

ILLINOIS POLLUTION CONTROL BOARD  
OCTOBER 30, 2020

JOHNS MANVILLE, )  
)  
Complainant, )  
) No. PCB 14-3  
vs ) (Citizens  
) Enforcement -  
ILLINOIS DEPARTMENT OF ) Land)  
TRANSPORTATION, )  
)  
Respondent. )

REPORT OF THE PROCEEDINGS held in the  
above entitled cause before Hearing Officer  
Bradley Halloran, called by the Illinois Pollution  
Control Board, taken by Steven Brickey, CSR, RMR,  
CRR, for the State of Illinois, 100 West Randolph  
Street, Chicago, Illinois, on the 26th day of  
October 2020, commencing at the hour of 9:20 a.m.

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24 ALSO PRESENT: MS. MARIE TIPSORD  
MS. JENNIFER VAN WIE

REPORTED BY:

Steven J. Brickey, CSR, RMR, CRR  
CSR License No. 084-004675

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1 HEARING OFFICER HALLORAN: Hi. Good  
2 morning. My name is Bradley Halloran. I'm the  
3 Hearing Officer with the Illinois Pollution  
4 Control Board. I'm also assigned to this matter.  
5 It's PCB 14-3. It's entitled Johns Manville,  
6 complainant, versus the Illinois Department of  
7 Transportation, respondent. Today is October  
8 26th, 2020. It's approximately 9:20.  
9 This hearing was properly noticed and will be  
10 conducted pursuant to Sections 101 and 103 of the  
11 Board's procedural rules. Due to the COVID-19  
12 pandemic, we also have available a Webex platform  
13 that will allow the public participants and  
14 witnesses to participate without being physically  
15 present. Information for accessibility can be  
16 found in my September 22nd, 2020, notice of  
17 hearing order and also if you have connection  
18 issues I have my webmaster and general counsel to  
19 the right of me. You can call her, Marie Tipsord,  
20 at (312) 814-4925 and she will presumably help you  
21 out.

22 I'm here to rule on any procedural  
23 and evidentiary matters. After the hearing, I'll  
24 take the record transcripts and post-hearing

1 briefs and forward them to the capable members of  
2 the Board who will decide. Speaking of which, I  
3 believe we have Chair Currie on Webex and we have  
4 Member Van Wie here physically present to my right  
5 and we have various staff attorneys on -- on Webex  
6 as well and technical person Essence Brown, I  
7 believe.

8                   And, again, we're here because on  
9 December 15th, 2016, in their interim order the  
10 Board found that IDOT caused and allowed open  
11 dumping of asbestos-containing material.

12 Specifically, the Board found that IDOT caused  
13 open dumping of ACM waste along the south side of  
14 Greenwood Avenue within Site 6 and adjacent areas  
15 along the north edge of Site 3.

16                   The Board further found that IDOT  
17 allowed open dumping of ACM waste on a portion of  
18 Site 3 within Parcel 0393. It's my understanding  
19 that that there is a little disagreement as far as  
20 what portion of Parcel 0393 is. The Board, after  
21 finding the violations, made a determination as to  
22 Section 33(c) factors and availability of cost  
23 recovery. The Board found further hearing is  
24 necessary. They directed me to conduct a hearing

1 for evidence on the following issues.

2 The cleanup work performed by JM on the portions  
3 of Site 3 and Site 6 where the Board found IDOT  
4 responsible for ACM waste present in the soil.

5 Number two, the amount and reasonableness of JM's  
6 cost for this work and it's my understanding that  
7 the parties have stipulated this morning, two.

8 It's -- number three, the share of JM's cost  
9 attributable to IDOT.

10 After the hearing is completed, the  
11 Board will enter a final order awarding cleanup  
12 costs as the Board deems appropriate on the facts  
13 and circumstances and I do want to remind the  
14 parties that we had a sequester order entered. So  
15 any lay or fact persons must leave the hearing  
16 room and Webex until -- until they are called. In  
17 any event, JM, would you like to introduce  
18 yourself and we'll move on to IDOT.

19 MS. BRICE: Sure. Thank you very  
20 much. My name is Susan Brice. Welcome to the  
21 COVID hearing that we finally got scheduled here  
22 after much, much delay. I appreciate it, Mr.  
23 Halloran, Board members, Board Member Van Wie.  
24 Thank you for having us and --

1                   WEBEX: This meeting is being  
2 recorded.

3                   MS. TIPSORD: Sorry.

4                   MS. BRICE: -- making this a  
5 possibility. It's been a long time coming. I  
6 also have with me my colleague Kristen Gale who is  
7 also representing Johns Manville or sometimes we  
8 call them JM for short because it's just easier  
9 and makes things faster and then, IDOT, do you  
10 want to introduce yourselves?

11                   MS. O'LAUGHLIN: Sure. There we go.  
12 I'll introduce myself from here. I'm Ellen  
13 O'Laughlin. I'm an Assistant Attorney General and  
14 we are here on behalf of the Illinois Department  
15 of Transportation and I will let my colleague  
16 introduce himself.

17                   MR. GRANT: I'm Christopher Grant  
18 with the Attorney General's Office on behalf of  
19 IDOT.

20                   MS. O'LAUGHLIN: Again, I will echo  
21 we appreciate everybody being here and it has been  
22 a long road getting here. So good morning,  
23 everyone.

24                   HEARING OFFICER HALLORAN: Thank you

1 and we've made it thus far, I think we can make it  
2 a few more days. So thank you, all, for your  
3 patience. Ms. Brice, opening.

4 MS. BRICE: Yes, sure. And I will  
5 be brief. You said a lot of what I'm going to  
6 say. So very brief here.

7 So National Marine Service  
8 versus Illinois EPA the Illinois Supreme Court  
9 held that a primary -- "The primary purpose of  
10 the act is to ensure that adverse effect upon  
11 the environment are fully considered and borne  
12 by those who cause them."

13 This case is about fulfilling  
14 that purpose and making the polluter pay. In this  
15 case, IDOT is the polluter. The Board found, as  
16 Mr. Halloran said in the first hearing, that IDOT  
17 violated Section 21 of the act by causing open  
18 dumping of ACM waste on portions of Site 3 and  
19 Site 6 and I have here Dorgan Figure 1, which is  
20 not in dispute and I'm going to -- I'm going to  
21 show you guys and I'm going to show the people  
22 over here.

23 So this right here is Site 3,  
24 the black line right here, and Site 6 starts

1 here and then goes over this way past the Board,  
2 but in the first hearing we were focusing in on  
3 this area so we don't have everything, but you'll  
4 hear about that later in the hearing. The Board  
5 also -- let me show you guys. Site 3 is this big  
6 black here, Site 6 starts here and here and goes  
7 further this way.

8 As Mr. Halloran said, the Board  
9 also found that IDOT was liable because it allowed  
10 open dumping on Parcel 0393 and held -- because  
11 IDOT has held an interest and controlled Parcel  
12 0393 since the 1970s. This right here is Parcel  
13 0393 within this black area up here. This is  
14 Parcel 0393 within this black area up here. The  
15 Board also waived -- weighed all the Section 33  
16 factors and found each of them was weighed against  
17 IDOT and so what -- what is our purpose today?

18 Our purpose today is to decide  
19 how much money IDOT owes Johns Manville, or JM for  
20 short, for cleaning up the ACM waste IDOT dumped  
21 in the 1970s. As the Board said in its interim  
22 opinion, and this is important, it is "Appropriate  
23 that a party recover the cost of performing  
24 cleanup as a result of another party's

1 violations."

2 In other words, a party who  
3 cleans up contamination caused by the illegal  
4 acts of another can recover the cost incurred.

5 In order to decide how much IDOT owes Johns  
6 Manville, the Board asked the Hearing Officer  
7 to -- to take in evidence of three topics,  
8 which he has gone through, which are the  
9 cleanup, work performed by JM and the portions  
10 of Sites 3 and 6 where the Board found IDOT  
11 responsible for ACM waste present in soil.

12 Number two, the amount and  
13 reasonableness of the cost of the work and the  
14 share of the JM cost attributable to IDOT. The  
15 good news as Mr. Halloran said is that Johns  
16 Manville and IDOT agree on a lot. They agree that  
17 Johns Manville spent \$5,579,794 on cleanup work at  
18 Site 3 and Site 6 and they also agree that this  
19 amount was reasonable. They also agree on how  
20 that money should be divvied up among the various  
21 tasks performed by Johns Manville as part of the  
22 cleanup mandated by the U.S. EPA. That said,  
23 there is a dispute and as Mr. Halloran mentioned  
24 the dispute primarily focused on Question 3 which

1 is up there on the board on the share of JM's cost  
2 attributable to IDOT, including a little bit about  
3 the areas where IDOT is liable.

4           You will hear from Johns  
5 Manville witnesses in the cleanup who were  
6 involved in the cleanup as well as a Johns  
7 Manville expert, Mr. Dorgan, and not surprisingly  
8 the experts -- experts from both sides. You will  
9 also hear from Mr. Gobelman, the expert from IDOT,  
10 and they do disagree as expected on the issues and  
11 calculate IDOT's share of costs in different ways.  
12 Mr. Dorgan uses the Board's causation language to  
13 determine how much of JM's response costs were  
14 caused by IDOT.

15           The testimony of IDOT's expert,  
16 Mr. Gobelman, will show that he did not use this  
17 language, rather he looked narrowly at the costs  
18 he believed were incurred at specific boring  
19 locations identified on his own version of the  
20 Sites 3 and 6 map. Not this map.

21           It's important to stress here  
22 that IDOT's liability is not at issue. There was  
23 no counterclaim brought in this case. So that all  
24 we are dealing with is -- I mean, JM's liability

1 is not at issue. All we are dealing with is IDOT  
2 and IDOT's expert who has already opined that IDOT  
3 owes JM \$600,050. JM contends that the amount is  
4 much higher and that's why we're here.

5 So let's call our first witness  
6 after you do your opening.

7 HEARING OFFICER HALLORAN: Thank  
8 you, Ms. Brice, very much. Ms. O'Laughlin.

9 MS. O'LAUGHLIN: Yes. Susan, this  
10 is our demonstrative Figure 8 from Mr. Gobelman.  
11 Good morning. Good morning, Illinois Pollution  
12 Control Board, members of the Board, good morning  
13 counsel and co-counsel. My name is Ellen  
14 O'Laughlin and I am here representing IDOT in this  
15 action that Johns Manville has brought against  
16 IDOT where they seek money to help pay for the  
17 cleanup mandated by the United States  
18 Environmental Protection Agency against Johns  
19 Manville pursuant to an enforcement action  
20 memorandum.

21 MS. TIPSORD: Slower.

22 MS. O'LAUGHLIN: Slower.

23 MS. TIPSORD: I appreciate it.

24 MS. O'LAUGHLIN: It's a challenge

1 speaking with these masks. So as everyone knows  
2 and has been said, this is our second time here.  
3 The first part of this proceeding was with a  
4 five-day hearing where Johns Manville presented  
5 their theories of liability and IDOT defended  
6 themselves and following those five days of  
7 contested hearing the Board issued an interim  
8 order and the interim order was very specific  
9 fortunately for us. It was very specific about  
10 what the additional hearing was to be and I quote  
11 additional hearing.

12 As explained above, the Board  
13 finds that IDOT caused and allowed open dumping  
14 of ACM waste. Specifically, IDOT caused open  
15 dumping of ACM waste along the south side of  
16 Greenwood Avenue within Site 6 (1S, 2/4S) and  
17 adjacent areas along the north edge of Site 3  
18 (B3-25, B3-16 and B3-15). IDOT continues to allow  
19 open dumping as long as ACM waste remains at these  
20 locations. Additionally, the Board finds that  
21 IDOT allowed open dumping through its control over  
22 Parcel 0393 at sample locations B3-25, B3-16,  
23 B3-15, B3-50, and B3-45 (to the extent sample  
24 B3-45 falls on Parcel 0393).

1                   So the purpose of today's  
2 hearing is additional evidence on what is the  
3 costs that are attributable to those areas where  
4 the Illinois Pollution Control Board "the Board"  
5 found IDOT liable and responsible for the ACM  
6 waste and I think it's very important to keep that  
7 in context exactly what we're doing here. JM is  
8 going to try and is trying to expand the areas of  
9 liability. We have been here before. We had the  
10 five days of hearing. We have been here before.  
11 IDOT -- excuse me -- JM is trying to expand areas  
12 of liability and they make arguments that frankly  
13 are wrong and IDOT had, through Mr. Gobelman, has  
14 shown just a very straightforward approach given  
15 the areas and the sample locations for which IDOT,  
16 as mentioned by the Board, this is the amount  
17 that -- this is the amount that would be IDOT's  
18 maximum liability and, I mean, the difference  
19 could not be more stark.

20                   You know, Johns Manville comes  
21 up with a figure of \$3,274,000 -- approximately  
22 275 million of the \$5,579,794 and I'd like to just  
23 give the Board an idea of that huge number of all  
24 over costs given what is IDOT's area of liability.

1 So --

2 MS. BRICE: Sorry. Just -- just for  
3 the record, sorry, we had objected to these  
4 exhibits and based upon foundation and accuracy  
5 and reliability we hadn't had a chance yet to --  
6 to make that -- renew that objection in the motion  
7 in limine. So now that you're going to talk about  
8 that exhibit I just want to make that clear that  
9 we do not agree that that exhibit is accurate.

10 MS. O'LAUGHLIN: And we talked about  
11 this before. You will make that objection.

12 MS. BRICE: Sure. I just wanted to  
13 make it clear for right now.

14 MS. O'LAUGHLIN: Okay. That's fine.  
15 So you don't need to make it every single time.

16 MS. BRICE: Understood.

17 MS. O'LAUGHLIN: But if you want to  
18 do it again for the record, that's fine, too.

19 HEARING OFFICER HALLORAN: What  
20 exhibit is this, Ms. O'Laughlin?

21 MS. O'LAUGHLIN: This is Figure 8  
22 and this is Figure 8 to Mr. Gobelman's  
23 supplemental report, which is Exhibit 207.

24 HEARING OFFICER HALLORAN: Okay.

1 Thank you.

2 MS. O'LAUGHLIN: It's Figure 8 of  
3 Mr. Gobelman's 207. And I just -- it's, you know,  
4 we use this -- we'll use these later and present  
5 Mr. Gobelman's report and there is a number of  
6 figures that he has, but this one is just pretty  
7 straightforward and it shows -- it shows, you  
8 know, Site 3 and Site 6 and as Ms. Brice pointed  
9 out, Site 6 goes to here, but this was the area  
10 that is in play right now and so this is the area  
11 that IDOT is responsible -- has been found  
12 responsible for by the Board in its December 2016  
13 order. Just this area here and this area here.

14 So that -- those are the  
15 sampling results. Those are the wells. You know,  
16 there is a little bit of dispute about, you know,  
17 exactly where this goes and that goes, but the  
18 dispute between the maps are negligible. The  
19 important thing is the expansive area that JM  
20 wants to assign IDOT and the area that IDOT,  
21 pursuant to the Board's order, is responsible. So  
22 we're going to talk a lot about this stuff so I  
23 won't go into too much, but I just want to point  
24 out that, you know, Mr. Dorgan has presented a

1 theory that I think it's important to know that he  
2 expands liability and is basically three ways.

3                   He expands 6 -- excuse me --  
4 Site 6 area of liability and he wants to reopen  
5 the hearing basically from previous. He had made  
6 that argument before, Johns Manville had made that  
7 argument, and he is trying to rehash areas that  
8 have already been decided. The Board decided 01S  
9 through 04S. Johns Manville argued that it should  
10 be further than that, including to 08S. The  
11 Board -- they did not prevail. The Board decided  
12 01S to 04S, but nevertheless given that order  
13 Johns Manville still wants to argue again that  
14 IDOT is responsible for 05S to 08S in addition to  
15 01S to 04S.

16                   And the other -- the second area  
17 is this expanded area of 0393. The Board's order  
18 references specific sample wells. It does not  
19 reference areas outside of -- outside of these  
20 specific sample wells. So that's the second area,  
21 this expansive area 0393, and the third area is  
22 this theory that Johns Manville is promoting that  
23 the remedy has driven IDOT liability whereas it's  
24 just sort of a theory for them to, you know,

1 frankly be able to capture, to try to argue that  
2 more costs should be assessed to IDOT when it's  
3 just -- it's just an unfounded theory.

4                   So what we'll be doing in  
5 this -- in this, you know, hearing is sort of just  
6 sorting through each of these theories and each of  
7 these liabilities and I will just mention some of  
8 the costs apply to the whole area. They can't be  
9 segregated. And because Johns Manville has such a  
10 large area associated with IDOT liability that the  
11 overall percentage is high, which carries through  
12 to other expenses that are applied to --

13                   MS. BRICE: Your Honor, Mr.  
14 Halloran, sorry. This has been a lot of argument,  
15 which is usually not what is presented in opening.

16                   HEARING OFFICER HALLORAN: Yeah.

17                   MS. O'LAUGHLIN: I'll just try to --

18                   MS. BRICE: I was very careful not  
19 to do that and so I would -- you know, I don't  
20 think this is appropriate for opening.

21                   HEARING OFFICER HALLORAN: Yeah,  
22 it's more argument than not.

23                   MS. O'LAUGHLIN: Okay. I was trying  
24 to frame the issues for the Board. It's sort of

1 complicated and a little dull. So I just wanted  
2 to introduce these -- the areas -- these things so  
3 we can sort of sort through it all.

4 HEARING OFFICER HALLORAN: If you  
5 can just do an outline.

6 MS. O'LAUGHLIN: Sure.

7 HEARING OFFICER HALLORAN: We can --

8 MS. O'LAUGHLIN: We will continue to  
9 do that.

10 HEARING OFFICER HALLORAN: Thank  
11 you.

12 MS. O'LAUGHLIN: So let me just  
13 finish up. The stipulations are correct. So  
14 really just what is at issue is what is IDOT  
15 responsible for given these numbers. And I think  
16 that also to keep in mind is that, you know,  
17 culpability has not been waived by the other  
18 expert. Culpability, source of pollution,  
19 culpability has not been waived by either expert  
20 which will most likely be brought up in  
21 post-hearing briefs. And having said that, they  
22 have covered the cost and the buckets and things  
23 like that. So thank you.

24 HEARING OFFICER HALLORAN: Thank

1 you.

2 MS. O'LAUGHLIN: We can continue.

3 HEARING OFFICER HALLORAN: Ms.  
4 Brice, your first witness.

5 MS. GALE: Hearing Officer, we call  
6 Tab Ebihara and I have binders to deliver.

7 MR. GRANT: Kristen, what is on your  
8 screen?

9 MS. GALE: Here.

10 MR. GRANT: I was just wondering if  
11 I should sit on the other side, if I need to see  
12 what is presented.

13 MS. GALE: If you want to,  
14 absolutely.

15 MR. GRANT: Is that okay with the  
16 Hearing Officer?

17 HEARING OFFICER HALLORAN: I didn't  
18 know what you're doing.

19 MR. GRANT: I wanted to see what was  
20 up on the screen with what the witness was seeing.  
21 So can I come up over here?

22 HEARING OFFICER HALLORAN: Sure.

23 MR. GRANT: Thank you.

24 MS. BRICE: Kristen, make the

1 objection first.

2 MS. GALE: Dr. Ebihara, why don't  
3 you sit right there and if you can face the  
4 screen, but the microphone is right that way.

5 HEARING OFFICER HALLORAN: Thanks  
6 for being here Mr. Ebihara. If you can raise your  
7 right hand, the court reporter will swear you in.

8 WHEREUPON:

9 TATSUJI EBIHARA  
10 called as a witness herein, having been first duly  
11 sworn, deposeth and saith as follows:

12 MS. TIPSORD: Let's adjust the  
13 camera a little bit.

14 MS. GALE: So is it now on where it  
15 clicks on his face when he's talking? When he  
16 talks, I want the viewers to be able to see him.

17 MR. NISHIOKA: I don't know if it  
18 goes that far.

19 MS. TIPSORD: Would it work to set  
20 it for that, but then turn it on speaker view so  
21 when he is speaking you would only see him?

22 MR. NISHIOKA: Let me see. I can  
23 manually do it. It depends what you want me to  
24 do. Do you prefer speaker view?

1 MS. GALE: I prefer speaker view.

2 MR. NISHIOKA: Okay.

3 MS. GALE: Thank you. Mr. Hearing  
4 Officer, before I begin, throughout this -- we  
5 made an objection to a base map and various  
6 figures by IDOT's expert witness Mr. Gobelman and  
7 you overruled our objection and before we go any  
8 further we're going to ask some questions about  
9 those figures and base maps, but by asking these  
10 questions Johns Manville is not waiving its  
11 objections to the base map and the figures and  
12 Johns Manville is not agreeing or admitting that  
13 Mr. Gobelman has the skill, expertise or education  
14 to create the base maps and the figure -- figures,  
15 nor is Johns Manville agreeing or admitting that  
16 the figures and the base maps created by  
17 Mr. Gobelman are reliable or admissible or have  
18 adequate foundation.

19 So throughout this hearing we  
20 may say it occasionally on a shorter matter. We  
21 will have a continuing objection to the  
22 admissibility of the base maps and the figures and  
23 objection to Mr. Gobelman's opinions that are  
24 based upon that base map and those figures.

1 HEARING OFFICER HALLORAN: More  
2 importantly, the Board affirmed these.

3 MS. GALE: I know. I understand.  
4 You know, we have a continuing objection  
5 regardless of the Board's opinion.

6 HEARING OFFICER HALLORAN: So noted.  
7 Thank you.

8 MS. O'LAUGHLIN: Since we are making  
9 objections to maps and they expanded their  
10 objection to expertise, we also have objections  
11 which we outlined in our motion in limine, which  
12 was denied by the Hearing Officer, but we would  
13 like to maintain and preserve all those objections  
14 regarding the expertise and the creation of the  
15 maps and all the arguments that were made during  
16 our motion in limine.

