0393. The sample/test pits/boring locations also came from AECOM and their site layout information.

Please note that the 'Plat of Topographic Survey' by ATWELL has the contours and survey information we had used for the supporting base information, however it does not have the boundary of SITE 3 or SITE 6. It appears to match up the IDOT R.O.W of Parcel 0393 with our Parcel 0393 lines.

Having no knowledge of where Andrews Engineering got their SITE 3 boundary other than following a fence line, I can't confirm its location.

Let me know if you'd like to discuss further or have any questions. As well as if there is more you want me to look into.

Thanks,

Riah

From: Dorgan, Doug
Sent: Thursday, August 23, 2018 9:29 AM
To: Dunton, Riah
Subject: FW: Johns Manville v. IDOT, PCB 14-3 - Service of Gobelman Rebuttal Report

Per our discussion, Section 5.

Douglas G. Dorgan, Jr., LPG

Principal

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From: Brice, Susan [mailto:susan.brice@bclplaw.com]
Sent: Wednesday, August 22, 2018 3:59 PM
To: Dorgan, Doug <ddorgan@wcgrp.com>
Subject: FW: Johns Manville v. IDOT, PCB 14-3 - Service of Gobelman Rebuttal Report

SUSAN BRICE
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-----Original Message-----

From: McGinley, Evan [<mailto:emcginley@atg.state.il.us>]
Sent: Wednesday, August 22, 2018 3:52 PM
To: Brice, Susan; Caisman, Lauren; Brunner, Robert
Cc: O'Laughlin, Ellen; 'Dougherty, Matthew D.'
Subject: Johns Manville v. IDOT, PCB 14-3 - Service of Gobelman Rebuttal Report

Counsel:

Attached to this email, please find a copy of Steven Gobelman's rebuttal report in this matter, along with a copy of the certificate of service and notice of filing.

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Assistant Attorney General
Environmental Bureau
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- 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-built 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.

measures 232.35'

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.