17 HEARING OFFICER HALLORAN: So noted.  
18 Thank you, Ms. O'Laughlin. Ms. Gale.

19 MS. GALE: Ready.

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

21 BY MS. GALE:

22 Q. Dr. Ebihara, ready?

23 A. Yes.

24 Q. Very good. Dr. Ebihara, can you

1 please state your name for the record.

2 A. Tatsuji Ebihara.

3 Q. Can you spell Tatsuji for the court  
4 reporter, please.

5 A. Sure. T-A-T-S-U-J-I and last name  
6 is E-B-I-H-A-R-A.

7 Q. Thank you. Dr. Ebihara, I'm calling  
8 you doctor, why am I calling you a doctor?

9 A. I have a Ph.D. --

10 Q. What is your Ph -- thank you.

11 A. -- in environmental engineering.

12 Q. Okay. And do you hold any  
13 professional licenses?

14 A. Yes, I have professional engineering  
15 license in the state of Illinois and the state of  
16 New York.

17 Q. And where do you currently work?

18 A. Here in Chicago.

19 Q. For whom?

20 A. AECOM.

21 Q. And what is your title?

22 A. Senior technical leader.

23 Q. And how long have you been with  
24 AECOM?

1 A. I have worked for AECOM since 2012.

2 Q. Okay. And at AECOM, generally, what  
3 do you do for them?

4 A. I have been a project manager on  
5 multiple projects for different kinds of  
6 environmental work.

7 Q. Engineering work?

8 A. Yes.

9 Q. Very good. Dr. Ebihara, are you  
10 familiar with the Johns Manville southwestern  
11 sites in Waukegan, Illinois?

12 A. Yes.

13 Q. How are you familiar with it?

14 A. I've worked on multiple projects  
15 associated with it since 2007.

16 Q. Okay. And what kind of -- describe  
17 generally for me those projects.

18 A. They're related to developing work  
19 plans for investigation, carrying out those  
20 sampling investigations work plans and engineering  
21 plans for removal actions and then supporting the  
22 execution of those plans.

23 Q. What were you -- what were you  
24 removing?

1 A. We were removing soil --

2 Q. And --

3 A. -- impacted with asbestos material.

4 Q. And did you prepare any cost  
5 analysis related to that work?

6 A. Yes, I did.

7 Q. Very good. Specifically, what were  
8 your roles and responsibilities in connection with  
9 Site 3 and Site 6?

10 A. I was the project manager  
11 responsible for the report and engineering  
12 deliverables for all of the southwest sites  
13 removal action work.

14 Q. And in that report, what did you  
15 guys put in that report? What did you do starting  
16 in 2007 generally throughout?

17 A. We put in physical representations  
18 about what -- where asbestos occurred and what  
19 removal actions were required by the U.S. EPA.

20 Q. So it involved sampling, right, you  
21 sampled the soil?

22 A. Yes.

23 Q. Great. And there was a removal  
24 action work plan?

1 A. Yes, developed that.

2 Q. And you were involved in the  
3 construction project?

4 A. Yes.

5 Q. So you communicated with U.S. EPA?

6 A. Yes.

7 Q. Very good. And is your work at  
8 Sites 3 and 6 still ongoing?

9 A. Yes, it is.

10 Q. How so?

11 A. I am -- I prepared an operation and  
12 maintenance manual that is connected with the  
13 southwestern sites and that's under review right  
14 now with the U.S. EPA.

15 Q. And can you describe for us what an  
16 operation and maintenance is at the site?

17 A. It's -- operation and maintenance is  
18 the work that happens and is required every year  
19 of the project after construction is complete and  
20 it's primarily for maintaining the integrity of  
21 the soil engineering barrier at Sites 3 and 6.

22 Q. So like a cap?

23 A. It's a cap.

24 Q. Yeah. And is there any covenants

1 **related to Sites 3 or 6?**

2 A. Yes, there's an environmental  
3 covenant for Site 3 that is being finalized and  
4 also for the paved portion of Greenwood Avenue.

5 Q. Great. Now, I want to get into  
6 professional services and I believe you said you  
7 began working at the site around 2007.

8 Who were you working for at that  
9 time?

10 A. I was working for LFR.

11 Q. And what timeframe was LFR's  
12 involvement at the site approximately?

13 A. For southwestern sites?

14 Q. Yeah.

15 A. Probably 2000 -- from 1998 until --  
16 until 2012. So Arcadis --

17 Q. Arcadis, right?

18 A. Arcadis purchased LFR.

19 Q. Right.

20 A. So the involvement continued through  
21 about 2012.

22 Q. And your involvement started in  
23 2007, right?

24 A. That's -- my involvement started in

1 2007.

2 Q. So about '07 to 2012 was the  
3 LFR/Arcadis portion, correct?

4 A. That's correct.

5 Q. And then what happened -- and what  
6 was going on from 2007, generally speaking, to  
7 2012 at the site?

8 A. From 2007 to 2012, LFR and Arcadis  
9 developed an extent of contamination work plan  
10 that was reviewed and approved by the U.S. EPA.

11 Q. And is that commonly called the ECA?

12 A. It's actually a work plan just --

13 Q. Okay.

14 A. -- before the ECA.

15 Q. Sorry. Continue.

16 A. And we also prepared engineering  
17 evaluation and cost analysis, which is -- the  
18 acronym is ECA.

19 Q. Thank you. And that involved a  
20 field investigation, too?

21 A. That's correct.

22 Q. Very good. Who did you submit the  
23 ECA to?

24 A. To the United States EPA.

1 Q. And what did they say about it?

2 A. They approved it.

3 Q. Okay. And then in 2012, what  
4 happened?

5 A. In 2012, I changed employment to  
6 AECOM from Arcadis and continued to work on the  
7 project as project manager to complete the removal  
8 action work plan as well as the other reports --

9 Q. Mm-hmm.

10 A. -- and engineering deliverables for  
11 the project.

12 Q. So you brought the project with you  
13 to AECOM?

14 A. Yes.

15 Q. Very good. And you said the removal  
16 action work plan, what other work was done then  
17 about 2012 to -- ongoing?

18 A. There were a number of utility  
19 agreements that needed to be finalized in order to  
20 complete the removal actions. So I led that  
21 effort to -- to finalize those.

22 Q. And those utilities, just generally,  
23 can you identify a few of them?

24 A. AT&T, Nicor Gas, North Shore Gas.

1 Q. Wasn't there a water main as well?

2 A. City of Waukegan water main.

3 Q. Very good. All right. Mr. Dorgan,  
4 I want you to open up your binder.

5 THE COURT REPORTER: You called him  
6 Mr. Dorgan.

7 BY MS. GALE:

8 Q. I'm sorry. Dr. Ebihara. Sorry.

9 MR. GRANT: We're all going to do  
10 that.

11 MS. GALE: Oh, boy. The word is  
12 right in front of me.

13 BY MS. GALE:

14 Q. Dr. Ebihara, I want you to open up  
15 your binder to Dorgan Figure 1, that's where that  
16 came from, which is the second tab and labeled as  
17 Exhibit 204-38.

18 MS. O'LAUGHLIN: Can you do the  
19 trial exhibit number as well?

20 MS. GALE: I think Exhibit's 204.

21 MR. GRANT: It's down at the bottom.

22 MS. O'LAUGHLIN: Thank you. I  
23 apologize.

24 MS. GALE: I get it. So Exhibit

1 204-38.

2 MS. O'LAUGHLIN: That's fine.

3 You're good.

4 (Document marked as Complainant  
5 Exhibit No. 204-38 for  
6 identification.)

7 BY MS. GALE:

8 Q. Are you there?

9 A. Yes.

10 Q. Very good. Do you recognize this?

11 A. I do.

12 Q. What is it?

13 A. It's a figure prepared by Weaver  
14 Consultants Group utilizing the base map  
15 information that I provided to Weaver.

16 Q. Okay. So you said utilizing the  
17 base map information.

18 What is the base map information  
19 you're describing?

20 MR. GRANT: Can you tell me where  
21 you are? I'm sorry.

22 MS. GALE: I'm sorry. I'm at  
23 204-38.

24 MR. GRANT: Okay. Thank you.

1 MS. GALE: It should be on the  
2 second tab. Got it?

3 BY MS. GALE:

4 Q. Okay. Going back to my question.  
5 You mentioned the base map you provided.

6 Please describe for me what the  
7 base map is.

8 A. The base map is digital information  
9 that is stored in an autoCAD file that identifies  
10 site boundaries, site features, roadways, utility  
11 locations and sample locations.

12 Q. And AutoCAD what is that?

13 A. It's a computer software used for  
14 engineering design work.

15 Q. Like to create maps?

16 A. Yes.

17 Q. And what -- what kind of data do you  
18 put into an AutoCAD to create these maps? Yes,  
19 sir?

20 HEARING OFFICER HALLORAN: Ms.  
21 O'Laughlin.

22 MS. TIPSORD: CMS requires you to  
23 wear them inside even if there's six feet  
24 distance.

1 BY MS. GALE:

2 Q. What kind of data do you put into  
3 the AutoCAD software to create the maps?

4 A. It's locational information points,  
5 lines.

6 Q. Such as longitude and latitude?

7 A. That's right. Or state plane  
8 coordinates.

9 Q. State plane coordinates. Is plane  
10 P-L-A-N-E or P-L-A-I-N?

11 A. P-L-A-N-E.

12 Q. Thank you. I believe you said this,  
13 but you provided the AutoCAD base maps to  
14 Mr. Dorgan?

15 A. Yes.

16 Q. Very good. Okay. So I want you  
17 next to flip to 229 on your -- on your binder and  
18 technically it's Exhibit 229F-377. Do you see  
19 that there?

20 (Document marked as Complainant  
21 Exhibit No. 229F-377 for  
22 identification.)

23 BY THE WITNESS:

24 A. Yes.

1 BY MS. GALE:

2 Q. Okay. Do you recognize this?

3 A. Yes.

4 Q. What is it?

5 A. It appears to be a screenshot of an  
6 open AutoCAD file of Site 3.

7 Q. Okay. So by screenshot, we're  
8 looking actually at a picture of the software  
9 AutoCAD?

10 A. That's correct.

11 Q. Is that what you prepared -- what  
12 you worked off of when you created the auto -- the  
13 base maps?

14 A. Yes.

15 Q. And --

16 MR. GRANT: Did he say he created  
17 the base map?

18 THE WITNESS: Yes.

19 MR. GRANT: Not AECOM generally, but  
20 him personally?

21 BY MS. GALE:

22 Q. Dr. Ebihara --

23 MR. GRANT: I just want to clarify.

24 MS. GALE: Okay.

1 BY MS. GALE:

2 Q. Dr. Ebihara, you were part of the  
3 preparation of the base maps?

4 A. Yes.

5 Q. And you oversaw --

6 A. The original base map created by LFR  
7 under my authority.

8 Q. Yes, you oversaw --

9 A. Oversaw the development.

10 Q. Of the base maps.

11 A. Yes.

12 Q. You approved the final version of  
13 the base maps?

14 A. Yes.

15 Q. So I think we discussed this. The  
16 input data that goes into an AutoCAD you said the  
17 state plane location --

18 A. Coordinates.

19 Q. -- coordinates. Now, where do those  
20 come from?

21 A. They come from land survey  
22 information, from an official land surveyor and  
23 they come from utilizing a field global  
24 positioning system unit that is very precise and

1 it records a location and that -- that data --  
2 those data are directly inputted into the AutoCAD  
3 software.

4 **Q. And is that a standard engineering**  
5 **practice?**

6 A. Yes.

7 **Q. And in this AutoCAD software --**

8 MR. GRANT: Before you ask another  
9 question.

10 MS. GALE: Is this an objection?

11 MR. GRANT: Are you just going to  
12 have the exhibits that you're -- in here that  
13 you're referring to up there? Because then I can  
14 get out of the Board's way.

15 MS. GALE: Yes. That's accurate.

16 MR. GRANT: Okay. I'll sit down.

17 BY MS. GALE:

18 **Q. A -- shoot. Okay. Dr. Ebihara,**  
19 **looking at Exhibit 229F-377, that's just a**  
20 **picture. In an AutoCAD, describe for me what**  
21 **other elements are in an AutoCAD that you can't**  
22 **see in this picture.**

23 A. The elements that are visible on a  
24 particular screenshot are part of layers of

1 information that are turned on or off. So there  
2 is -- depending on what you're interested in  
3 viewing or the purpose of generating a figure,  
4 you'll turn on the -- the layers that are required  
5 of the information and then leave others off.

6 Q. Mm-hmm.

7 A. So there's a lot of digital  
8 information stored within it.

9 Q. Very good. And when you provided  
10 the AutoCAD to Mr. Dorgan, you provided the whole  
11 thing?

12 A. All of the -- all of the information  
13 requested.

14 Q. Okay. And in your work using this  
15 AutoCAD base map, how is this used?

16 A. It was used to develop all the  
17 engineering plans and site figures for all of the  
18 U.S. EPA submittals that were reviewed by the U.S.  
19 EPA.

20 Q. And so they were put into your  
21 reports that you submitted to U.S. EPA?

22 A. Yes.

23 Q. Okay. And what did the U.S. EPA do  
24 with those reports?

1 A. They approved them.

2 Q. And I think I already asked this,  
3 but I'll ask it again.

4 By the figures, you mean the  
5 maps of the site were in the reports were based  
6 upon this AutoCAD, right?

7 A. Yes.

8 Q. Thank you. Dr. Ebihara, let's  
9 actually flip to 213.

10 Ultimately, based upon all those  
11 reports you submitted a final report to U.S. EPA,  
12 didn't you?

13 (Document marked as Complainant  
14 Exhibit No. 213 for  
15 identification.)

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. GALE:

19 Q. Is that what we're looking at in  
20 213?

21 A. That's correct.

22 Q. Now, 213 for the sake of brevity is  
23 about 20 pages in your binder, right?

24 A. Yes.

1           **Q.       But in your final report, how big**  
2 **was it?**

3           A.       It was over 3,000 pages.

4           **Q.       Too much -- it would probably cover**  
5 **your entire table, wouldn't it?**

6           A.       Yes.

7           **Q.       So -- and who wrote the final**  
8 **report, which is Exhibit 213?**

9           A.       This is a report by AECOM that I  
10 supervised and reviewed and participated in.

11          **Q.       So --**

12          A.       So my team wrote the report.

13          **Q.       Right. And your signature is right**  
14 **there, right?**

15          A.       That's correct.

16          **Q.       Okay. And you submitted this report**  
17 **to U.S. EPA?**

18          A.       Yes.

19          **Q.       And what did U.S. EPA say?**

20          A.       They -- they have approved all of  
21 the construction, the physical construction, and  
22 removal action completion. They have not formally  
23 approved the final report in its entirety because  
24 the environmental covenants for Sites 3 and 6 have

1 not been finalized yet.

2 Q. But they're maps in this final  
3 report?

4 A. Yes.

5 Q. And did they approve those maps?

6 A. They approved them because they  
7 didn't have further comments to request any  
8 revisions to them.

9 Q. Very good. Dr. Ebihara, at some  
10 point, you became aware of this litigation, isn't  
11 that correct?

12 A. Yes.

13 Q. And you learned that Mr. Dorgan was  
14 the expert?

15 A. Yes.

16 Q. And what, if any, information did he  
17 ask from you?

18 A. He asked me for the pertinent  
19 documents about the removal action, but also  
20 requested cost information about Sites 3 and 6  
21 that the LFR, Arcadis and AECOM had expended.

22 Q. And what did you do when he asked  
23 you for that information?

24 A. I provided a summary of that

1 information of -- to him.

2 Q. Mm-hmm. Along with the AutoCAD, you  
3 provided him the costs as well?

4 A. Yes.

5 Q. And when you provided that  
6 information to him, what did you create, generally  
7 speaking?

8 A. I created correspondence, two  
9 different ones, one updated from the previous one  
10 to summarize in tables the costs invoiced to JM  
11 for the southwestern sites project as well as the  
12 costs going forward that would end in completion  
13 of the removal action and the final reports.

14 Q. Very good.

15 MS. GALE: I just want to ask, can  
16 you hear him?

17 THE COURT REPORTER: Yes.

18 MS. GALE: Okay. Can you hear him?

19 HEARING OFFICER HALLORAN: Mm-hmm.

20 BY MS. GALE:

21 Q. All right. Let's flip now to  
22 Exhibit 204 -- it's actually in your binder 204  
23 Exhibit B. Do you recognize this?  
24

1 (Document marked as Complainant  
2 Exhibit No. 204B for  
3 identification.)

4 BY THE WITNESS:

5 A. Yes, I do.

6 BY MS. GALE:

7 **Q. What is it?**

8 A. It's the second of two letters that  
9 I prepared correspondence to Brent Tracy of Johns  
10 Manville and Doug Dorgan of Weaver Consultants  
11 Group.

12 MR. GRANT: Can I interrupt for a  
13 second, Kristen? Sorry.

14 MS. GALE: Sure.

15 MR. GRANT: You said 204(c)?

16 MS. GALE: Exhibit B.

17 MR. GRANT: B.

18 MS. GALE: I'll get there. I will  
19 get you there.

20 MR. GRANT: I have it. I'm sorry.

21 BY MS. GALE:

22 **Q. So if you flip to the first page,**  
23 **Exhibit B, it's your understanding this is part of**  
24 **Mr. Dorgan's expert report, correct?**

1 A. Yes.

2 Q. And so he has inserted in his report  
3 your letter and the information attached, right?

4 A. That's correct.

5 Q. And you created this. When did you  
6 create this?

7 A. I created this in 2018, February 15,  
8 2018, when I was the senior project manager for  
9 that project.

10 Q. Okay. And for what purpose?

11 A. To summarize the total costs  
12 invoiced for Sites 3 and 6 between April 2007 and  
13 September 2017 as well as the costs that were  
14 forecasted to be required to get the project to  
15 completion.

16 Q. Mm-hmm. Okay. And I believe you  
17 said it, but how -- we looked through this. There  
18 are various tables and charts.

19 How did you go -- generally  
20 speaking, how did you go about creating this  
21 document?

22 A. I took every invoice issued to Johns  
23 Manville for the Sites 3 and 6 projects. So  
24 really all of the invoiced records for that time

1 period that I mentioned and then I summarized both  
2 the total cost for Site 3, the total cost for Site  
3 6, as well as a categorization of those costs into  
4 approximately eight categories.

5 **Q. So you said categories, have you**  
6 **heard the term task buckets?**

7 A. Yes.

8 **Q. What is your understanding of task**  
9 **bucket?**

10 A. They're the same categories I'm  
11 referring to.

12 **Q. Okay. So when we use task bucket,**  
13 **it's also a category, right?**

14 A. Yes.

15 **Q. And, generally speaking, how did you**  
16 **determine which costs went into each task bucket?**

17 A. So I have a -- I have an invoice --  
18 the invoice documentation provides a summary  
19 narrative of Site 3 and Site 6 work. I also have  
20 timesheet information from each employee that  
21 charged time during that invoice period and that  
22 has detailed notes regarding what they're working  
23 on at the time and also I was familiar with the  
24 main work going on in each of those invoice

1 periods as I was supervising each of those team  
2 members directly.

3 Q. Okay. Great. So let's -- let's  
4 turn to Table 1 in Exhibit 204. That's actually  
5 on Exhibit 204-49.

6 (Document marked as Complainant  
7 Exhibit No. 204-49 for  
8 identification.)

9 BY MS. GALE:

10 Q. Okay. I have a magnifying glass if  
11 you need it to see. Would you like to use the  
12 magnifying glass?

13 A. I'm okay.

14 Q. I'll be asking you questions. So,  
15 Dr. Ebihara, what is Table 1 and you'll see that  
16 it is a number of -- there are four pages for this  
17 table?

18 A. This is a summary for Site 3 and  
19 Site 6. It's costs that were invoiced between  
20 April 28th, 2007, and September 8th, 2017.

21 Q. Okay. So when you said earlier  
22 about going back to invoices and looking at  
23 timesheets, that's what you did in Table 1, right?

24 A. That's correct.

1           **Q.       Okay. And you said you started in**  
2           **2007.**

3                           **Why -- why did you start in 2007**  
4           **for costs? Why didn't you go back further?**

5           A.       Right. 2007 I believe was June was  
6           when the settlement agreement for southwest sites  
7           was issued. So it kicked off a series of  
8           requirements for Johns Manville to respond and  
9           prepare for the U.S. EPA.

10                           So that was the beginning of my  
11           involvement, but also the beginning of where the  
12           invoice records specifically identified  
13           southwestern sites --

14           **Q.       Right.**

15           A.       -- as an invoice item.

16           **Q.       So before 2007, it was general,**  
17           **right?**

18           A.       It was folded into the consulting  
19           work we were doing, but not specifically  
20           identifies southwestern sites in Sites 3 and 6  
21           work.

22           **Q.       So you wouldn't be able to in**  
23           **your -- looking at the invoices to distinguish,**  
24           **right?**

1           A.       That's correct.

2           **Q.       Okay. And then I want to look at --**  
3 **let's see if I can see it here.**

4                   MS. GALE: Drew, can you go over to  
5 the right.

6 BY MS. GALE:

7           **Q.       This is easier to see. I don't know**  
8 **if they can see it on the Webex, but I just want**  
9 **to point out this.**

10                   MR. NISHIOKA: I can zoom out.

11                   MS. GALE: I'm sorry?

12                   MR. NISHIOKA: I can zoom out.

13                   MS. GALE: No, the Webex just can't  
14 see the screen.

15 BY MS. GALE:

16           **Q.       So on the far right-hand side of**  
17 **Table 1, there are various columns, what are those**  
18 **columns?**

19           A.       These are the task bucket categories  
20 that I divided the work into for each invoice  
21 total.

22           **Q.       Okay. Great. So let's flip to**  
23 **Table 2. Do you recognize this?**

24                   MR. GRANT: Can you give me the page

1 number, Kristen? I'm sorry.

2 MS. GALE: Sure.

3 MR. GRANT: 204-50.

4 MS. GALE: Table 2 is 204-53.

5 (Document marked as Complainant  
6 Exhibit No. 204-53 for  
7 identification.)

8 BY MS. GALE:

9 **Q. So, Dr. Ebihara, can you describe**  
10 **for me what Table 2 is?**

11 A. Table 2 is the completion costs for  
12 Site 3 that were anticipated to be incurred after  
13 the end of that final invoice cost provided in  
14 Table 1.

15 **Q. How did you go about putting this**  
16 **together?**

17 A. We understood what was yet to be  
18 completed and those line items were -- were  
19 identified and estimated and those are totaled at  
20 the bottom of the page.

21 So you can -- you can see that  
22 most of the work was involving establishing of  
23 thriving vegetative cover and then completing some  
24 project management regulatory support and final

1 report preparations.

2 Q. Okay. And then flipping to Table 3,  
3 which is on Exhibit 204-56.

4 (Document marked as Complainant  
5 Exhibit No. 204-56 for  
6 identification.)

7 BY MS. GALE:

8 Q. Generally speaking, what is this?

9 A. This is a completion cost summary  
10 for Site 6, in all of Site 6. So it's the similar  
11 table to site -- Table 2, but associated with Site  
12 6 where it identifies the costs that were  
13 anticipated to be incurred to get through to the  
14 end of the final report.

15 Q. Did you use a similar methodology to  
16 create Table 3 as you did for Table 2?

17 A. Yes.

18 Q. Flipping to Table 4.

19 Again, Dr. Ebihara, do you need  
20 a magnifying glass?

21 A. I'm okay.

22 Q. Good. Table 4, what is this?

23 A. Table 4 is a total of operation and  
24 maintenance costs for Sites 3 and 6.

1           **Q.       And how did you go about putting**  
2 **this together?**

3           A.       This is -- this is based on an  
4 estimate of professional labor costs as well as  
5 material costs that would be needed every year to  
6 maintain that soil cover for Site 3 and that's  
7 developed with further detail on page -- on Table  
8 5, which is Exhibit 204-60.

9                               (Document marked as Complainant  
10                               Exhibit No. 204-60 for  
11                               identification.)

12 BY MS. GALE:

13           **Q.       Got it. And we'll get there. So I**  
14 **see this goes out to 2047, which is 30 years, why**  
15 **is it 30 years?**

16           A.       Thirty years is the normal basis for  
17 EPA estimates for long-term operation and  
18 maintenance.

19           **Q.       Very good. I think you already said**  
20 **this, but you -- on Table 5, which is on 204-60,**  
21 **can you just tell us how Table 5 connects to Table**  
22 **4?**

23           A.       Table 5 provides details of what  
24 the -- what the total number each year, the total

1 costs each year is based on. So it's engineering,  
2 it's staff hours and rates, that total, as well as  
3 expenses for signs and stone materials to keep the  
4 soil covering in good condition.

5 Q. And then in Table 4 it's that value  
6 from Table 5, but projected out using what kind of  
7 projection?

8 A. It includes an average rate of  
9 escalation, but it assumes the same scope of work  
10 each year is incurred, each year to maintain the  
11 cap.

12 Q. Okay. Dr. Ebihara, going back to  
13 look at all of 204-46 and your tables from  
14 February 15, 2018, do you believe you've  
15 accurately reflected the costs since 2007 at  
16 Site 3 and Site 6?

17 (Document marked as Complainant  
18 Exhibit No. 204-46 for  
19 identification.)

20 BY THE WITNESS:

21 A. Yes.

22 BY MS. GALE:

23 Q. Now, I want to flip to and discuss  
24 the task buckets that we mentioned before.

1                   **Dr. Ebihara, are you familiar**  
2 **with the location of the utility lines generally**  
3 **speaking in Site 3 -- excuse me -- Site 6?**

4           A.       Yes.

5           **Q.       Okay. Let's flip to Exhibit 67-542,**  
6 **which is the next thing in your binder.**

7                   **(Document marked as Complainant**  
8                   **Exhibit No. 67-542 for**  
9                   **identification.)**

10 BY MS. GALE:

11           **Q.       Do you recognize this?**

12           A.       Yes, I do.

13           **Q.       What is it?**

14           A.       It's a figure prepared by AECOM that  
15 describes Site 6 and the proposed excavation, the  
16 soil excavation areas, along the north and south  
17 shoulders.

18           **Q.       North and south shoulders of?**

19           A.       Site 6.

20           **Q.       Greenwood Avenue, right?**

21           A.       Greenwood Avenue.

22           **Q.       Yeah. For a person that has never**  
23 **seen this before, it's kind of an interesting map**  
24 **and I had trouble with it, can you just generally**

1 **describe for me how this figure works?**

2 A. The top part of the figure shows the  
3 right of way of Greenwood Avenue and the very top  
4 portion of the figure is the western half of Site  
5 6 and just below it is the eastern half of Site 6  
6 and they -- they match up at the match line that  
7 is described in the upper right corner.

8 So it's a -- it's a continuous  
9 road right of way and it's a way of representing  
10 in a figure so there is enough detail that is  
11 available.

12 Q. And it was done this way so you  
13 wouldn't have a two-foot page heading out of the  
14 binder, right?

15 A. That's right, with really small  
16 print.

17 Q. Exactly. And so looking at this  
18 map, these two rows are actually connected at the  
19 match line, right?

20 A. That's correct.

21 Q. Very good. And I want to focus on  
22 the AT&T lines now. Let's look at the legend and  
23 there is a -- for the record, I'll say pink, but  
24 Dr. Ebihara does not see color very well. So this

1 will be somewhat difficult, but do you see the  
2 Comm, C-O-M-M, line?

3 A. Yes.

4 Q. What is that for?

5 A. That's for the AT&T underground  
6 phone cables that were present --

7 MR. GRANT: Can you show --

8 BY THE WITNESS:

9 A. -- before any work was completed.

10 MS. GALE: Pink Comm line right  
11 there.

12 THE COURT REPORTER: Can you repeat  
13 the end of your answer. AT&T underground phone  
14 cables that were --

15 BY THE WITNESS:

16 A. Present before the removal action  
17 work was performed.

18 BY MS. GALE:

19 Q. And that -- is the -- so before the  
20 removal action was begun, what happened to them  
21 during the removal action?

22 A. They were removed or deactivated,  
23 decommissioned before the removal action was  
24 started.

1 Q. Okay. So looking at the map, do you  
2 see the Comm line, and it is difficult to see, but  
3 I'll try for the record, on the northside of the  
4 top row beginning at 01N?

5 A. Yes.

6 Q. Okay. And where does that go to, on  
7 the northside of the top row, approximately what  
8 sample point?

9 A. Approximately, 27N.

10 Q. 27N, right. And then what happens  
11 there at 27N?

12 A. That underground cable comes up out  
13 of the ground and goes up to overhead utility  
14 poles.

15 Q. And those overhead utility poles,  
16 that's the OH?

17 A. That's correct.

18 Q. And these are -- these OH, overhead  
19 utility poles, this is a representation before  
20 construction began, is that right?

21 A. That's right.

22 MR. GRANT: I'm lost a little bit.  
23 Can you show me? I don't see an OH.

24 MS. GALE: Right there.

1 BY MS. GALE:

2 Q. So the OH is on the far right-hand  
3 side right next to 29N?

4 A. That's correct.

5 Q. Okay. And that OH continues on  
6 through the match line on the -- excuse me --  
7 eastern -- towards the east on Greenwood Avenue,  
8 right?

9 A. That's right. Continues to proceed  
10 east and ends approximately at --

11 MR. GRANT: Mr. Halloran, I'm going  
12 to object at this point. I don't understand the  
13 relevance of this testimony. This is way outside  
14 of the area that the Board found that IDOT was  
15 involved.

16 HEARING OFFICER HALLORAN: I don't  
17 know what your intention is. Ms. Gale?

18 MS. GALE: This is related to the  
19 calculations that were by the experts in their  
20 estimation of what the costs were associated with.  
21 Part of the calculations that we contend  
22 Mr. Gobelman did were inaccurate based upon  
23 inaccurate information about his estimates of how  
24 far these lines went. So it's related to, in

1 effect, the denominator of Mr. Gobelman's  
2 estimations.

3 HEARING OFFICER HALLORAN:  
4 Mr. Grant?

5 MR. GRANT: I'll withdraw my  
6 objection.

7 HEARING OFFICER HALLORAN: Okay.  
8 Thank you. You may proceed.

9 BY MS. GALE:

10 Q. Okay. I think we said it, but I  
11 lost -- so -- these overhead lines depicted on  
12 this map, these were there before construction  
13 occurred, right?

14 A. That's correct.

15 Q. And during construction, what, if  
16 anything, was done on these overhead lines?

17 A. They were -- they were not modified.

18 Q. They were not modified?

19 MR. GRANT: Let me object to the  
20 term construction. What do you mean by  
21 construction? You mean construction of the AT&T  
22 lines?

23 MS. GALE: Okay. Fine.

24

1 BY MS. GALE:

2 Q. I'm using the term -- construction  
3 term, what do you think I'm meaning by that?

4 A. It's the soil removal action and any  
5 related utility work that was required to allow  
6 that to occur safely.

7 Q. Okay. So where did the work on the  
8 north side of Greenwood Avenue end?

9 A. On the north side, approximately  
10 58N.

11 Q. On the north side?

12 A. Utility work or soil?

13 Q. I'm sorry. You're right.

14 Where did the utility work  
15 related to Comm line end?

16 A. It ended at approximately 27N.

17 Q. Thank you. And so, to your  
18 knowledge, were any costs incurred for the --  
19 beyond 28 -- 27N by Johns -- excuse me -- by AT&T  
20 that AT&T billed Johns Manville for?

21 A. For the north side?

22 Q. Correct.

23 A. No, there were no additional costs.

24 Q. Thank you. All right. I want to

1 now focus on the south side. Looking at the south  
2 side, you see the Comm on the western end that is  
3 actually not in the road and it heads northeast on  
4 the south side of --

5 A. Yes.

6 Q. Where does it sort of enter the  
7 area?

8 MR. GRANT: Excuse me. Can you show  
9 me? I thought you were on this one.

10 MS. GALE: So match line. That's  
11 how this works.

12 MR. GRANT: Yeah, I know. So it  
13 goes here and continues there, right?

14 MS. GALE: Continues here, correct.

15 MR. GRANT: You're here.

16 MS. GALE: South end.

17 BY MS. GALE:

18 Q. So on the south end starting on the  
19 western edge of Greenwood Avenue, where does the  
20 Comm line seem to start?

21 A. Approximately, 03S.

22 Q. Mm-hmm. And then it travels along  
23 the south side to approximately what sample  
24 number? I think you're going to have to cross the

1 match line.

2 A. Right. It's 37S or 38S.

3 Q. Yeah. In between 37 and 38, right?

4 A. Right.

5 Q. Okay. And then what happens to that  
6 line?

7 A. It goes across Greenwood Avenue from  
8 south to north.

9 Q. Mm-hmm. And connects to --

10 A. The overhead line.

11 Q. Thank you. So now let's look at the  
12 AT&T fiber line. Looking at the legend, the AT&T  
13 fiber line is orange with FIB. So it's -- for  
14 your sake, it's the top in the legend, the top  
15 FIB.

16 A. That's correct.

17 Q. Okay. And this one is a bit harder  
18 to see, but looking at the north side of Site 6 so  
19 the top, top row, do you see the orange FIB  
20 running along --

21 A. Yes.

22 Q. -- on the top?

23 A. Yes, I do.

24 Q. Okay. And you see that it travels

1 on the north side of Site 6 from one end to  
2 approximately where?

3 A. To 27N.

4 Q. Okay.

5 MR. GRANT: I'm going to renew my  
6 objection on relevance because there was -- there  
7 was no finding of any involvement by IDOT on the  
8 north side of Greenwood Avenue in its order. So,  
9 number one, I say this is a very cluttered  
10 document. I am continuing to get lost on it.

11 HEARING OFFICER HALLORAN: Ms. Gale?

12 MR. GRANT: Number two, to the  
13 extent that this is running on the north side of  
14 Greenwood Avenue, it really has no relevance to --  
15 to what we're here for today.

16 HEARING OFFICER HALLORAN: Ms. Gale?

17 MS. GALE: Sure. Well, first of  
18 all, I mean, it's a cluttered document, but this  
19 was a document that was submitted to -- to the  
20 U.S. EPA as part of the work done. So I can't  
21 help that it's cluttered by AECOM. It has the  
22 information of the utilities.

23 Secondly, as I said before, the  
24 purpose of this -- of this testimony and this

1 description is to rebut the calculations made by  
2 Mr. Gobelman in his expert report. He made  
3 certain calculations and certain distances that we  
4 contend are inaccurate based upon what the work  
5 that was done there and because of his  
6 calculations that are inaccurate because his  
7 denominator is inaccurate. So this goes towards  
8 the overall what was done and what was not done at  
9 the site.

10 MR. GRANT: If they're talking about  
11 a utility line that is running -- from what I can  
12 see, if I am seeing this correctly, this orange  
13 line runs only on the north side of Greenwood  
14 Avenue where we weren't involved at all.

15 MS. GALE: Mr. Hearing Officer, one  
16 last thing. This was an interim order. I  
17 understand the Board made its decision. It is an  
18 interim order and we still contend the Board may  
19 be wrong and so part of, you know, in an interim  
20 decision we would like this to be in there in case  
21 there is a different decision at a later basis  
22 that includes these sites so that we can  
23 contend --

24 HEARING OFFICER HALLORAN: Did JM

1 file a motion to reconsider? I mean, the Board --  
2 I'm looking at my cryptic notes found IDOT  
3 violated at open dumping waste on the south side  
4 of Greenwood Avenue. I don't see anything north  
5 of Greenwood Avenue.

6 MS. GALE: Right. But we don't have  
7 to -- just because it's an interim order. We  
8 don't have to appeal it or do a motion to  
9 reconsider. The Board made its decision. We may  
10 disagree with it, but it's still available for  
11 appeal later.

12 HEARING OFFICER HALLORAN: The issue  
13 is not for this hearing, correct? Share of JM's  
14 costs attributable to IDOT based on what they  
15 found.

16 MS. GALE: Right. But our  
17 contention is you have to understand all the costs  
18 to understand what should be assigned to each  
19 party.

20 MR. GRANT: Mr. Halloran.

21 HEARING OFFICER HALLORAN: It sounds  
22 like you're backdooring it.

23 MR. GRANT: We're going to be  
24 getting into this. You know, this is not Day 6 of

1 the 2016 hearing. We're not still putting on a  
2 bunch of engineers to find, you know, what's on  
3 Site 3. The Board had to review a ten-foot shelf  
4 of exhibits and go through a lot of work to come  
5 up with the order that it came up with.

6           Yeah, it's an interim order,  
7 but -- but it was an interim order that set  
8 exactly the purpose and the scope of this hearing  
9 and you mentioned it at the beginning, it's been  
10 mentioned several times, I hesitate to read the  
11 order again, but basically it's -- it's defined  
12 the share of IDOT's costs for open dumping at  
13 these specific spots and they've got it laid out  
14 very carefully in their order exactly where those  
15 spots are that is meant to be found.

16           The Johns Manville site has got  
17 asbestos all over the place. It's a Superfund  
18 site. And after all the work we did in 2016 to  
19 pin down the areas where IDOT may have been  
20 involved for moving around this stuff, the Board  
21 did it and, I mean, obviously they're not happy  
22 with the scope of the Board's decision. They're  
23 asking for all of Site 3 and an extensive part of  
24 Site 6 on both sides of the road and they didn't

1 get it.

2 We're not particularly happy  
3 that we were found liable for open dumping either,  
4 but we're not challenging that in this hearing  
5 because that's not the purpose of this hearing.  
6 So I do think the scope needs to be limited. This  
7 is not giving them an opportunity to reopen entire  
8 new areas of this very contaminated site to try to  
9 ascribe it to IDOT. Otherwise, we're going to  
10 have another six-day hearing with trying to find  
11 liability that has already been done.

12 MS. BRICE: Mr. Halloran, if I may.

13 HEARING OFFICER HALLORAN: Yes, you  
14 may.

15 MS. BRICE: The Board order said it  
16 is looking at the share of JM's cost attributable  
17 to IDOT. Within that context, the Board said "A  
18 party can recover the costs of performing cleanup  
19 as a result of the other party's violations."  
20 They didn't say you look at each little dot and  
21 how much was -- was, you know, spent at that  
22 specific dot. That dot is obviously  
23 representative of a bigger area.

24 It's not our fault that it was

1 decided upon the basis of sampling locations.  
2 We're not trying to -- there was no -- we  
3 researched this. We did not have to appeal  
4 anything at this point in time.

5 Listen, we're not trying to  
6 reopen everything with respect to this testimony.  
7 This testimony is only to rebut what their expert  
8 did. Their expert assumed -- and they did this.  
9 He calculated these lines. He said the lines run  
10 all the way across the north side of 6 and all the  
11 way across the south side of 6. He calculated  
12 that number and then he said IDOT's portion of  
13 responsibility is from here to here. He divided  
14 it, came up with a percentage and then applied  
15 that percentage to the cost incurred for that AT&T  
16 line task bucket.

17 So how in the world we can't --  
18 if we can't rebut what he is saying with his  
19 assumption that the lines went all the way across  
20 the north side of Site 6 and all the way across  
21 the south side of 6 -- this is their testimony.  
22 This isn't our testimony.

23 MR. GRANT: I would -- I guess my  
24 response to that is that should be handled during

1 the examination of Mr. Gobelman.

2 MS. BRICE: But we're laying the  
3 foundation for it.

4 MR. GRANT: Laying the foundation.  
5 We're get into areas on the north side of Site 6  
6 that by their own map show is outside of the area  
7 as defined by the Board.

8 HEARING OFFICER HALLORAN: You know,  
9 just by these arguments in front of me and the  
10 2016 order is not crystal clear and understandably  
11 so. It was mentioned again I think in the 2018  
12 order that the parties were in disagreement. They  
13 didn't address it there.

14 Ms. O'Laughlin addressed it in  
15 her opening. It's rather confusing. So, you  
16 know, my thought is that they're going to go ahead  
17 and lay the foundation. I mean, nowhere does it  
18 say north side of Greenwood, but, again, it's --  
19 it's a complicated case.

20 MS. BRICE: Thank you.

21 HEARING OFFICER HALLORAN: It is  
22 what it is and I wish it didn't have to be, but I  
23 will allow Ms. Gale to continue, but I hope you  
24 don't reopen this whole thing again.

1 MS. O'LAUGHLIN: Right, exactly.

2 HEARING OFFICER HALLORAN: I  
3 haven't, but -- Ms. O'Laughlin?

4 MS. O'LAUGHLIN: Right. I mean,  
5 that's the concern here. I thought Ms. Gale was  
6 identifying that they wanted this to be sort of a  
7 reconsideration where they could go make arguments  
8 that have already been made and I understand in  
9 the portion of Dorgan's report we may disagree on  
10 that, but we don't need to blow open this whole  
11 liability.

12 MS. BRICE: I can tell you we are  
13 not looking for any costs on the north side of 6.

14 MS. GALE: This is 5.

15 MS. BRICE: I know. But just so you  
16 know none of the costs that Mr. Dorgan is going to  
17 testify to have anything to do with the north side  
18 of 6.

19 HEARING OFFICER HALLORAN: Thank you  
20 so much. Anything else?

21 MR. GRANT: Nothing.

22 HEARING OFFICER HALLORAN: You may  
23 proceed. Sorry, Ms. Gale.

24 MS. GALE: No problem.

1 BY MS. GALE:

2 Q. Okay. I may have to backtrack.

3 Okay. The FIB orange line, that's the AT&T  
4 fiberoptic cable, right?

5 A. Yes.

6 Q. Okay. And, again, looking at the  
7 north side at 01N, do you see the orange FIB line?

8 A. Yes.

9 Q. Do you know -- we did this. You  
10 said it traveled to 27N and went to the OH. Okay.  
11 Sorry.

12 Now, the AT&T orange FIB line,  
13 did it travel on the south side of Site 6?

14 A. AT&T --

15 MR. GRANT: Just let me point out --  
16 again line --

17 MS. GALE: Actually you're going to  
18 get a no on this one.

19 MR. GRANT: You said FIB line?

20 MS. GALE: Here.

21 MR. GRANT: Thank you.

22 BY MS. GALE:

23 Q. So the orange FIB line we already  
24 said is on the north side 27N. Now, I'm looking

1 at the south side. Do you see the orange FIB line  
2 on the south side of Site 6?

3 A. Yes.

4 Q. You do?

5 A. Is it orange? I don't know.

6 Q. It's not orange.

7 A. You have to distinguish between AT&T  
8 and ComEd.

9 Q. Any FIB on the south side, on the  
10 south side. It's not there, right?

11 A. Is there a color difference between  
12 the AT&T and the ComEd fiberoptic cable?

13 Q. There is. The ComEd C-O-M-M is  
14 pink, but the FIB is orange. It's on the north  
15 side, but it's not on the south side, right?

16 A. Yes.

17 Q. Great. Forgive me. We have  
18 coloring issues.

19 So I want to look actually at  
20 the bottom of this figure Exhibit 67-542. On the  
21 right-hand side, there is these charts excavation  
22 coordinates. What are those -- so I just said it,  
23 but what are these charts for?

24 A. It's to identify the corners of the

1 required excavations to remove asbestos-containing  
2 material --

3 MS. BRICE: Can you point me?

4 MR. GRANT: Just point for the  
5 record. They're essentially illegible on this  
6 exhibit.

7 MS. GALE: Okay.

8 BY MS. GALE:

9 Q. Would you like -- I have a  
10 magnifying glass. Would you like to look at it?

11 MR. GRANT: I have one in my office.  
12 No, I'm just saying this exhibit is illegible and  
13 obviously you know what it is because you've  
14 looked at it and prepared testimony on it, but I  
15 have no idea what these things are.

16 MS. GALE: Again, I have a  
17 magnifying glass if you'd like to use it, but we  
18 also have it blown up here.

19 MR. GRANT: Let me come around.

20 MS. GALE: So if you want to focus  
21 in on the right-hand corner?

22 MR. NISHIOKA: Right here?

23 MS. GALE: Yes. There we go.

24 HEARING OFFICER HALLORAN: Can you

1 see it, Mr. Grant?

2 MR. GRANT: Yes. I apologize for  
3 invading her space here.

4 MS. GALE: I'll load it up again.

5 MR. NISHIOKA: I have to go to the  
6 bottom right.

7 MS. GALE: Mm-hmm. I just need the  
8 chart table. Perfect.

9 BY MS. GALE:

10 Q. So those coordinates, what are  
11 those -- describe for me what those coordinates  
12 are.

13 A. They're longitude and latitude. So  
14 specific locations, point locations, on the  
15 Greenwood Avenue right of way where excavation is  
16 to be performed to that limit. So each -- each  
17 corner --

18 Q. Right.

19 A. -- of the rectangular excavation  
20 area.

21 Q. And those relate to the GPS  
22 locations, right?

23 A. Yes.

24 Q. Okay.

1           A.       So it allows the field construction  
2 worker to know what limit to dig to.

3                   MS. GALE: Chris, you might want to  
4 go back again.

5                   MR. GRANT: Thanks for the warning.

6                   MS. TIPSORD: You can pull a chair  
7 around.

8                   MS. GALE: We're almost done with  
9 this exhibit.

10                   MS. VAN WIE: I do have a question.

11                   HEARING OFFICER HALLORAN: Ms. Gale?

12                   MS. GALE: Yes.

13                   HEARING OFFICER HALLORAN: Member  
14 Van Wie has a question.

15                   MS. VAN WIE: I do have a question.  
16 I can't quite see the furthest left corner of  
17 where it says 123. Is that referring to a  
18 specific boring location or --

19                   MS. GALE: I'm getting there.

20                   MS. VAN WIE: Okay.

21                   MS. GALE: I'm doing it right now.  
22 Okay. So if you want to zoom out a bit.

23                   MR. NISHIOKA: How much?

24                   MS. GALE: Keep going. One more

1 time.

2 BY MS. GALE:

3 Q. Right. So, Dr. Ebihara, I'm looking  
4 at this -- this excavation point which has --  
5 excavation points 28, 30, 29 and 27, and this is  
6 an excavation. The hashmarks are three feet  
7 proposed, is that accurate?

8 A. That's right.

9 Q. And can you describe to me where  
10 these, you know, 20 -- so what is 27 pointing to?

11 A. Twenty-seven is the point number  
12 that you go to the table, reference table, and  
13 then 27 in that middle second column from the left  
14 is the longitude and latitude coordinate for that  
15 point location and same for the other corners of  
16 that rectangle for 28 --

17 Q. Right.

18 A. -- 29 and 30.

19 Q. So if we go back and look at that  
20 rectangle -- and, for the record, the rectangle is  
21 on the south --

22 MR. NISHIOKA: Sorry.

23 BY MS. GALE:

24 Q. For the record -- I'll describe it

1 for the record. It's on the south -- it's the  
2 southeastern excavation and this is simply to  
3 identify where these points are located, not to in  
4 any way expand any scope. One more time.

5 MR. NISHIOKA: One more time?

6 MS. GALE: To the right.

7 MR. NISHIOKA: Okay.

8 MS. GALE: One more. You have to  
9 get over here. There we go.

10 MR. NISHIOKA: I'll double click it.

11 Okay.

12 BY MS. GALE:

13 Q. So the coordinates in -- the  
14 excavation coordinates they match up to each of  
15 these points, right?

16 A. That's correct.

17 Q. And these points are -- these  
18 coordinates are based upon what?

19 A. Their longitude and latitude  
20 locations.

21 Q. And where did you put in these  
22 coordinates -- what software did you use?

23 A. This is from our AutoCAD software  
24 where those coordinates originated from.

1 Q. Great. Okay. All right. We can  
2 get off of that.

3 Dr. Ebihara, I want to flip back  
4 to 204-38, which is the second tab in your binder.  
5 Are you there?

6 A. Yes.

7 Q. Okay. Dr. Ebihara, can you describe  
8 for me where the northeast excavation is?

9 A. Yes, it's located within Site 3  
10 along the north boundary on the east side and it's  
11 labeled northeast excavation and it is also marked  
12 with the diagonal cross hatch dash lines.

13 Q. And it --

14 A. It looks like it is three rectangles  
15 linked together.

16 Q. And in looking at this map, is it in  
17 the correct location?

18 A. Yes.

19 Q. How do you know that?

20 A. Because it's -- it was included in  
21 the plans that were sent to U.S. EPA for approval  
22 and this looks consistent with the base map in the  
23 AutoCAD files that I provided.

24 Q. And, to your recollection, what

1 **did -- what work did you have to do in this area**  
2 **specifically?**

3 A. In this area, soils were excavated  
4 to about four foot depth and removed from the site  
5 because of the presence of asbestos-containing  
6 material.

7 Q. **And there weren't any utilities in**  
8 **this area, right? Well, I guess --**

9 A. There are a couple utilities that  
10 were abandoned, but that wasn't the driving force  
11 for the removal action.

12 Q. **What was the driving force?**

13 A. The presence of asbestos material.

14 Q. **Okay. Okay. And now I want to flip**  
15 **back to 2 -- so now we're going to go to 213G,**  
16 **which is the last tab in your binder. Are you**  
17 **there?**

18 (Document marked as Complainant  
19 Exhibit No. 213-1834 for  
20 identification.)

21 BY THE WITNESS:

22 A. Yes.

23 BY MS. GALE:

24 Q. **Okay. What is this?**

1           A.       This is a technical memorandum by  
2 AECOM authored by me and Matt Pyrus regarding  
3 sample results from Site 3 to the Site 3 ramp.

4                   MS. O'LAUGHLIN: I'm sorry. 213G,  
5 do you have a more specific reference than 213G?

6                   MS. GALE: Sure. 213-1834.

7                   MS. O'LAUGHLIN: Thank you.

8                   MS. GALE: It's -- I'll be  
9 discussing 213-1834 through -- the whole report is  
10 213-1852.

11                   MS. O'LAUGHLIN: Thank you.

12 BY MS. GALE:

13           **Q.       Okay. I believe you said the ramp.**  
14 **Can you describe that location, generally**  
15 **speaking?**

16           A.       Within Site 3, it's the -- it's the  
17 northwestern corner that follows more of the  
18 northern boundary from that -- from that  
19 northeastern corner across to the north.

20                   MR. GRANT: I'm going to object on  
21 the basis of relevance. It's my understanding the  
22 ramp area is not at all included.

23                   HEARING OFFICER HALLORAN: Can you  
24 speak up? I'm sorry.

1 MR. GRANT: Yes, the ramp area that  
2 they're referring to is not included in the area  
3 of liability found by the Board.

4 HEARING OFFICER HALLORAN: Ms. Gale?

5 MS. GALE: Again, this goes back to  
6 our laying foundation for rebuttal of --

7 HEARING OFFICER HALLORAN: I think  
8 it's the same as far as they're laying out the  
9 north side of Greenwood. So you may proceed.

10 MS. GALE: Thank you.

11 HEARING OFFICER HALLORAN: Thank  
12 you. Overruled.

13 BY MS. GALE:

14 Q. Okie dokie. Dr. Ebihara, so let's  
15 flip to Exhibit -- Page 213-1837 and this is a  
16 figure -- are you there?

17 (Document marked as Complainant  
18 Exhibit No. 213-1837 for  
19 identification.)

20 BY THE WITNESS:

21 A. Yes.

22 BY MS. GALE:

23 Q. Okay. Great. Dr. Ebihara, so I  
24 think looking at 213-1837, can you tell me where

1     **you see the phrase site ramp on here?**

2           A.       The site ramp is located in labels  
3 of the sample locations that are positioned at a  
4 diagonal for each of the sample locations that are  
5 summarized in this report.

6                   HEARING OFFICER HALLORAN:   Can you  
7 speak up, please, Doctor?

8                   THE WITNESS:   Yes, sure.

9     BY THE WITNESS:

10           A.       Site ramp followed by a number is  
11 what denotes the sample locations located  
12 throughout the sample area of the slope in that  
13 northwestern corner of the site.

14     BY MS. GALE:

15           Q.       Okay.   And, Dr. Ebihara, to your  
16 recollection, did you perform -- you said sample  
17 location.   So sampling was performed here?

18           A.       Yes.

19           Q.       And did you find ACM in this area?

20           A.       Yes, in two of the samples.

21                   MR. GRANT:   I didn't see.   I don't  
22 see site ramp referred to when you say site ramp.  
23 I mean, you know --

24                   MS. GALE:   Right here.

1 MR. GRANT: I know where it is.

2 MS. GALE: Right, site ramp.

3 MR. GRANT: Again --

4 MS. GALE: Yes.

5 MR. GRANT: -- it's very hard to  
6 read.

7 MS. GALE: Okay.

8 BY MS. GALE:

9 Q. Okay. I believe you said you found  
10 asbestos-containing materials in two locations,  
11 what did you do when you found the material?

12 A. The soil associated with site ramp  
13 sample number 6 was excavated and then a second  
14 sample was obtained to verify that that was no  
15 longer detected, asbestos was no longer detected,  
16 and then in the site ramp sample 10 the required  
17 two feet of soil cover was placed over that area.

18 Q. Okay. And this is Exhibit 213. So  
19 this was actually -- I guess I'll ask it this way.

20 Dr. Ebihara, where is this  
21 report in all of your reports, in what big report  
22 is it a part of?

23 A. It's part of the final report for  
24 the southwestern sites area.

1 MS. GALE: Give me a minute.

2 BY MS. GALE:

3 Q. Dr. Ebihara, looking back at the map  
4 on Exhibit 2 --

5 MR. GRANT: The same exhibit.

6 MS. GALE: Yes. Let me finish my  
7 sentence.

8 BY MS. GALE:

9 Q. 213-1837. And you said it was on  
10 the northeast corner of Site 3.

11 A. Northwestern.

12 Q. I'm sorry. You're right. Northwest  
13 corner. Engineers, man.

14 So, to your knowledge, is this  
15 part of Site 0393?

16 A. Yes.

17 Q. Okay. And when did this work occur?

18 A. It was sampling work that was  
19 conducted in 2016.

20 Q. And so in 2016, it was after the  
21 hearing, right?

22 MR. GRANT: You're reading now?

23 BY MS. GALE:

24 Q. So it occurred in 2016?

1           A.       September of 2016 is when the sample  
2 was conducted.

3           **Q.       Very good.**

4                   MS. GALE: I have nothing further.  
5 Thank you.

6                   HEARING OFFICER HALLORAN: Thank  
7 you. Do you want to take a 10, 12-minute break  
8 now? I'm seeing the most important guy in the  
9 room say yes. Ten, 12 minutes. We're off the  
10 record.

11                               (Whereupon, a break was taken  
12                               after which the following  
13                               proceedings were had.)

14                   HEARING OFFICER HALLORAN: All  
15 right. We're back on the transcript.

16                               Mr. Grant, cross of Dr. Ebihara.  
17 You may proceed.

18                   C R O S S           E X A M I N A T I O N

19 BY MR. GRANT:

20           **Q.       Dr. Ebihara, you prepared the cost**  
21 **summary for Sites 3 and 6 for Mr. Dorgan, didn't**  
22 **you?**

23           A.       Yes.

24           **Q.       And was that in April of 2017?**

1           A.       They were -- there were two versions  
2 of it. What exhibit number is it?

3           Q.       You're looking at their exhibits.  
4 Was it in 2017, do you remember or do you want to  
5 take a look?

6           A.       February 15th, 2018.

7           Q.       2018 was your final, but when you  
8 started putting together the --

9           A.       I think I remember October 2017 --

10          Q.       2017?

11          A.       -- was the first version.

12          Q.       Okay. It was after the Board issued  
13 it's December 15th, 2016, order, correct?

14          A.       That's correct.

15          Q.       And did you read the order?

16          A.       Yes.

17          Q.       Okay. Did you read the order before  
18 you prepared the report for Mr. Dorgan?

19          A.       Yes.

20          Q.       And you prepared your report by  
21 reviewing invoices going back to 2007, right?

22          A.       That's correct.

23          Q.       Okay. About ten years before you  
24 sat down to -- to come up with the cost for Sites

1     **3 and 6?**

2             A.       That's correct.

3             Q.       Okay. Let's go to Exhibit 204 Page  
4     **47. You're not going to find it conveniently in**  
5     **that binder unfortunately. We're going to have to**  
6     **go to the big white binders that are over to your**  
7     **right. Do you want me to help assist in finding**  
8     **it?**

9   (Document marked as Complainant  
10    **Exhibit No. 204-47 for**  
11    **identification.)**

12     BY THE WITNESS:

13             A.       I see it.

14     BY MR. GRANT:

15             Q.       Do you need help?

16             A.       The cover letter for my --

17             Q.       Yes, but I have a lot more that's in  
18     **the expert report. It's in the binder. It begins**  
19     **with 047.**

20   MS. VAN WIE: You said 47, 204-47?

21   MR. GRANT: Yeah, but I've got -- I  
22     need Exhibit 204 in our binder. I have --  
23     Kristen, I have the witness' book over here. Did  
24     they get moved?

1 MS. GALE: What?

2 MR. GRANT: The witness exhibits  
3 binders?

4 MS. GALE: Not by us. They weren't  
5 there.

6 HEARING OFFICER HALLORAN: There are  
7 some up here.

8 MS. BRICE: Got it.

9 BY MR. GRANT:

10 Q. Do you have it? Dr. Ebihara, do you  
11 have it?

12 A. I do.

13 Q. Okay. And this is the beginning of  
14 the same -- so this is the date of your report to  
15 Mr. Dorgan, correct, February 18th -- or February  
16 15th, 2018?

17 A. Yes.

18 Q. Take a look at the summaries Exhibit  
19 204 Page 61.

20 (Document marked as Complainant  
21 Exhibit No. 204-61 for  
22 identification.)

23 BY THE WITNESS:

24 A. Yes, I'm there.

1 BY MR. GRANT:

2 Q. And, in general and summarizing,  
3 these are periods of time from approximately  
4 six-month periods that you reviewed or that you  
5 mentioned in this narrative description summary?

6 A. Yes.

7 Q. Okay. And you reviewed all the  
8 invoices from 2007 and you made the allocations?

9 MS. GALE: Objection.  
10 Mischaracterization -- allocation as to between  
11 IDOT and --

12 MR. GRANT: No.

13 MS. GALE: Okay.

14 MR. GRANT: To Sites 3 and 6.

15 MS. GALE: Very good.

16 BY MR. GRANT:

17 Q. And in the first ten summaries that  
18 you have there listed in the section the cost for  
19 sites 3 -- or 4, 5 and 6 were all lumped together,  
20 correct?

21 A. 4, 5 and 6?

22 Q. Yes, they were lumped together in  
23 the invoices?

24 A. I believe it was Site 3 separately

1 and then Sites 4, 5 and 6.

2 Q. Okay. So the costs would all be  
3 listed for Sites 4, 5, and 6 and you guys split  
4 that model between 4, 5 and 6, correct?

5 A. That's correct.

6 MS. GALE: Objection as to  
7 relevance. The costs have been stipulated to.

8 MR. GRANT: Yeah, I know.

9 MS. GALE: Okay.

10 MR. GRANT: How they came up with  
11 the cost I think is relevant.

12 MS. GALE: Yes, but the stipulation  
13 was that you're not disputing how they came up  
14 with the costs.

15 MR. GRANT: This is -- we're  
16 cross-examining your witness and you provided the  
17 costs to Mr. Dorgan and there is a huge difference  
18 of opinion as to what the costs allocable to IDOT  
19 are, number one.

20 MS. GALE: Okay.

21 MR. GRANT: Number two, the fact  
22 that you and I have stipulated to costs does not  
23 bind the Pollution Control Board. It can make a  
24 decision differently. Whether they decide to or

1 not, I don't know, but it is an agreement between  
2 the two of us. It doesn't bind the finder of fact  
3 and then, second, I think it adds a lot of color  
4 to the -- to making the decision as to what the  
5 appropriate costs are to find out how they were  
6 arrived at. Plus, this is all tied in with  
7 Mr. Dorgan's testimony that is going to come  
8 later on as to what the cost allocation should  
9 be.

10 MS. GALE: Right. And to your  
11 first end about Mr. Dorgan, Mr. Dorgan is the  
12 expert making the allocation between IDOT and  
13 JM. Dr. Ebihara has no opinion --  
14 doesn't have an opinion on that whatsoever.  
15 So I guess our objection to relevance is why  
16 is it relevant -- or it isn't relevant since  
17 we have already stipulated to it.

18 MR. GRANT: He relied entirely on  
19 the -- on both Mr. Peterson and Dr. Ebihara's  
20 figures in coming up with his figures. He has a  
21 firm figure and that's what he relied on in coming  
22 up with it.

23 MS. GALE: He relied on the total  
24 amount that Dr. Ebihara came up with, but he

1 didn't rely upon --

2 MR. GRANT: He didn't rely on the  
3 method that he came up with? For example, he was  
4 attributing costs for Sites 4 and 5.

5 MS. GALE: Okay.

6 HEARING OFFICER HALLORAN: Objection  
7 overruled. You may proceed and -- and you can  
8 redirect him.

9 MS. GALE: Thank you.

10 HEARING OFFICER HALLORAN: Thank  
11 you, Ms. Gale.

12 MR. GRANT: Okay.

13 BY MR. GRANT:

14 Q. I think I have a pending question,  
15 but I can't remember.

16 I think you agreed that sites  
17 for an extensive period of time, which I've  
18 represented is the first ten summaries in this  
19 document the cost for 4, 5 and 6 were lumped  
20 together, correct, in the invoices?

21 A. In the invoices, but not in the  
22 summary.

23 Q. Correct, yeah.

24 A. Because the costs for Sites 4 and 5

1 were not included in the summary.

2 Q. And looking at the summaries with  
3 the exception of 1 period, which is between  
4 December 29th, 2007, and June 27th, 2008, I  
5 believe that's the period for the work, not the  
6 invoices, that with -- with the exception of that  
7 one you allocated the costs for Site 6 as 50/50  
8 with Sites 4 and Sites 5, correct?

9 A. That's correct.

10 Q. Okay. Now, there are three -- these  
11 are all part of the southwest sites Superfund  
12 sites.

13 There are three sites, why did  
14 you choose one-third instead of one-half?

15 A. Because the Site 4, 5 is a grouped  
16 site. It's one utility corridor and it was  
17 actually quite -- it's of similar size to Site 6,  
18 but Site 6 actually included much more complex  
19 utility agreements and work. So I picked a  
20 conservative number compared to what I thought  
21 would actually be representative because Site 6  
22 took more of our effort proportionally than Sites  
23 4 and 5 combined, but because they're about equal  
24 linear length of utility corridor, that 50 percent

1 was considered to be representative, but also  
2 conservative. I think it actually took more than  
3 50 percent -- Site 6 took actually more than 50  
4 percent of our proportional effort during those  
5 time periods.

6 **Q. Sites 4 and 5 are not contiguous,**  
7 **right?**

8 A. They are.

9 **Q. Are they adjacent to --**

10 A. It's labeled Site 4-5 and it's --  
11 there is not really a distinct Site 4 or a Site 5.  
12 It's Site 4/5.

13 **Q. Aren't there --**

14 A. It's a contiguous unit.

15 **Q. I'm sorry. Aren't there several**  
16 **hundred feet between Site 4 and Site 5?**

17 A. No, Site 4/5 is one site. Site 4/5  
18 is one site.

19 **Q. I understand it's being treated as**  
20 **one, but is it one contiguous piece of property?**

21 A. Yes.

22 **Q. In the second summary where you**  
23 **reduce the amount allocated I think to 65 percent**  
24 **to Sites 4 and 5 and the balance of the site to**

1 **Site 6 --**

2 HEARING OFFICER HALLORAN: Can you  
3 keep your voice up, Mr. Grant? Thank you. Sorry.

4 MR. GRANT: I read the transcript.  
5 I should have -- from the previous hearing. I  
6 know that was an issue.

7 BY MR. GRANT:

8 Q. It appears that was based on -- and  
9 I'm talking about this is 204-61 second paragraph  
10 for the period December 29th, 2007, if you're  
11 there. It appears that that was based on an  
12 objective criteria based on the number of  
13 drillings, do you agree?

14 A. Yes.

15 Q. I'm sorry. You have to give an  
16 oral --

17 A. Sample -- sample grid sampled,  
18 correct.

19 Q. Was that the only period that there  
20 was some sort of objective criteria to  
21 differentiate Sites 4 and 5 and 6?

22 A. Because it was field investigation  
23 work plan oriented, it seemed appropriate to  
24 proportion it that way --

1 Q. Sure.

2 A. -- since the number of samples  
3 planned for that period.

4 Q. So there was actually an objective  
5 criteria --

6 A. Yes.

7 Q. -- take a number of samples at one  
8 spot and a number of samples at another spot,  
9 correct?

10 A. Right. Whereas like the other  
11 periods the utility work was the driving effort,  
12 the utility agreement work was the --

13 Q. Was that the only period when there  
14 was that sort of an objective criteria? In other  
15 words, numbers of samples, numbers of tests, that  
16 sort of thing?

17 A. During -- during -- during the heavy  
18 construction period, which significantly more  
19 costs and effort were expended I believe that was  
20 based on sampling.

21 Q. Would that be after 2012 to 2013 in  
22 that period when that began?

23 A. Yes.

24 Q. And by that time, AECOM was billing

1 and they actually did separate --

2 A. Yes.

3 Q. -- the costs out by site, correct?

4 A. Yes.

5 MS. BRICE: Tab, could you speak up  
6 a bit. I think they're having trouble --

7 THE COURT REPORTER: And one at a  
8 time with the overlapping.

9 HEARING OFFICER HALLORAN: One at a  
10 time guys. Thank you.

11 BY MR. GRANT:

12 Q. Do you know how many invoices this  
13 period covered?

14 A. I don't -- I don't recall in total.

15 Q. I'll tell you what. I'll take you  
16 there. If you can go to 204-49.

17 A. It's represented in Table 1?

18 Q. Mm-hmm.

19 A. Do you want me to count them?

20 Q. I sort of already have and, frankly,  
21 this is a document that is already read, but it  
22 goes between those three sheets, I'm going to  
23 represent that there were 45 invoices that  
24 separated the costs out for 4, 5 and 6 at 45 -- or

1 at 50/50?

2 MS. GALE: I would only object. I  
3 think you mean four sheets.

4 MR. GRANT: Is it four sheets?

5 MS. GALE: Yes.

6 BY MR. GRANT:

7 Q. So if you want to count them, I  
8 don't know if it's necessary.

9 A. Forty-five total?

10 Q. Total invoices from I think there  
11 were LFR or Arcadis invoices that are listed here  
12 where you allocated the work 50 percent for Sites  
13 4 and 5 and 50 percent for Site 6.

14 A. Yeah, I would have gone through the  
15 details to --

16 Q. No, I understand and it's hard to  
17 read. So I will just represent that there were  
18 certainly -- there were a number of invoices where  
19 they were split. I'm going to take you to Exhibit  
20 229, which is not in that binder by the way. 229G  
21 G.

22 MS. VAN WIE: I'm sorry. What was  
23 that?

24 MR. GRANT: 229G.

1 MS. VAN WIE: 229.

2 MS. TIPSORD: Yes, it's a different  
3 white binder.

4 (Document marked as Complainant  
5 Exhibit No. 229G for  
6 identification.)

7 BY MR. GRANT:

8 Q. Do you have that?

9 A. I don't have it.

10 Q. Sorry. I thought we put a set of --

11 HEARING OFFICER HALLORAN: I'm  
12 sorry.

13 MR. GRANT: I thought we put a set  
14 of binders for the witness, but apparently not.  
15 We will in the afternoon.

16 MS. TIPSORD: Here -- I think  
17 they're up here.

18 MR. GRANT: Those, I think, are all  
19 for the Hearing Officer.

20 HEARING OFFICER HALLORAN: I have  
21 all mine over here.

22 MR. GRANT: We'll make sure we get a  
23 set up there.

24 MS. GALE: Do you need the exhibits?

1 He just has the deposition.

2 MR. GRANT: Yeah, it's the exhibits  
3 to the deposition.

4 HEARING OFFICER HALLORAN: Steven,  
5 we're off the transcript, I guess, until we get  
6 situated here. Let me know.

7 (Whereupon, a discussion was had  
8 off the record.)

9 HEARING OFFICER HALLORAN: Back on.

10 BY MR. GRANT:

11 Q. If you can turn to 229G-208.

12 MS. GALE: I'm sorry?

13 MR. GRANT: 208.

14 MS. GALE: Thank you.

15 MR. GRANT: It's in the exhibits.

16 MS. GALE: Got it. Thank you.

17 (Document marked as Complainant  
18 Exhibit No. 229G-208 for  
19 identification.)

20 BY MR. GRANT:

21 Q. Page 208 is a copy of an invoice  
22 that was used at your deposition in this case,  
23 Dr. Ebihara.

24 Is this the sort of invoice that

1     **you reviewed?**

2             A.       Yes.

3             **Q.       Okay. And down at the bottom --**

4             A.       It's one page -- one page of it.

5             **Q.       Okay. And down at the bottom line**

6     **26 where it says 4, 5 and 6 were -- that's what**

7     **you would have used in your calculation for the**

8     **report to Mr. Dorgan?**

9             A.       Only the current invoice columns.

10            **Q.       Not actual cost?**

11            A.       Not billed to date. That's a

12     summary --

13            **Q.       Okay.**

14            A.       -- across multiple invoices. So the

15     only invoice numbers that I would have used would

16     have been the current invoice and not --

17            **Q.       Here was what 13 -- \$1,343.50,**

18     **correct?**

19            A.       That's correct.

20            **Q.       Okay. So you would have split that**

21     **number in half and reported half of the number --**

22     **half of that figure for work that was done against**

23     **Site 6, right?**

24                    MS. GALE: Objection.

1 HEARING OFFICER HALLORAN: Ms. Gale?

2 MS. GALE: Objection to the extent  
3 of generalization. I believe earlier he testified  
4 that depending what was done he either did it --  
5 split it 50/50 or he looked at field  
6 investigation.

7 HEARING OFFICER HALLORAN:  
8 Mr. Grant?

9 MR. GRANT: Yeah, he said that, but  
10 I just asked him the question about whether he  
11 used the number on this invoice and split it  
12 50/50.

13 HEARING OFFICER HALLORAN: He can  
14 answer if he's able. Overruled.

15 BY THE WITNESS:

16 A. I'd have to -- I'd have to refer to  
17 the narrative.

18 BY MR. GRANT:

19 Q. Refer to what?

20 A. I'd have to refer to the narrative I  
21 provided to reflect the basis.

22 Q. Okay. There was no suggestion that  
23 IDOT was involved in Sites 4 and 5, is that  
24 correct?

1 MS. GALE: Again, objection to the  
2 extent that he is asked to give an opinion on  
3 IDOT's involvement. His testimony here and what  
4 he did was simply calculate the total costs at the  
5 sites. He made no assessment or allocation or  
6 opinion about Johns Manville -- or excuse me IDOT.

7 MR. GRANT: This is based on the  
8 nature of the case. Mr. -- Dr. Ebihara was out  
9 there for a long time and he was -- testified at  
10 the 2016 trial in this case. So I think the  
11 question is there is no allegation in this case or  
12 otherwise that IDOT was involved at all in Sites 4  
13 or 5, isn't that correct?

14 HEARING OFFICER HALLORAN: He can  
15 answer if he's able. Overruled.

16 MS. GALE: Okay.

17 BY THE WITNESS:

18 A. Can you repeat the question, please?

19 BY MR. GRANT:

20 Q. Sure. Are you aware of any  
21 involvement by IDOT in Sites 4 -- 4 or 5?

22 A. I'm not.

23 Q. Weren't Sites 4 and 5 much more  
24 contaminated than Site 6?

1 MS. GALE: Objection. Relevance.

2 HEARING OFFICER HALLORAN:

3 Overruled.

4 BY THE WITNESS:

5 A. There were removal actions --  
6 complete removal actions completed for both.

7 BY MR. GRANT:

8 Q. Let me take you to Exhibit 63, Page  
9 15 and that's a different binder that is -- the  
10 white binder. If you can find 63 and go to Page  
11 15.

12 (Document marked as Complainant  
13 Exhibit No. 63-15 for  
14 identification.)

15 HEARING OFFICER HALLORAN:

16 Sixty-three and what page?

17 MR. GRANT: Fifteen.

18 HEARING OFFICER HALLORAN: Thank  
19 you.

20 BY THE WITNESS:

21 A. I'm on Page 15.

22 BY MR. GRANT:

23 Q. Okay. Let me join you. Okay. Now,  
24 Exhibit 63 is a report that was prepared by

1     **Arcadis and submitted to Illinois EPA, correct?**

2             A.        To the -- submitted to the U.S. EPA.

3             **Q.        To the U.S. EPA, yes.**

4             A.        That's correct.

5             **Q.        And on the inside, I'll take you**  
6 **back to the inside of the front cover of it, it**  
7 **has your name, do you see that, and your**  
8 **signature?**

9             A.        Yes.

10            **Q.        So were you involved in the**  
11 **preparation of this report?**

12            A.        Yes.

13            **Q.        Now, let me take you back to Page**  
14 **15. Under -- on Page 15, under Site 3 soil**  
15 **sampling results reading down the first paragraph,**  
16 **do you see where it says, "Only two of eight pits**  
17 **completed near the former borings from the ELM**  
18 **study were positive for visually ACM," do you see**  
19 **that?**

20            A.        On which paragraph again?

21            **Q.        This is in the second paragraph**  
22 **under -- with the heading 2.2.2 Site 3 sampling**  
23 **results?**

24            A.        Okay.

1 Q. And the first sentence second half  
2 says, "Only two of eight test pits completed near  
3 the former borings were positive for visually  
4 ACM," do you see that?

5 A. Yes.

6 Q. Okay. If you can turn to Page 22.  
7 Under heading 2.4.2 Site 6 soil sampling results,  
8 do you see that?

9 A. Yes.

10 Q. Okay. At the second half of the  
11 first paragraph, do you see where it says, "28  
12 of 60" -- "of 88 of the sample locations" -- I'm  
13 sorry. Backing up a little bit.

14 "ACM either visibly or detected  
15 by laboratory analysis was present in soil at 28  
16 of the 88 sample locations," do you see that?

17 A. Yes.

18 Q. If you can back up to Page 18 of the  
19 same report.

20 MS. GALE: Sorry. What page?

21 MR. GRANT: Eighteen.

22 MS. GALE: Thank you.

23 BY THE WITNESS:

24 A. Sixty-three, 18. Page 63, 18.

1 BY MR. GRANT:

2 Q. Yes, please. Paragraph down at the  
3 bottom under Site 4, 5 soil sampling results,  
4 second half of the paragraph, do you see the  
5 sentence that all but 4 of the 59 sampling --  
6 sampling rows contained ACM in soil, do you see  
7 that?

8 A. Yes.

9 Q. Okay. And where it says all but,  
10 but four suggests to me that -- that states that  
11 55 of the sample results were positive for ACM in  
12 that sampling, correct?

13 A. That's correct.

14 Q. If you can take a look at the same  
15 exhibit, Page 27. First paragraph scope of ACM  
16 affected soil there is three bullet points just  
17 below it where it reports Site 3 -- I'm sorry. Up  
18 in the first paragraph estimated volume of soil  
19 affected by ACM and then the bullet points below  
20 Site 3 11,400 to 15,000 -- 15,200 cubic yards of  
21 surface debris for Site 3 down below Site 4/5,  
22 16,700 to 25,000 cubic yards of ACM affected soil,  
23 Site 6, 3,200 to 7,500 cubic yards of ACM infected  
24 soil?

1 A. Yes.

2 Q. Based on these figures, wasn't 4/5  
3 much more contaminated with ACM than Site 6?

4 A. In terms of volume of affected soil,  
5 yes, but that's not necessarily proportional to  
6 the effort expended for the preparation of work  
7 plans.

8 Q. But it was much more contaminated,  
9 correct?

10 A. Yes.

11 Q. Now, the Site 6 costs that you  
12 reported to Mr. Dorgan included all Site 6 costs,  
13 correct?

14 A. That's correct.

15 Q. Okay. And Site 6 goes significantly  
16 further east than the area that IDOT was involved,  
17 isn't that correct?

18 A. I don't -- I don't know what the  
19 specific area --

20 Q. You don't know what --

21 A. Specific area --

22 Q. -- area Site 6 is?

23 A. If you're referring to, like, the  
24 sample locations 01 to 04.

1           **Q.       I'm talking --**

2                           HEARING OFFICER HALLORAN:   One at a  
3 time, gentlemen, please.  Thank you.

4 BY MR. GRANT:

5           **Q.       I'm talking about the geographical**  
6 **designation of Site 6.  Site 6 is a designed area,**  
7 **correct, or a designated area, correct?**

8           A.       Correct.  We had sample grids from  
9 01 to 60 for the entirety of the south side of  
10 Site 6.

11          **Q.       Okay.  So -- well, I mean, based on**  
12 **your personal knowledge of the site, doesn't Site**  
13 **6 extend to the east almost to the power plant?**

14          A.       It's on the north side of the power  
15 plant.

16          **Q.       Mm-hmm.  Your estimates for Site 6**  
17 **also include costs for the north side of Greenwood**  
18 **Avenue, correct?**

19          A.       The north shoulder of Greenwood  
20 Avenue.

21          **Q.       The north side of Greenwood Avenue**  
22 **within Site 6?**

23          A.       Yes.

24          **Q.       Those costs are included in the**

1 costs that you prepared for Mr. Dorgan, correct?

2 A. Yes.

3 Q. And the Site 3 costs that you  
4 prepared include all of Site 3 -- all of Site 3?

5 A. That's correct.

6 Q. Okay. Are you aware that the Board  
7 order excluded IDOT from any liability from the  
8 north side of Greenwood Avenue?

9 A. I'm not -- I'm not aware.

10 Q. Are you aware that -- that it held  
11 IDOT liable for only a very small portion of Site  
12 3?

13 A. I don't -- I don't know or I don't  
14 recall.

15 Q. Are you aware -- are you familiar  
16 with the Nicor utility corridor in Site 3?

17 A. Yes.

18 Q. Okay. Where were the costs related  
19 to Nicor utility corridor included in the costs  
20 you provided to Mr. Dorgan?

21 A. The costs that I represented in my  
22 cost summary are the development of reports and  
23 plans and submittals. So they don't necessarily  
24 proportion to actual construction work that was

1 performed for the engineering --

2 Q. I understand.

3 A. -- services provided to develop a  
4 compliant work plan or report for the U.S. EPA.

5 Q. And for all of Site 3, correct?

6 A. That's correct.

7 Q. Okay. Are there any other easements  
8 in the southwest site Superfund area that you're  
9 aware of? And when I say other easements, let me  
10 ask you, are you familiar with the -- the IDOT  
11 right of way that is in Parcel 0393?

12 A. Yes.

13 Q. Okay. Are there any other easements  
14 besides that that you're aware of in the southwest  
15 sites area?

16 A. Yeah, there's part of an elevated  
17 ramp that abuts the south end of Site 4/5.

18 Q. I'm sorry. What was it?

19 A. Site 4/5 --

20 Q. Yeah.

21 A. -- extends north from the elevated  
22 ramp.

23 Q. Elevated ramp. Okay.

24 A. But I don't think it includes the

1 elevated ramp to my recollection.

2 **Q. Are you aware that a Johns Manville**  
3 **contractor or subcontractor brought soil to Site 3**  
4 **that contained ACM sometime around 2016?**

5 A. Yes.

6 **Q. Did you include costs for removal of**  
7 **that material in the costs provided to Mr. Dorgan?**

8 A. In my summary, I provide the  
9 support -- any support that we may have provided  
10 for sampling to verify where the contamination was  
11 and for the testing of the new material after all  
12 of the impacted material was removed. So I  
13 provided sampling support services, not actual  
14 field construction or materials.

15 **Q. Was the material that was brought in**  
16 **again in 2016 by a contractor or subcontractor, I**  
17 **don't know by who, was that tested for the**  
18 **presence of ACM?**

19 A. The replacement soil?

20 **Q. Yes. Not the replacement soil, the**  
21 **soil that was actually dumped that had ACM**  
22 **material in it.**

23 A. We pretested the supply that was  
24 identified by the contractor and it did not

1 include ACM -- any positive ACM test results and  
2 so it was pre-approved for placement.

3 Q. Okay.

4 A. And then if that answers your  
5 question.

6 Q. No. I'm talking about subsequently  
7 determined that there was ACM in the soil that was  
8 brought in and deposited on Site 3, you're aware  
9 of that incident?

10 A. Yes.

11 Q. Okay. Did you provide any testing  
12 services for -- or related to that dumping or the  
13 removal of it?

14 A. I don't recall, but that would --  
15 that's within the type of work that we had been  
16 doing in support of the project.

17 Q. Okay. And, again, would that cost  
18 have been reported to Mr. Dorgan, do you know? If  
19 you don't know --

20 A. If it was in -- I don't recall the  
21 time period of occurrence if it was in 2016. If  
22 we provided support during the time period, it  
23 would have been included in the invoices up to the  
24 endpoints that I reported in my -- in my costs

1 summary. So up until September 8th, 2017, I would  
2 have included.

3 Q. I'm going to take you back to the  
4 easy-to-use binder provided by Johns Manville and  
5 I want to look at Exhibit 229, which is I don't  
6 know -- I'll wait until you're there.

7 Okay. Is -- am I correct in  
8 assuming I think you testified this is the CAD map  
9 that you provided to AECOM?

10 A. I work for AECOM.

11 Q. I'm sorry. That you provided to  
12 Weaver, to Mr. Dorgan, for his report? Or if I'm  
13 saying that wrong, please correct me.

14 A. It's a screenshot that looks typical  
15 of an AutoCAD screen page and it has some of the  
16 base map information that I would have provided to  
17 Mr. Dorgan electronically.

18 Q. Now, I can't recall. I wanted to  
19 say was this map created in 2007? I'm not trying  
20 to misrepresent it. That's what I remember.

21 A. The original -- the original base  
22 map for this portion of the site, is that your  
23 question?

24 Q. What I'm curious about is the

1 document that is represented here. So if this  
2 was -- is a screenshot of the base map that was  
3 created, was it 2007 when this was done, this work  
4 was done?

5 MS. GALE: My only objection is to  
6 vague. Are you asking whether the base map was  
7 created in 2007 or whether this PDF was created in  
8 2007?

9 MR. GRANT: No. Yeah, my question  
10 is about the base map.

11 MS. GALE: Okay.

12 MR. GRANT: And about creating  
13 it with CAD. You know, I think that was  
14 misrepresented. It was a CAD, screenshot of a  
15 CAD --

16 MS. GALE: Well, again --

17 MR. GRANT: -- diagram.

18 MS. GALE: The objection is to  
19 mischaracterization. This is -- this is meant to  
20 be merely a screenshot of what it looks like.  
21 It's not meant to demonstrate what it looked like  
22 in 2007.

23 BY MR. GRANT:

24 Q. When was it created, I guess, is the

1 **first question?**

2 MS. GALE: The PDF or the AutoCAD?

3 MR. GRANT: The AutoCAD.

4 BY THE WITNESS:

5 A. There is portions of the base map  
6 that we have used throughout the project. So when  
7 I first became involved with JM, there's elements  
8 of the road and the map and the boundaries, the  
9 property boundaries, that were already in place  
10 and in our use for Johns Manville before 2007.

11 BY MR. GRANT:

12 Q. Okay. So are we going to call this  
13 a map or a CAD or information? Does this just  
14 represent information that was generated in 2007?  
15 I don't even know if it was 2007.

16 MS. GALE: Again, I would just  
17 object as to misrepresentation. The purpose of  
18 229F-377 was to be more of a demonstrative of what  
19 an AutoCAD looks like because it is a software  
20 program and we couldn't bring the whole program  
21 into the hearing.

22 HEARING OFFICER HALLORAN:

23 Mr. Grant?

24 MR. GRANT: What I'm curious is that

1 Dr. Ebihara testified, I think, that the Weaver  
2 map, which is Exhibit 204-38, was consistent  
3 with -- with the screenshot.

4 MS. GALE: I would object. It  
5 mischaracterizes his testimony. He did not  
6 testify it was consistent with the screenshot.

7 HEARING OFFICER HALLORAN: Can you  
8 rephrase, Mr. Grant, or are you doing the best you  
9 can? I think it's clear enough in the record with  
10 everybody testifying thus far regarding Exhibit  
11 229.

12 MR. GRANT: Okay. I understand. I  
13 am just wondering 229 and the screenshot 229 and  
14 204-38 are different and, I mean, I heard  
15 Dr. Ebihara say that the Weaver Booze Map was  
16 consistent with the -- with the CAD drawing and  
17 they're different. There is different details on  
18 them. So that's kind of where I was going with  
19 them.

20 HEARING OFFICER HALLORAN: Is that a  
21 question out there for the doctor?

22 MR. GRANT: Not really.

23 BY MR. GRANT:

24 Q. Let's -- let me try to simplify it a

1 little bit. Look at the Weaver map which is  
2 204-38, please.

3 And was this created with the  
4 information that is represented on 229 using the  
5 information that was contained on 229?

6 A. There are differences.

7 Q. Do you not know if it was created  
8 using the information that is represented on 229?

9 A. Do I --

10 Q. The information that's represented  
11 on 229, is it either a map or a screenshot or --

12 A. It doesn't -- there is some  
13 differences between the screenshot and what is  
14 involved in the drawing.

15 Q. Was the same AutoCAD information  
16 used on both?

17 A. I --

18 Q. If you don't know --

19 A. I stand -- I stand by the  
20 information I provided to Mr. Dorgan that has base  
21 map features that I'm familiar with that was used  
22 in the generation of all the EPA reports.

23 Q. Is --

24 A. I can't stand behind the screenshot

1 information because I don't know exactly -- it --  
2 it looks -- has the appearance of the working  
3 interface for AutoCAD and it has some of the site  
4 features that is included for Site 3.

5 Q. Okay. All right. I was a little  
6 bit confused about it, too. So you supplied  
7 information to Mr. Dorgan from which he created  
8 his -- his map of the site?

9 A. His figures, yes.

10 Q. His figures. Okay.

11 MR. GRANT: I think that's all I've  
12 got.

13 MS. O'LAUGHLIN: Wait. Never mind.

14 MR. GRANT: Wait. Sorry. I was  
15 kidding.

16 BY MR. GRANT:

17 Q. Okay. Taking you back to the Weaver  
18 Booze Map.

19 A. Yes.

20 Q. It indicates -- actually, if you  
21 look at the top of the map for Site 3, do you  
22 recognize the dimensions in Parcel 0393 in there?

23 A. Yes.

24 Q. Okay. And looking to -- to the next

1 **Exhibit 229, that information is not contained in**  
2 **the screenshot, correct?**

3 A. It does not appear to be.

4 (Document marked as Complainant  
5 Exhibit No. 229 for  
6 identification.)

7 MR. GRANT: That's all I have.

8 HEARING OFFICER HALLORAN: Thank  
9 you, Mr. Grant. Ms. Gale, redirect?

10 MS. GALE: Just a few.

11 R E D I R E C T E X A M I N A T I O N  
12 BY MS. GALE:

13 Q. We're going to stay on 204-38 versus  
14 229F-377 and, Dr. Ebihara, in this screenshot  
15 which we're calling a screenshot, this is not --  
16 this PDF is not the AutoCAD, right? This piece of  
17 paper is not the AutoCAD, right?

18 A. No.

19 Q. What is it? What is the AutoCAD?  
20 Describe it for me.

21 A. It's a computer software package  
22 that stores many different types of locational  
23 data.

24 Q. Right. And that includes layers,

1 **right, you mentioned layers?**

2 A. Many layers.

3 **Q. Many layers. Describe what those**  
4 **layers are.**

5 A. We -- we -- each layer is a set of  
6 information. One could be sample locations, the  
7 next layer could be property boundaries, the next  
8 layer could be topographic information, the next  
9 layer could be utility runs.

10 **Q. Right. And so as you're looking at**  
11 **this screenshot, this screenshot of the AutoCAD**  
12 **doesn't show all of the layers, does it?**

13 A. No.

14 **Q. Okay. But when you gave -- what did**  
15 **you give -- when you gave your information to**  
16 **Mr. Dorgan to create his figures, what did you**  
17 **give him?**

18 A. I gave him many layers of  
19 information about utilities, sample locations,  
20 site boundaries, parcel boundaries and utility --

21 **Q. You --**

22 A. -- corridors.

23 **Q. I'm sorry. Finish your sentence.**

24 A. All that information was provided.

1 Q. So all of the -- all of the  
2 information, all of the layers were provided,  
3 right?

4 A. Mm-hmm.

5 Q. Very good. You were asked some  
6 questions about Sites 4 and 5 versus Site 6 and I  
7 want to go back to -- and you said about your  
8 evaluation in comparing the two early on and you  
9 thought it was conservative, can you explain to me  
10 why you thought it was a conservative estimate to  
11 do 50/50?

12 A. Because sites -- a lot of our work  
13 plan descriptions involved the plan for utilities  
14 and Site 4/5 for the most part involved one sewer  
15 line north to south.

16 Q. Mm-hmm.

17 A. Whereas Site 6 included telephone  
18 utilities, electrical utilities, gas utilities and  
19 was quite complex.

20 Q. Okay.

21 A. So a lot of the effort expended  
22 during the report preparation was to address those  
23 elements.

24 Q. And so the effort -- yeah, so the

1 effort expended was in proportion to -- I'll ask  
2 you.

3 The effort expended, was it in  
4 proportion to the volume of ACM found in the site?

5 A. No, not necessarily. It was -- it  
6 was the effort to develop the plan so that the  
7 removal action could be completed safely so that  
8 utility service wouldn't be interrupted or  
9 appropriately closed and safe for workers to  
10 perform the removal action.

11 Q. Okay. And I think just as a  
12 demonstrative, if you want to flip in your exhibit  
13 binder to 67-542, which is Site 6, and I believe  
14 it's been described in this as a very complicated  
15 and difficult figure, is this the complexity  
16 you're talking about?

17 A. Yes.

18 Q. Very good.

19 A. So an interrupted utility service  
20 would have caused disturbance and interruptions  
21 for a lot of different parties. So we took a lot  
22 of time to make sure that those plans and  
23 agreements were going to be effective and  
24 conducted before the removal action.

1           **Q.**       **Dr. Ebihara, you were asked some**  
2 **questions about ACM that was brought --**  
3 **unintentionally brought to the site as fill, do**  
4 **you recall those questions? He just asked you**  
5 **about fill brought in.**

6           **A.**       **For Site 3.**

7           **Q.**       **For Site 3, right. And if you were**  
8 **to go back to those invoices about that -- that**  
9 **work, would you be able to identify more clearly**  
10 **whether that ACM was a part of your calculations**  
11 **of cost analysis?**

12          **A.**       **Yes, and to clarify, it wasn't fill.**  
13 **It was just three inches or less of topsoil.**

14          **Q.**       **Okay.**

15          **A.**       **So it was easy to remove and it**  
16 **didn't get mixed in or integrated with the actual**  
17 **clay barrier portion of the engineered cover.**

18          **Q.**       **Perfect. Thank you for that**  
19 **clarification.**

20                    **MS. GALE: Nothing further.**

21                    **HEARING OFFICER HALLORAN: Thank**  
22 **you. Mr. Grant, re-cross?**

23                    **MR. GRANT: Yes, just real quickly.**

24

1 R E C R O S S E X A M I N A T I O N

2 BY MR. GRANT:

3 Q. You were talking about -- talking  
4 about Site 6 and the utilities and specifically  
5 with regard to 67-542.

6 How far does the clean corridor  
7 for Site 6 extend?

8 A. The only clean corridor required  
9 after the completion of Site 6 is the fiberoptic  
10 corridor for AT&T.

11 Q. Okay.

12 MR. GRANT: That's all I have.

13 HEARING OFFICER HALLORAN: Thank  
14 you. All right. Thank you, Mr. -- Dr. Ebihara.

15 MS. GALE: Thank you, Dr. Ebihara.

16 HEARING OFFICER HALLORAN: Dr.  
17 Ebihara, you may step down. I think I was remiss  
18 as far as the motion to exclude, sequester, the  
19 witnesses. The witnesses are directed not to  
20 discuss their testimony with other witnesses. All  
21 right. Next witness.

22 MS. GALE: Our next witness is via  
23 Webex. So --

24 HEARING OFFICER HALLORAN: Mr.

1 Peterson.

2 MS. GALE: Correct. I'm going to  
3 text him to get logged on.

4 HEARING OFFICER HALLORAN: We're off  
5 the transcript.

6 (Whereupon, a break was taken  
7 after which the following  
8 proceedings were had.)

9 HEARING OFFICER HALLORAN: Mr.  
10 Peterson, if you can raise your right hand, the  
11 court reporter will swear you in, please. You may  
12 proceed, Ms. Gale.

13 MS. GALE: Thank you.

14 WHEREUPON:

15 DAVID MICHAEL PETERSON  
16 called as a witness herein, having been first duly  
17 sworn, deposeth and saith as follows:

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

19 BY MS. GALE:

20 Q. Well, almost good afternoon,  
21 Mr. Peterson. Welcome and as I just remind you as  
22 the Hearing Officer said because we're on Webex,  
23 let's both speak slowly and clearly. That's  
24 difficult for me. I speak quickly but I will do

1 my best to slow down and I will ask that you do  
2 the same. So, Mr. Peterson, can you please state  
3 your full name for the record?

4 A. Yes, my name is David Michael  
5 Peterson.

6 Q. Thank you Mr. Peterson. What is  
7 your educational background?

8 A. I have a bachelors in science in  
9 chemical engineering from the University of  
10 Michigan.

11 Q. And do you hold any professional  
12 licenses?

13 A. I do. I'm a licensed professional  
14 engineer in Illinois and several other states.

15 Q. And where do you currently work?

16 A. I'm currently in Ohio.

17 Q. I'm sorry. Who do you work for?

18 A. I am self-employed. I have been  
19 self-employed for 20 years.

20 Q. And what is the company name?

21 A. The company name is David M.  
22 Peterson, PE, PC.

23 Q. And could you generally describe  
24 what you do for your -- your roles and

1 **responsibilities as part of your company?**

2 A. Sure. I'm the president and  
3 responsible charge engineer. My company practices  
4 in soil and groundwater remediation, industrial  
5 wastewater treatment, subsurface vapor intrusion  
6 projects, stormwater compliance and other matters.

7 Q. **Very good. Mr. Peterson, are you**  
8 **familiar with the Johns Manville southwestern**  
9 **sites in Waukegan, Illinois?**

10 A. Yes, I am.

11 Q. **And how are you familiar with it,**  
12 **generally speaking?**

13 A. Generally, I have been part of the  
14 southwest sites project from the preparation of  
15 the remedial action work plan reviewing it through  
16 the execution of the project and preparation of  
17 the construction completion report.

18 Q. **And so when did you first get**  
19 **involved, approximately what year?**

20 A. For the southwest sites project, I  
21 became involved approximately 2013 when the  
22 remedial action work plan was being prepared.

23 Q. **And what -- in 2013, what did you**  
24 **start doing?**

1           A.       AECOM prepared the remedial action  
2 work plan and I would review it for applicable --  
3 for construction purposes.

4           **Q.       Okay. And then beyond that, what**  
5 **else did you do? You had bid packages, what were**  
6 **the other purposes there?**

7           A.       Yeah, following the remedial action  
8 work plan, I prepared bid specifications so that  
9 we could get competitive pricing for the  
10 completion of the project. I participated in the  
11 bidding process, interviewing contractors, making  
12 a technical evaluation of the bid. I was also  
13 onsite acting as the resident site engineer  
14 supervising the execution of the work when it was  
15 performed and then I prepared a construction  
16 completion report when the work was complete.

17           **Q.       Okay. And when you were onsite,**  
18 **what were some of your daily activities that you**  
19 **did?**

20           A.       So when I was onsite, I was  
21 responsible for project health and safety. There  
22 would be daily safety tailgate meetings. I was  
23 responsible for overseeing the contractor's work,  
24 supervising it, I was responsible for interfacing

1 with regulatory personnel, the Army Corps of  
2 Engineers was onsite on a daily basis. I was also  
3 responsible for documenting the work that was  
4 completed which included preparing daily progress  
5 reports. It included taking site photographs and  
6 just general overall management of the project.

7 **Q. Okay. And when I refer to Site 3**  
8 **and Site 6, do you know what I mean?**

9 A. I do know what Site 3 and Site 6  
10 are.

11 **Q. And the activities that you just**  
12 **described, did you do those at Site 3 and Site 6?**

13 A. I did, yes.

14 **Q. And is your work at Sites 3 and 6**  
15 **still ongoing?**

16 A. It is from an operation and  
17 maintenance perspective now that the remediation  
18 work has been completed.

19 **Q. And what is that -- what is that**  
20 **work, operation and maintenance work?**

21 A. So operation and maintenance  
22 includes inspection for erosion, for vegetation.  
23 For Site 3, it's to make sure that the cap  
24 integrity is -- is -- the cap is in good shape and

1 it includes inspecting the perimeter fencing,  
2 signage and just the overall health of those sites  
3 from the ground level.

4 **Q. Okay. And how long will that**  
5 **operation maintenance continue?**

6 A. Operation and maintenance will  
7 continue for approximately 30 years.

8 **Q. And I think you said a cap for Site**  
9 **3, is there a cap at Site 6?**

10 A. There is no cap for Site 6. There  
11 is no cap because the asbestos was removed from  
12 Site 6.

13 **Q. All right. I think you said one of**  
14 **the roles was to do the bidding and the bidding --**  
15 **what was the bidding for that you discussed?**

16 A. Yeah, so the bidding was for the  
17 southwest sites project. It included Site 3, Site  
18 4/5 and Site 6 as well as some remaining work in  
19 the industrial canal.

20 For Site 3 and Site 6, the Site  
21 3 work included construction of clean corridors  
22 around the utilities and constructing the soil cap  
23 which included geotextile, sand, clay, topsoil and  
24 vegetation. For Site 6 it also included

1 construction of a clean utility corridor and  
2 removal of asbestos and backfilling to grade.

3 **Q. And who are you getting the bids**  
4 **from?**

5 A. We solicited bids from four  
6 contractors, including Campanella & Sons, Lake  
7 County Grading, Denovo Group and Severson  
8 Environmental.

9 **Q. And those are all construction**  
10 **companies?**

11 A. They are construction remediation  
12 companies. Lake County Grading, Campanella & Sons  
13 and Severson have all done work at the site  
14 previously.

15 **Q. And how was one of those**  
16 **construction companies selected?**

17 A. So I would supply the bid documents  
18 to Johns Manville from the procurement group. The  
19 procurement group would send the bid documents to  
20 the contractors. I was a technical reference for  
21 the contractors. So as they had questions or  
22 wanted to make site visits, they would -- I would  
23 facilitate the visits and answer the questions and  
24 that's what I did during the bidding.

1                   When the bids were -- the bids  
2 were received by Johns Manville, then I was  
3 allowed to look at the bids and made a technical  
4 evaluation off the bids. We had bidders come in  
5 and were interviewed and then I made technical  
6 recommendations as to whether I thought the  
7 bidders were qualified to complete the project.  
8 Johns Manville then made the decision as to who  
9 to -- who to contract with for the work.

10           **Q.       All right.**

11                   MS. GALE: Mr. Hearing Officer, can  
12 I go off the record for a minute? I was so  
13 focused on getting him on the Webex, I forgot to  
14 hand out the binders.

15                   HEARING OFFICER HALLORAN: Yes.  
16 We're off the record.

17                   MS. GALE: Thank you.

18                               (Whereupon, a break was taken  
19                               after which the following  
20                               proceedings were had.)

21                   HEARING OFFICER HALLORAN: You may  
22 proceed.

23                   MS. GALE: Okay. Thank you.  
24

1 BY MS. GALE:

2 Q. Mr. Peterson, I hope you have the  
3 binder that was FedEx'd to you over the weekend.

4 A. I do have it.

5 Q. So I would like you to first turn to  
6 Exhibit 227 and it's 227-1.

7 (Document marked as Complainant  
8 Exhibit No. 227-1 for  
9 identification.)

10 BY THE WITNESS:

11 A. Okay.

12 BY MS. GALE:

13 Q. What is this?

14 A. These are the bid forms that were  
15 completed by Campanella & Sons.

16 Q. Okay. And that was submitted to  
17 you?

18 A. Yes, these were submitted to Johns  
19 Manville and then Johns Manville provided them to  
20 me.

21 Q. And these are what you reviewed?

22 A. Yes, they are.

23 Q. Okay. And other companies also  
24 submitted similar bid packages?

1           A.       That's correct, they did.

2           **Q.       And who was ultimately selected as**  
3 **the construction contractor?**

4           A.       Campanella & Sons were selected as  
5 the construction contractor.

6           **Q.       Okay. Great. I want you to flip to**  
7 **225?**

8           A.       Yes.

9                               (Document marked as Complainant  
10                              Exhibit No. 225-1 for  
11                              identification.)

12                             MS. GALE: It's 225-1.

13 BY MS. GALE:

14           **Q.       It's a cover page, do you recognize**  
15 **this cover page?**

16           A.       Yes, this is the contract that was  
17 executed between Johns Manville and Campanella &  
18 Sons.

19           **Q.       And in your binder, it's an excerpt,**  
20 **correct, this is not the whole contract?**

21           A.       That's correct. This is just a  
22 fraction of the contract.

23           **Q.       And as the resident site engineer,**  
24 **are you familiar with the services and tasks that**

1 **were contemplated by this task?**

2 A. Yes, I am.

3 **Q. Okay. And can you describe to me**  
4 **what a base bid is?**

5 A. Yes. So when the bid specification  
6 went out, it had an original scope of work, it had  
7 a scope of work described in it and the base bid  
8 that was provided by the contractor was based on  
9 that scope of work.

10 **Q. And that was prepared in**  
11 **approximately when?**

12 A. The bid spec started to be prepared  
13 in approximately May of 2015.

14 **Q. But that wasn't the end of the work,**  
15 **right?**

16 A. No. I believe it went out for bid  
17 in June of 2015 and then there was a bid addendum  
18 and it went on from there.

19 **Q. Do you understand the term time and**  
20 **materials?**

21 A. Yes, time and materials is for --  
22 was for this project when out of scope items were  
23 identified that needed to be completed.

24 **Q. So can you tell me what an out of**

1 **scope item is in relation to the base bid?**

2 A. Yeah, to clarify, that would be  
3 information that is not included in the original  
4 bid specification. So it would be additional  
5 work.

6 Q. So, to your recollection, for the  
7 Site 3 and Site 6, generally speaking, what were  
8 some of the things that were big items that were  
9 time and materials that weren't included in the  
10 base bid?

11 A. We had work related to utilities.  
12 For example, a North Shore Gas line needed to be  
13 deenergized and so we had to get access to a valve  
14 to close it which required working through a  
15 wetland, installing a board road, installing a  
16 de-watering system.

17 We also had other work  
18 associated with AT&T where we had to provide  
19 support activities. So when we excavated, we  
20 handled the excavated material so that they could  
21 do their work. There was also -- we ended up  
22 moving everything to this area called the black  
23 ditch area, which was different from the original  
24 specification where we contemplated the industrial

1 canal.

2                                   There were also utility poles  
3 that were installed so that some of the  
4 underground communication lines could be put  
5 overhead allowing us to excavate Site 6. Those  
6 are some of the things -- others we had to import  
7 quarry sand for backfilling as opposed to using  
8 sand from the borrow pit. Off the top of my head,  
9 those are a few of the items that were additional.

10           **Q.       Perfect. Okay. So then now I want**  
11 **to talk about the construction work. What was the**  
12 **process for determining where removal work was**  
13 **conducted at Site 3 and Site 6?**

14           A.       So Site 3 and Site 6 work was  
15 completed to create clean corridors for utilities.  
16 So that was part of it. And then the other part  
17 for Site 3 was to construct a cap across the  
18 entire site to be protective of human health and  
19 the environment.

20           **Q.       And that work was based on prior**  
21 **assessments?**

22           A.       Yes, it was.

23           **Q.       And what was in those prior**  
24 **assessments, what was contained in that?**

1           A.       My understanding was the prior  
2 assessment involved sampling and sample results  
3 detected asbestos.

4           **Q.       And I think you described earlier**  
5 **remedial action work plan, who prepared that work**  
6 **plan?**

7           A.       AECOM prepared it.

8           **Q.       And what did they do with that work**  
9 **plan once it was finished?**

10          A.       They submitted it to the EPA for  
11 approval.

12          **Q.       And what did EPA do?**

13          A.       They approved the work plan.

14          **Q.       Great. So when a work plan is**  
15 **approved, what happens?**

16          A.       Work commences.

17          **Q.       Yes. So I'm going to turn back to**  
18 **225 and in your binder is 225-93. It should**  
19 **actually just be the third page in.**

20          A.       I have 225-93.

21                               (Document marked as Complainant  
22                               Exhibit No. 225-93 for  
23                               identification.)

24

1 BY MS. GALE:

2 Q. And this is a bunch of figures, a  
3 list of a bunch of figures, what are these  
4 figures?

5 A. This -- this page identifies the  
6 list of figures that the contractor used to base  
7 their bid on.

8 Q. Okay. And then turning to 225-96,  
9 which is actually just one page over, what is  
10 that?

11 (Document marked as Complainant  
12 Exhibit No. 225-96 for  
13 identification.)

14 BY THE WITNESS:

15 A. This is the site layout for Site 3.  
16 It uses Illinois state plane coordinates  
17 northing's to easting's to identify the limit of  
18 Site 3. It also uses them to identify the areas  
19 of excavation in Site 3. It also -- the figure  
20 shows the excavation depth by hatching in Site 3  
21 and the figure also shows utilities in Site 3.

22 BY MS. GALE:

23 Q. Okay. And I think you said  
24 northing's and easting's. Can you describe to me

1 **further what that is and point out to me where it**  
2 **is on this figure, please?**

3 A. Yes, the table on the bottom right  
4 corner shows it as latitude and longitude. That's  
5 a misnomer. Those are northing's and easting's,  
6 respectfully, in the Illinois state plane  
7 coordinate system.

8 So you use those coordinates  
9 with -- so the contractor uses those coordinates  
10 with conventional surveying equipment, with a GPS,  
11 and goes out to the site and pounds wooden stakes  
12 at each one of these locations 1 through 26 using  
13 the northing's and easting's to -- to basically  
14 lay this drawing out on the ground. That's what  
15 this drawing is used for.

16 Q. Okay. So can you point out for me I  
17 guess top left corner there is a number one for --  
18 this is an example.

19 What does that number one stand  
20 for?

21 A. So in the table that is Boundary  
22 Location 1, the table is latitude 2083126,  
23 longitude 1122147. So those are the northing's  
24 and easting's and with the GPS equipment you put

1 that into the GPS and you can locate Boundary  
2 Location 1.

3 Q. Okay. So AECOM prepared this, but  
4 did you review this document in the contract?

5 A. I did, yes.

6 Q. And what was its purpose in the  
7 contract?

8 A. The purpose in the contract was to  
9 lay out the site so that if during bidding -- it  
10 was twofold.

11 One, the contractor could go out  
12 during bidding with the GPS and walk the site and  
13 see where the features are and, two, when the work  
14 commenced the awarded contractor could install  
15 stakes to layout the site in preparation for  
16 commencing the work.

17 Q. Great. Mr. Peterson, can you please  
18 point out where the northeast excavation is on  
19 this figure, on Exhibit 225-96?

20 A. Yes, the northeast excavation is  
21 bounded by boundary locations 5, 6, 7 and 8. It's  
22 up in the northeast portion of this drawing and  
23 it's got the diagonal crosshatch.

24 Q. Okay. Great. I want you to flip to

1 two pages or so to Exhibit 225-105.

2 (Document marked as Complainant  
3 Exhibit No. 225-105 for  
4 identification.)

5 BY THE WITNESS:

6 A. Okay. I'm there.

7 BY MS. GALE:

8 Q. Do you recognize this?

9 A. Yes, this is a similar drawing for  
10 Site 6.

11 Q. And --

12 MS. O'LAUGHLIN: What number are we  
13 on?

14 MS. GALE: 225-105.

15 MS. VAN WIE: I don't have that in  
16 mine.

17 MS. BRICE: I have it.

18 MS. VAN WIE: The last page I have  
19 is 225-96.

20 MS. BRICE: It's actually a bigger  
21 version of the --

22 MS. VAN WIE: Do you have it?

23 MR. GRANT: I don't know that I have  
24 it. That was under 225.

1 MS. GALE: It should be under there.

2 MR. GRANT: Hold on.

3 MS. O'LAUGHLIN: Yeah, we have the  
4 small version.

5 MR. GRANT: Yeah, we're okay.

6 MS. O'LAUGHLIN: Give us a second to  
7 do so.

8 MS. VAN WIE: I can see it.

9 MS. GALE: It should be in there.  
10 Okay. This one is complete. She can have this  
11 one.

12 MR. NISHIOKA: 225 Sections --

13 BY MS. GALE:

14 Q. Sorry, Mr. Peterson. We're at  
15 Exhibit 225-105. Are you there?

16 A. Yes, I am.

17 Q. I think you said it was Site 6.

18 A. Yes.

19 Q. And you see -- I guess, what is  
20 this? Generally speaking, what does this  
21 represent? What do we see here?

22 A. This represents the areas of Site 6  
23 that needed to be excavated to remove asbestos  
24 that was present in the soil.

1           **Q.       And what are the lines that we see,**  
2 **the various color lines? Generally speaking, how**  
3 **would you describe them?**

4           A.       So this -- this -- this figure shows  
5 the utilities in the colored lines most of which  
6 are running east to west and then the excavation  
7 depths are shown by hatching.

8           **Q.       And as you observe on this figure,**  
9 **does the utility line go the entire length of Site**  
10 **6?**

11          A.       Yes.

12          **Q.       All the utility lines go the entire**  
13 **length of Site 6? Let's look --**

14          A.       No, not all of them.

15          **Q.       Great.**

16          A.       Some of them do.

17          **Q.       But not all of them, right?**

18          A.       That's correct. Not all of them.

19          **Q.       And for the construction work that**  
20 **was done by Campanella and the other utilities in**  
21 **Site 6, was that -- where was that work,**  
22 **aboveground or underground?**

23          A.       This was underground work. The  
24 lines that are shown here are underground lines

1 before construction started before some of the  
2 lines were rerouted.

3 Q. Was any work done on the overhead  
4 lines?

5 A. No, we didn't have to move overhead  
6 lines. We just had to move underground lines.

7 Q. And when did construction work on  
8 Sites 3 and 6 begin?

9 A. The earth work started in earnest in  
10 2016. Some utility preparation work started in  
11 2015.

12 Q. Okay. Great. But the real work  
13 like the -- where you had the equipment in there,  
14 the big -- I can't remember -- excavators.

15 A. That started summer of 2016.

16 Q. Great. I want you to now flip to  
17 Exhibit 213 in your binder.

18 (Document marked as Complainant  
19 Exhibit No. 213 for  
20 identification.)

21 BY THE WITNESS:

22 A. Okay. I'm there.

23 BY MS. GALE:

24 Q. And it's actually the cover page and

1 then there is excerpts from this document, do you  
2 recognize this document?

3 A. Yes.

4 Q. What is --

5 A. This is the final closure report.

6 Q. Okay. And the final closure report  
7 for what?

8 A. For the southwest site.

9 Q. Okay.

10 A. Site 3, Site 4/5 and Site 6.

11 Q. And, for the record, is this -- is  
12 what is in your binder the entire document?

13 A. No, it's in a much abbreviated  
14 version.

15 Q. So now I want to flip to 213-1210 in  
16 your binder.

17 (Document marked as Complainant  
18 Exhibit No. 213-1210 for  
19 identification.)

20 BY THE WITNESS:

21 A. Okay.

22 BY MS. GALE:

23 Q. It should be behind a yellow  
24 hard-stock.

1 A. Okay. I'm at that page.

2 Q. Okay. It says it's Appendix F of  
3 the AECOM report, right?

4 A. Yes, it does.

5 Q. And if you flip the page to Exhibit  
6 213-1211, what is that?

7 (Document marked as Complainant  
8 Exhibit No. 213-1211 for  
9 identification.)

10 BY THE WITNESS:

11 A. This is the construction completion  
12 report that I prepared --

13 BY MS. GALE:

14 Q. Okay.

15 A. -- for the southwest site.

16 Q. What is contained in this document?

17 A. This document contains a description  
18 of the work that was performed. It describes  
19 equipment, materials and the schedule for  
20 completing the work. It also describes waste  
21 management, equipment contamination, where  
22 material was -- was placed and that is in the  
23 black ditch, it has some approximate project costs  
24 and also describes some operation and maintenance

1 activities.

2 Q. Okay. Great. So now I want you to  
3 turn to -- so this is -- and I guess this is an  
4 excerpt of your whole report, isn't it?

5 A. It is. It is just an excerpt.

6 Q. Okay. So I want to turn to Exhibit  
7 213-1220.

8 (Document marked as Complainant  
9 Exhibit No. 213-1220 for  
10 identification.)

11 BY THE WITNESS:

12 A. Okay. I'm there.

13 BY MS. GALE:

14 Q. And so it says here Site 3.  
15 Generally speaking, what kind of work was done at  
16 Site 3.

17 A. So for Site 3 initially there was  
18 site surveying to put the stakes in the ground.  
19 There was access that was made which included an  
20 access drive. There was also excavation in Site 3  
21 around the utilities, the North Shore gas lines,  
22 the Nicor gas lines and the City of Waukegan water  
23 main. There was excavation for the northeast  
24 excavation area in Site 3. Excavated material was

1 hauled -- hauled off to the black ditch area.  
2 Excavations were backfilled by placing the  
3 geotextile and sand and then the site was capped  
4 with geotextile sand, clay, topsoil and seeded.

5 Q. Okay. And, now, I'd like you to  
6 turn to 213-1226.

7 (Document marked as Complainant  
8 Exhibit No. 213-1226 for  
9 identification.)

10 BY MS. GALE:

11 Q. Again, it's behind hard-stock, I  
12 believe.

13 A. Yes, I'm there.

14 Q. And this says Site 6. So, again,  
15 similarly, generally speaking, what work was done  
16 at Site 6?

17 A. So at Site 6, there was excavation  
18 of asbestos-impacted soil. There was construction  
19 of clean corridors. Utilities were rerouted  
20 including AT&T and a fiberoptic cable for ComEd  
21 and where excavations, when deep enough, the North  
22 Shore Gas line was removed, clean corridor was  
23 established for the City of Waukegan water main.  
24 After excavation was complete and asbestos had

1 been removed, geotextile was placed in the  
2 excavation and it was backfilled with sand,  
3 topsoil and seeded.

4 **Q. And, big picture, what was -- what**  
5 **was the focus of this work, what was the purpose?**

6 A. The purpose of this work was really  
7 twofold. One, to create clean corridors for all  
8 utilities. So if utilities needed to be serviced  
9 in the future, they could not be covered by  
10 asbestos-containing soil and, second, was to have  
11 a clean cap or a clean surface for Site 6 where no  
12 cap was installed because no asbestos remained to  
13 be protective of human health and the environment.

14 **Q. And by cleaning those clean**  
15 **corridors, what did you do?**

16 A. We removed soil from the ground. We  
17 had to dewater to remove the soil.

18 **Q. That soil had what in it?**

19 A. The soil had asbestos in it.

20 **Q. Thank you. Staying with Exhibit**  
21 **213. I want to turn to 1254, which is the last**  
22 **page in your 213 tab.**

23  
24

1 (Document marked as Complainant  
2 Exhibit No. 213-1254 for  
3 identification.)

4 BY THE WITNESS:

5 A. Okay. I'm there.

6 BY MS. GALE:

7 **Q. What is this?**

8 A. This is the survey of Site 3  
9 after -- after the work was completed.

10 HEARING OFFICER HALLORAN: Ms. Gale,  
11 excuse me, 213?

12 MS. GALE: Dash 1254. It should be  
13 at the backend, the last page of your 213 tab. It  
14 better be.

15 HEARING OFFICER HALLORAN: I'm  
16 sorry. Go ahead. Sorry.

17 MS. GALE: No, that's fine. Heart  
18 attack.

19 MR. NISHIOKA: They're all the same.

20 BY MS. GALE:

21 **Q. I'm sorry. Can you just repeat your**  
22 **answer because I -- what is this?**

23 A. This figure is the survey after the  
24 work was completed for Site 3. So it shows the

1 limit of the Site 3. It shows the limits of  
2 fencing. It shows the Nicor gas line. It shows  
3 the North Shore gas line. It shows the City of  
4 Waukegan water main.

5 **Q. And you say survey, what do you mean**  
6 **by that, what is a survey?**

7 A. So a surveyor came out with GPS  
8 equipment and went to the fence line and marked  
9 the limit of it, also marked the limits of the gas  
10 line and the waterline. It also shows an area  
11 where we placed some stone in the northwest  
12 corner.

13 **Q. What methodology or data did the**  
14 **surveyor use?**

15 A. So the surveyor goes out and he uses  
16 the GPS equipment to record the northing's and  
17 easting's in the Illinois state plane coordinate  
18 system and then he plops this on a map. You can  
19 see on the drawing itself it has the northing's  
20 and easting's. Those are those E11, 22, 200.  
21 Towards the bottom or to the right there is an  
22 N2083 I think that's a 300 -- the 2083, excuse me,  
23 100 to the right there. So they take those  
24 coordinates, they put them into a CAD file and

1 locate the site --

2 Q. Okay.

3 A. -- and generate the drawing.

4 Q. Perfect. All right. Mr. Peterson,  
5 I want you to flip to 204 in your binder.

6 (Document marked as Complainant  
7 Exhibit No. 204 for  
8 identification.)

9 BY THE WITNESS:

10 A. Okay. I'm there.

11 BY MS. GALE:

12 Q. Do you recognize this?

13 A. I do.

14 Q. Okay.

15 A. It's the expert report from  
16 Mr. Dorgan.

17 Q. Very good. And if you can turn your  
18 page to 204-38.

19 A. I'm there.

20 Q. What is this -- what are we looking  
21 at here at 204-38?

22 A. This is a figure of Site 3 showing  
23 the utilities. It also shows the eastern --  
24 excuse me -- the western limits of Site 6.

1 Q. And in your experience -- I should  
2 back this up.

3 You started working there in  
4 20- -- working at the Sites 3 and 6 in 2013,  
5 right?

6 A. That's correct.

7 Q. Okay. And I believe you said during  
8 construction you were there on a daily basis,  
9 didn't you?

10 A. I did, yes.

11 Q. So in your experience looking  
12 at the title, does this document appear to  
13 accurately represent where you did your work?

14 A. Yes, it does.

15 Q. I want to talk about Site 6 and I  
16 believe you described that -- the work there was  
17 excavation, right?

18 A. At Site 6?

19 Q. Mm-hmm.

20 A. Yes.

21 Q. Was there anything else? Excavation  
22 and --

23 A. There was dewatering for excavation.

24 Q. Mm-hmm.

1           A.       And utilities were moved before we  
2 started work so that we could proceed with  
3 excavation.

4           **Q.       Once the excavation was complete,**  
5 **what happened?**

6           A.       When the excavation was complete,  
7 the site was -- the excavations were covered with  
8 geotextile and sand was used to fill them to grade  
9 and then topsoil was seeded.

10          **Q.       At Site 6?**

11          A.       (Affirmative nod.)

12          **Q.       Okay. Great. And then at Site 6,**  
13 **did you excavate and fill every foot on the north**  
14 **and south sides?**

15          A.       I'm sorry. At Site 6, what did you  
16 say?

17          **Q.       I might have broken up. At Site 6,**  
18 **did you excavate and fill every foot of the site,**  
19 **the whole 6?**

20          A.       Laterally. Not -- not the whole  
21 site, no.

22          **Q.       Okay. Great.**

23          A.       Most of it.

24          **Q.       I want to turn back to 213, which is**

1 **the excerpt of the final report.**

2 A. Two-thirteen. Okay.

3 Q. **And I want to go to 213-38 and it's**  
4 **actually pretty tiny.**

5 (Document marked as Complainant  
6 **Exhibit No. 213-38 for**  
7 **identification.)**

8 MS. GALE: So, Mr. Grant, I would  
9 recommend -- we're going to put it up on the  
10 screen here. Give us a second. There we go.  
11 Sorry, Mr. Peterson. We're just getting it on the  
12 screen so we can more easily see it because as you  
13 can tell the typing is very tiny.

14 THE WITNESS: Okay.

15 BY MS. GALE:

16 Q. **Mr. Peterson, this table, what is**  
17 **it?**

18 A. This table summarizes the  
19 confirmation sampling results for asbestos from  
20 Site 6.

21 Q. **And does it also show where the**  
22 **excavation and filling occurred?**

23 A. It does by way of the results, the  
24 results show the depth of the clean samples. So

1 soil was excavated to that depth and then the grid  
2 ID shows the location.

3 Q. Right. So the first column is what?

4 A. The first column is grid ID.

5 Q. Okay. And then the fourth column  
6 is -- what is that?

7 A. The fourth column is the excavation  
8 depth.

9 Q. And then looking at the fourth  
10 column, are these -- I guess how would you  
11 characterize these -- these depths, the same or  
12 not the same?

13 A. They vary. They are not the same.

14 Q. And then let's look at the bottom  
15 213-38. 55S through 58S. What happened here?

16 A. No asbestos was detected. So there  
17 was no removal required.

18 Q. Okay. So these were not uniform  
19 excavations, right?

20 A. Correct, they are not uniform.

21 Q. Okay. I want to turn to --

22 MS. GALE: Mr. Hearing Officer, I  
23 have a ways to go with him. I don't know if you  
24 want to do lunch.

1 HEARING OFFICER HALLORAN: Let's go  
2 off the record for a minute, transcript, whatever.

3 (Whereupon, a break was taken  
4 after which the following  
5 proceedings were had.)

6 HEARING OFFICER HALLORAN: We're  
7 going to take a lunch now and be back about 1:45.  
8 Thank you.

9 (Whereupon, a break was taken  
10 after which the following  
11 proceedings were had.)

12 HEARING OFFICER HALLORAN: We're on  
13 the record. It's approximately 1:50. We just got  
14 back from lunch. Mr. Peterson is up and Ms. Gale  
15 is directing him. You may proceed. Thank you.

16 MS. GALE: Thank you.

17 BY MS. GALE:

18 Q. Mr. Peterson, when we were talking  
19 before lunch, we were discussing the excavation at  
20 Site 6 and I just want to ask you a follow up on  
21 that.

22 Where were the deepest  
23 excavations in Site 6?

24 A. The deepest excavations were at the

1 west end proximate to Site 3 --

2 **Q. Okay. Great.**

3 A. -- on the south side -- south side  
4 of Greenwood Avenue north of Site 3. Those were  
5 the deepest.

6 **Q. Excellent. Thank you very much.**

7 **Now, I want to turn to a few questions about Site**  
8 **3. I believe you said earlier that part of the**  
9 **work that occurred at the site was putting on the**  
10 **cap and what was involved in putting on that cap?**

11 A. So putting on the cap was we had  
12 to -- I mean, I was putting down the geotextile,  
13 putting down sand, compacted clay and three inches  
14 of topsoil on top and then a vegetative cover on  
15 the topsoil.

16 **Q. Great. So that -- so the topsoil,**  
17 **was there something wrong with some of the**  
18 **topsoil?**

19 A. Yes, after the work was completed a  
20 subsequent inspection found that there were small  
21 pieces of asbestos in the topsoil.

22 **Q. And when did that occur?**

23 A. The inspection occurred in April of  
24 2018.

1 Q. Okay. And so we found the asbestos.  
2 I presume it had to be fixed, right?

3 A. That's correct.

4 Q. Who paid for fixing that problem?

5 A. The contractor was responsible for  
6 paying to remove all of the topsoil that was  
7 disposed at the landfill and bring in new topsoil  
8 and place it.

9 Q. Who was that contractor, what was  
10 their name?

11 A. Campanella & Sons.

12 Q. Okay. Since they paid for it, were  
13 those costs and any invoices sent to Johns  
14 Manville?

15 A. No, they did not invoice Johns  
16 Manville. It was all on their nickel.

17 Q. Great. Thank you. Now, I want to  
18 discuss -- let's actually turn to, again, Exhibit  
19 204 and I want to go to 204-38, which is Figure 1  
20 of Mr. Dorgan's report.

21 A. Okay. I'm there.

22 Q. Okay. Looking at this figure, where  
23 was the City of Waukegan waterline located?

24 A. The waterline is located in the

1 northwest area of the site. It's the L-shaped  
2 trench. It's actually labeled City of Waukegan  
3 waterline.

4 **Q. Now, when you first started working**  
5 **at the site, at Site 3, is this location where you**  
6 **believed the waterline to be?**

7 A. No, it is not.

8 **Q. Where did you originally think it**  
9 **was located?**

10 A. The records that were done showed  
11 the waterline being located south of this.

12 **Q. Okay. So the records -- what**  
13 **records are you describing?**

14 A. Excuse me. Those were the drawings  
15 in the remedial action work plan that was prepared  
16 by AECOM that showed the waterline as being not  
17 found it --

18 **Q. And where --**

19 A. It was located south.

20 **Q. Sorry. Where did they get that**  
21 **information from?**

22 A. I presume that they visited the City  
23 of Waukegan and possibly looked at some drawings  
24 or maybe there weren't drawings. I'm not -- I'm

1 not really sure about how it was determined.

2 **Q. So I guess I take it from that that**  
3 **it's a different location.**

4 **How did you learn that it was --**  
5 **originally understood a location was incorrect?**

6 **A.** As it came time to do the work, we  
7 asked the City of Waukegan field inspectors to  
8 come out and locate the waterline and they had a  
9 different idea of where it was than where it was  
10 marked on the drawing. In addition, our  
11 contractor had done a waterline repair a year or  
12 two previously and marked the repair with a pipe  
13 in the ground.

14 **So based on that repair and the**  
15 **field folks for the City of Waukegan, they located**  
16 **the waterline where it is at that time. We then**  
17 **dug some test pits to confirm the location of the**  
18 **waterline.**

19 **Q. Okay. And when was this done?**

20 **A.** I think we found it in approximately  
21 June of 2016 when we found this location.

22 **Q. Okay. Great. Next I want to turn**  
23 **to the northeast excavation. Looking at the same**  
24 **figure, 204-38, can you describe for me where the**

1 **northeast excavation is located.**

2 A. Yes, it is at the northeast area of  
3 Site 3. It is actually labeled northeast  
4 excavation and it is three rectangles side by side  
5 west to east.

6 **Q. To your knowledge and recollection,**  
7 **is this located in the correct location on this**  
8 **figure?**

9 A. It is, yes.

10 **Q. And what work was done within these**  
11 **three, as you say, rectangles?**

12 A. The soil was excavated, material was  
13 then -- geotextile was placed in the excavation,  
14 it was backfilled with sand prior to capping the  
15 site.

16 **Q. And how deep did you have to go in**  
17 **this excavation?**

18 A. I believe it was approximately four  
19 feet with the plan. I think one of the samples,  
20 maybe the western wall, did not come back -- it  
21 still contained asbestos at four feet. So we had  
22 to go an additional foot deeper.

23 **Q. And I think you explained that. And**  
24 **do you remember which sample it was that required**

1     **it to be deeper?**

2             A.       The samples were taken and looking  
3     at this drawing it must have been B3-50.

4             **Q.       Great. Same figure, Figure 204-38,**  
5     **I now want to discuss North Shore gas line.**

6                         **Can you describe to us the**  
7     **location of the North Shore gas line running**  
8     **through now -- I guess running through this entire**  
9     **figure?**

10            A.       Yes, it enters Site 3 at the western  
11    boundary kind of midpoint north to south and then  
12    traverses across at an east northeasterly  
13    direction. It kind of goes up near that B3-50  
14    sample we were just talking about.

15            **Q.       Does it stop at Site 3?**

16            A.       No, it doesn't. It extends into  
17    Site 6.

18            **Q.       And to your knowledge and**  
19    **recollection, is it depicted on this figure in the**  
20    **correct location?**

21            A.       Yes, it is.

22            **Q.       And for Site 3 related to the North**  
23    **Shore gas line, what work was done?**

24            A.       So Site 3 had to be deenergized --

1 excuse me. The North Shore gas --

2 Q. Dave -- Mr. Peterson, you cut out.  
3 So last thing we heard was so Site 3 had to be  
4 deenergized. So start other again.

5 A. All right. Let me just start all  
6 over. The work in Site 3 for the North Shore gas  
7 line started with deenergizing the line. To do  
8 that, we had to go west of Site 3 across the road  
9 down in a swampy area. We had to build a board  
10 road, we had to put in a dewatering point system  
11 to draw the water down so we could get access  
12 inside the -- inside the vault box, if you will,  
13 to close the valve.

14 Once that was closed, we were  
15 able to go over to the North Shore gas line that  
16 was approximately near 04S where it was excavated.  
17 The gas line was then cut and capped. This then  
18 also severed service further east in Site 6 from  
19 the North Shore gas line. Once that was cut and  
20 capped, we proceeded to do the excavation around  
21 the North Shore gas line constructing the clean  
22 corridor. Once that was constructed and  
23 geotextile was laid down and backfilled and  
24 covered, then the valve off in the swampy area was

1 opened and the line was reenergized.

2 Q. I think -- so that was for Site 3  
3 and then you mentioned location 04S, where is that  
4 located?

5 A. That's sort of at the end of the  
6 green in Site 6.

7 Q. Okay.

8 A. On the south side of Greenwood.

9 Q. Mm-hmm. So the work you described  
10 started on the west -- western edge of Site 3 and  
11 continued diagonally to Site 6, right?

12 A. Yes.

13 Q. And then your description of 04S,  
14 that was in Site 6, right?

15 A. Yes.

16 Q. Okay. And then so continuing with  
17 my next question related to Site 6, you may have  
18 answered this, but I'm going to ask it, what work  
19 was done on Site 6 for the North Shore gas line?

20 A. So after the North Shore gas line  
21 was deenergized for Site 6, we proceeded to  
22 excavate soil to remove that, which was --  
23 contained asbestos. If the excavation was deep  
24 enough that we encountered the North Shore gas

1 line, then that gas line was removed. And if our  
2 excavation was shallow such that we did not  
3 encounter the gas line, then the gas line was left  
4 in place.

5 Q. All right. I want to turn now to  
6 Exhibit 214 in your binder. It should be the last  
7 tab.

8 A. Okay.

9 (Document marked as Complainant  
10 Exhibit No. 214 for  
11 identification.)

12 MS. TIPSORD: Ms. Gale, can you give  
13 me just a minute?

14 MS. GALE: Yes.

15 MS. TIPSORD: I just want to check  
16 with everyone. We have had a network issue here  
17 showing up on the host computer and also in my  
18 Outlook. So I want to be sure that everyone on  
19 Webex was able to hear us. I'm going to unmute  
20 everybody.

21 MR. PAULEY: It shows me you were --

22 MS. TIPSORD: Daniel Pauley, I'm  
23 unmuting you.

24 MR. PAULEY: We can still hear you.

1 MS. TIPSORD: Okay. All right. I  
2 just wanted to be sure everything -- everybody is  
3 muted again. Okay.

4 Okay. Everybody is muted again,  
5 including Dave. Let me unmute him. Danny, it's  
6 not letting me do that. Danny, it's not letting  
7 me unmute Dave. Mr. Peterson, if you can do Star  
8 6 on your phone and unmute yourself.

9 THE WITNESS: I just did it. I'm  
10 here. Can you hear me?

11 MS. GALE: Yes.

12 MS. TIPSORD: Sorry. There was a  
13 network issue. It went all the way to my Outlook.  
14 It did the same thing on the phone. It just  
15 disappeared.

16 MS. GALE: It's fine. All good?

17 MS. TIPSORD: We're good.

18 MS. GALE: All right. Great.

19 BY MS. GALE:

20 Q. Exhibit 214, are you there?

21 A. Yes.

22 Q. Okay. And, generally speaking, what  
23 is Exhibit 214?

24 A. It contains photographs of Site 6

1 and Site 3 excavation.

2 **Q. And who took these photographs?**

3 A. I took these photographs.

4 **Q. When did you take these photographs?**

5 A. These photographs would have been  
6 taken -- from the work being completed, it would  
7 have been probably August of 2016.

8 **Q. Okay. And how are these photographs**  
9 **maintained or stored?**

10 A. These photographs are saved  
11 electronically.

12 **Q. Where?**

13 A. On a computer and backed up.

14 **Q. And what was the purpose of taking**  
15 **these photographs?**

16 A. This is just part of my routine,  
17 daily activity where I photograph work that is  
18 occurring. Since work was occurring here, I was  
19 taking pictures.

20 **Q. And did you maintain these**  
21 **photographs in your regular course of business?**

22 A. Yes, I did.

23 **Q. Very good. I want to turn to**  
24 **Exhibit 214-14.**

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(Document marked as Complainant  
Exhibit No. 214-14 for  
identification.)

BY THE WITNESS:

A. Okay.

BY MS. GALE:

Q. Describe for me what is in this  
photo.

A. This photo is taken --

MR. GRANT: Let me interrupt --

BY THE WITNESS:

A. -- of the excavation in Site 3 --

HEARING OFFICER HALLORAN: Mr.  
Peterson, just hold on a minute, please.

MR. GRANT: Before he start -- they  
start to use these exhibits, I'd like to know  
where they were taken because if they're taken  
outside the area that we all know is described by  
the Board as the area of IDOT's liability, then  
they're not relevant in this case.

HEARING OFFICER HALLORAN: Ms. Gale?

MS. GALE: Well, I'm actually going  
to ask him where each picture is -- was located as  
part of my questioning. We think these photos are

1 relevant because they demonstrate and they show  
2 where the asbestos-containing material was found  
3 during the excavations and so really the relevance  
4 is to what was underneath each sample point.

5 HEARING OFFICER HALLORAN: Okay. I  
6 will overrule it. Go ahead, Ms. Gale.

7 MS. GALE: Thank you.

8 BY MS. GALE:

9 Q. I'll ask the question so it's clear.  
10 Looking at Exhibit 214-14, what does this picture  
11 show?

12 A. This is a picture capturing the  
13 excavation ongoing work in Site 6. The excavator  
14 is down towards the western limit of Site 6 on the  
15 south side of Greenwood and then a little bit of  
16 light colored material on the right side of the  
17 photo is the -- where the North Shore gas line was  
18 terminated. So that's approximately where sample  
19 04S is. So this shows what remains underneath  
20 adjacent to Greenwood from the western limit of  
21 Site 6 south side of Greenwood up to the North  
22 Shore gas line where it was terminated.

23 Q. And so approximately if you can tell  
24 me what sample points you can see in this photo.

1 A. Approximately, 01, 02, 03 and 04S.

2 Q. And what do you see along the  
3 excavation in the photo?

4 A. In the photo, you see industrial  
5 debris, including asbestos, approximately three to  
6 five feet below grade in the bank of the  
7 excavation.

8 Q. Okay. And how do you know it's  
9 asbestos?

10 A. Because I was there and I saw it.

11 Q. Now, I want you -- we're all going  
12 to do this exercise and Mr. Peterson can play  
13 along. The rest of you don't have to. I want you  
14 to take that photo out and place it on the desk in  
15 front of you and close your binder again and flip  
16 to 214-19.

17 (Document marked as Complainant  
18 Exhibit No. 214-19 for  
19 identification.)

20 BY THE WITNESS:

21 A. Okay. I'm at 214-19.

22 BY MS. GALE:

23 Q. I guess first question where, to  
24 your knowledge, is this photo pointing at?

1           A.       This photo is pointing at  
2 approximately sample locations 04 and 05. It is  
3 looking north into Site 6.

4           **Q.       Okay. And what do you see in this**  
5 **photo?**

6           A.       Again, you can see the bank, you can  
7 see the industrial debris, including asbestos,  
8 well three to five feet below adjacent grade.  
9 There are also some abandoned electrical conduits  
10 running across the ground.

11          **Q.       Okay. And, again, same deal pull**  
12 **that photo out of your binder and place it next to**  
13 **214-14. And let's turn back to 214-15.**

14                               (Document marked as Complainant  
15                               Exhibit No. 214-15 for  
16                               identification.)

17 BY THE WITNESS:

18           A.       Okay.

19 BY MS. GALE:

20          **Q.       Okay. Where -- what does this**  
21 **picture show?**

22           A.       This picture is another picture of  
23 the Site 6. It shows the bank. It also shows  
24 where the gas line was cut. It shows the gas line

1 that is deenergized coming to the east and it also  
2 shows the industrial debris, including asbestos  
3 along the wall there just south of Greenwood  
4 Avenue.

5 Q. And you said the gas line, can you  
6 just tell us which one that is. I don't know what  
7 gas lines look like.

8 A. Yeah, that yellow gas line is the  
9 North Shore gas line.

10 Q. Great. What sample points can we  
11 see in this photo?

12 A. 04, 05 and 06 most clearly.

13 Q. And I believe -- what in this --  
14 what do you see in the embankment in this photo?

15 A. There is industrial debris,  
16 including asbestos. You can see some pipes there  
17 and there is other debris, asbestos debris in  
18 there.

19 Q. Same deal. Let's pull this out and  
20 put it next to 214-19. Please turn to 214-17.

21 (Document marked as Complainant  
22 Exhibit No. 214-17 for  
23 identification.)  
24

1 BY THE WITNESS:

2 A. Okay. I'm there.

3 BY MS. GALE:

4 **Q. What are we looking at here?**

5 A. This is, again, a picture looking  
6 north in Site 6. It shows industrial debris,  
7 including asbestos in the bank below where the  
8 three folks are standing and closer to who is  
9 taking the photo there is the North Shore gas  
10 line.

11 **Q. Okay. And what sample locations do**  
12 **you see in this photo?**

13 A. This is approximately 07 and 08.

14 **Q. And I guess if I'm looking at --**  
15 **there is a green material in the middle, what is**  
16 **that?**

17 A. That is roofing granulars. They  
18 make products for roofing and they're shingles.  
19 They would put granulars on. So that looks like  
20 roofing granulars like when we demolish the silos  
21 at the plant that contain the roofing material.

22 **Q. What is in those roofing materials?**

23 A. Johns Manville made roofing  
24 materials out of asbestos. That contains

1 asbestos.

2 Q. And, again, we'll take 217 out and  
3 place it next to 215 and I want to turn right in  
4 front of you to 2 -- we'll take 214-17 out and  
5 place it next to 214-15 and I want you to turn to  
6 214-18. What does this show?

7 (Document marked as Complainant  
8 Exhibit No. 214-18 for  
9 identification.)

10 BY THE WITNESS:

11 A. Just a different angle facing west  
12 showing the industrial debris, including the  
13 asbestos on the south side of Greenwood in the  
14 bank there.

15 BY MS. GALE:

16 Q. And so what sample points are we  
17 looking at?

18 A. This is approximately 07 and 08.

19 Q. Okay. So looking at --

20 MR. GRANT: Kristen, I don't have  
21 18.

22 MS. GALE: What?

23 MR. GRANT: I don't have 18. I  
24 found it. Go on.

1 BY MS. GALE:

2 Q. Now, looking at these five photos;  
3 214-14, 214-19, 214-15, 214-17 and 214-18, please  
4 describe for me collectively what these photos  
5 show?

6 A. They show a consistent theme of  
7 industrial debris, including asbestos-containing  
8 material present underneath the southern -- the  
9 bank next to Greenwood Avenue approximately three  
10 to five feet below grade. That's what it shows.

11 Q. Okay. And what would that  
12 consistent scene indicate to you?

13 A. To me, it looks like very similar  
14 materials all along the way. It basically looks  
15 like it's constructed at the same elevation. So  
16 from my perspective, it looks like it was  
17 something that was completed at approximately the  
18 same time.

19 Q. And I guess a counter question is  
20 what -- if it was completed at a different time,  
21 what would you see?

22 A. I think it would be difficult -- it  
23 would be difficult to do this at a different time  
24 because you would have to plan to excavate to a

1 certain depth to lay down the same or similar  
2 material and so that would have required planning  
3 ahead of time and if it was -- if it was done at  
4 different times, I would -- there would be some  
5 changes I would think in industrial debris and in  
6 some places like that layering wouldn't -- you  
7 know, would be discontinuous. So this looks like  
8 it was done at the same time.

9 MR. GRANT: Can you explain or at  
10 least clarify what time you're talking about,  
11 different times, same time?

12 MS. GALE: Can you do it on  
13 your cross?

14 HEARING OFFICER HALLORAN: You can  
15 do it on cross.

16 MR. GRANT: Sure.

17 HEARING OFFICER HALLORAN: Thanks.

18 BY MS. GALE:

19 Q. Mr. Peterson, at some point, you  
20 became aware of this litigation, is that correct?

21 A. Yes, that's correct.

22 Q. And were you asked questions by  
23 Mr. Dorgan about your work at the site?

24 A. Yes, I was.

1           **Q.       And did you talk to him about the**  
2 **work that is displaced in these five photos?**

3           A.       I talked to him about a lot of work  
4 and, yes, I did talk to him about the work that  
5 was displayed in these five photos.

6           **Q.       What did you tell him?**

7           A.       I told him that it looked like  
8 consistent material all along the north side of  
9 Site 6, the north side of the southern portion of  
10 Site 6.

11          **Q.       Great. You can put those photos**  
12 **away for now. Thank you very much. We just**  
13 **discussed how you had talked with Mr. Dorgan.**

14                   **As part of your conversations**  
15 **with him, did he ask you to do anything?**

16          A.       Yes. I was asked to prepare a  
17 summary of all the costs associated with Site 3  
18 and Site 6.

19          **Q.       Okay. I want you to turn back to**  
20 **204 in your binder and you're actually going to go**  
21 **to Exhibit 204-71.**

22                   **(Document marked as Complainant**  
23 **Exhibit No. 204-71 for**  
24 **identification.)**

1 BY THE WITNESS:

2 A. Okay. I'm there.

3 BY MS. GALE:

4 Q. Do you recognize this document?

5 A. Yes, this is the cost summary I  
6 prepared.

7 Q. Okay. Okay. So let's turn to Table  
8 1. What does Table 1 show us, generally speaking?

9 A. Table 1 summarizes various work  
10 elements and describes the work elements and shows  
11 where costs were incurred for those work elements  
12 with respect to whether it was in the bid document  
13 where the project was awarded, whether it was a  
14 time and materials work for Campanella. It shows  
15 engineering and onsite supervision of the work and  
16 also includes a summary of other miscellaneous  
17 costs --

18 Q. Now, you use the phrase --

19 A. -- to tally the total cost.

20 Q. Sorry. You used the phrase work  
21 element.

22 Are you familiar with the phrase  
23 task bucket?

24 A. Yes, I am. These work elements

1 could be called task buckets.

2 Q. Okay.

3 A. They're synonymous.

4 Q. Turn to Table 2. What does Table 2  
5 show?

6 A. Table 2 is a detailed cost breakdown  
7 for the awarded project, so the bid work, and it  
8 takes each one of the line items and attributes it  
9 to a work element or task bucket and then totals  
10 it down at the bottom.

11 Q. Okay. Thank you. Turn to Table 3,  
12 which is the next page. What does Table 3 show?

13 A. Table 3 shows time and material  
14 invoices and attributes every line of every  
15 invoice to a task bucket.

16 Q. Table 3 is kind of big. So we'll  
17 skip to Table 4, which is located at 204-79.

18 (Document marked as Complainant  
19 Exhibit No. 204-79 for  
20 identification.)

21 BY THE WITNESS:

22 A. Okay.

23 BY MS. GALE:

24 Q. Can you describe to me what Table 4

1 **shows?**

2 A. Yes, Table 4 shows a breakdown of  
3 engineering, like office type duties, compared to  
4 onsite resident site engineer supervision crew,  
5 guardhouse operation, for each -- each item.

6 Q. And just for the record for everyone  
7 so when they're reading this Table 4, what does  
8 D -- at the top left corner DMP, PE PC stand for?

9 A. That's my company. David M.  
10 Peterson, PE PC.

11 Q. Thank you. And turning to Table 5,  
12 which is on Page 204-90.

13 (Document marked as Complainant  
14 Exhibit No. 204-90 for  
15 identification.)

16 BY THE WITNESS:

17 A. Okay.

18 BY MS. GALE:

19 Q. Generally speaking, what does this  
20 show?

21 A. This shows other costs associated  
22 with the project. It shows utility costs that  
23 were invoiced from AT&T to North Shore Gas, it  
24 shows water discharge costs to North Shore Water

1 Reclamation District, it shows some fence  
2 construction costs and some tree clearing costs.

3 **Q. And looking at all of these tables,**  
4 **Mr. Peterson, that you prepared, do you believe**  
5 **you accurately reflected the costs for**  
6 **Campanella's services related to Sites 3 and 6?**

7 A. Yes, I do.

8 **Q. Same question. In looking at these**  
9 **tables that you prepared, do you believe you**  
10 **accurately reflected the costs for your services**  
11 **relating to Sites 3 and 6?**

12 A. Yes, I do.

13 **Q. Looking at these Tables 1 through 5,**  
14 **Mr. Peterson, how many hours did you spend to**  
15 **create this -- to work on these tables?**

16 A. It took a long time because I went  
17 through every invoice and every line item and  
18 reconciled it with progress reports and photos and  
19 I would say on the order of a couple hundred  
20 hours.

21 **Q. Excellent.**

22 MS. GALE: Nothing further. Thank  
23 you.

24 HEARING OFFICER HALLORAN: Thank

1 you, Ms. Gale. Mr. Grant?

2 MR. GRANT: Yes. Can I have one  
3 second?

4 HEARING OFFICER HALLORAN: Yes.

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

6 BY MR. GRANT:

7 Q. Mr. Peterson, can you see me?

8 A. Your head is cut off. I can see  
9 your shoulders.

10 Q. I probably look better that way.

11 I'm Chris Grant. I'm with the Attorney General's  
12 Office and I represent IDOT.

13 Let me start with the question  
14 that I tried to get Ms. Gale to ask about.  
15 Looking at -- if you can pull out those pictures  
16 if you still have them, it would be great; 214-14,  
17 214-15, 214-17 and 214-18, do you have those?

18 A. I do, yes.

19 Q. Okay. Now, you mentioned that it  
20 was your belief that this was -- this all happened  
21 at the same time, I can't remember exactly what  
22 your words, but what do you mean by the same time?

23 A. The same mobilization. In other  
24 words, it was excavated, work was done, it wasn't

1 half done, people went away, came back months  
2 later and did it again.

3 Q. Okay. You're -- you mentioned  
4 looking at -- let's go to 214-14. You observed  
5 industrial debris and asbestos and you even  
6 specified the depth that it was buried from  
7 looking at this picture.

8 I'm looking at it and I just see  
9 what looks like a hole. Where are you seeing such  
10 details like that there is asbestos in here in  
11 214-14?

12 A. I mean, I was there. I was walking  
13 in that trench. I was up close to it. The  
14 picture doesn't show me being up close to it, but  
15 I was right there.

16 Q. So did you take samples of the  
17 material and have them -- have them tested?

18 A. No, I didn't.

19 Q. Why not?

20 A. Because we were excavating and  
21 backfilling.

22 Q. Okay. In all the other photos that  
23 you've -- that you've -- not all the other ones,  
24 but in the ones we're talking about which is 14,

1 15, 17 and 18 where you've identified asbestos, is  
2 that true of all of those excavations?

3 MS. GALE: Objection. Vague.

4 BY THE WITNESS:

5 A. Is what true?

6 HEARING OFFICER HALLORAN: Hold on.

7 Ms. Gale has an objection.

8 BY MR. GRANT:

9 Q. All right. Is -- is it true of all  
10 those other excavations where you've identified  
11 asbestos that you didn't take any samples?

12 MS. GALE: Objection. Vague all  
13 those other excavations. I don't understand.

14 MR. GRANT: Fine. Let's do it  
15 picture by picture. That ought to save time.

16 BY MR. GRANT:

17 Q. In 214-15 --

18 A. Okay. 214-15.

19 Q. -- you've identified asbestos as  
20 well as industrial debris, I believe, in there,  
21 did you take samples at the location to verify  
22 that it was asbestos?

23 A. I did not.

24 Q. 214-17 where you have also

1 identified general debris as well as asbestos.

2 A. I did not sample the wall.

3 Q. You did not sample. And the same  
4 for the next one 214-18?

5 A. I did not sample the wall.

6 Q. Okay. And for the same reason that  
7 you were in the middle of an excavation, you  
8 didn't have time to take samples?

9 A. There was no -- it wasn't part of  
10 our scope of work. Our scope of work was to  
11 excavate where samples had been taken and asbestos  
12 had been found and so this whole trench was  
13 excavated because there were prior samples  
14 collected that determined there was asbestos  
15 there.

16 Our purpose was to excavate Site  
17 6 to remove the asbestos, provide a clean corridor  
18 and the limits of that were predefined and so  
19 that's what we did.

20 Q. Now, when -- when the initial  
21 evaluation is done -- was done on this and the  
22 engineering evaluation and cost analysis that was  
23 submitted to U.S. EPA, they took samples,  
24 identified the type of asbestos-containing

1 **material and then also had laboratory analysis**  
2 **done of those samples, didn't they?**

3 A. I wasn't part of the ECA. So I  
4 don't -- I don't know what they did.

5 **Q. Are you familiar with Sites 4 and 5?**

6 A. I am.

7 **Q. Okay. There was all sorts of buried**  
8 **material, there was buried transite asbestos,**  
9 **buried roofing material, brake shoe liners in**  
10 **Sites 4 and 5 as well, correct?**

11 MS. GALE: Objection. Relevance.

12 HEARING OFFICER HALLORAN: Mr.  
13 Grant -- overruled. You may proceed.

14 BY THE WITNESS:

15 A. The answer?

16 BY MR. GRANT:

17 **Q. Yes, please.**

18 A. That material was present in Sites  
19 4 and 5.

20 **Q. Are you familiar with Site 2, which**  
21 **is outside of the southwest site's area, but is**  
22 **east of Site 3?**

23 A. Yes, I am.

24 **Q. Okay. And asbestos-containing**

1 **material was found there on the surface and then**  
2 **also subsurface, correct?**

3 MS. GALE: Again, objection  
4 relevance. This lawsuit isn't about Site 2.

5 MR. GRANT: No, it's about his  
6 knowledge of asbestos.

7 HEARING OFFICER HALLORAN: I'm  
8 sorry, Mr. Grant.

9 MR. GRANT: It's about his knowledge  
10 of asbestos and subsurface asbestos.

11 HEARING OFFICER HALLORAN: Yeah.  
12 You know what, he can answer if he's able.  
13 Thanks. We have to move this along.

14 BY THE WITNESS:

15 A. I did not do the sampling at Site 2  
16 and I did not manage the remediation at Site 2.  
17 So I did not see that Site 2 up close and  
18 personal.

19 BY MR. GRANT:

20 **Q. So you haven't visited Site 2?**

21 A. Excuse me. I know where Site 2 is.

22 **Q. Okay.**

23 A. What was your question?

24 **Q. That was my question. It was have**

1     **you visited it first?**

2             A.       Yes, I know where Site 2 is.

3             **Q.       And are you aware of the asbestos**  
4     **contamination at Site 2?**

5             A.       To my knowledge, the asbestos  
6     contamination was -- the threat to exposure was  
7     abated some time ago.

8             **Q.       Have you heard of any IDOT**  
9     **involvement, and by that, I mean any road**  
10    **construction, any movement of the surface in Sites**  
11    **4, 5 or 2?**

12            A.       No.

13            **Q.       In all three of those sites, 4, 5**  
14    **and 2, they are outside of the Johns Manville**  
15    **facility, correct?**

16            A.       That's correct. Two is partially.

17            **Q.       What I mean --**

18            A.       Not completely.

19            **Q.       Yeah. What I mean is outside of the**  
20    **former Johns Manville facility.**

21            A.       Site 2 is partially on Johns  
22    Manville property.

23            **Q.       I believe that you stated you**  
24    **assisted Mr. Dorgan in providing the cost numbers**

1 for -- for his evaluation the work, the cost  
2 numbers for the work that you oversaw at the  
3 site?

4 A. That's correct. I prepared a cost  
5 summary for Mr. Dorgan.

6 Q. And the numbers that you prepared  
7 for Site 3, that was for all of Site 3, correct?

8 A. Yes, that's correct.

9 Q. And that would include the -- the  
10 Nicor gas line in Site 3?

11 A. Yes, that's correct.

12 Q. Okay. And in the numbers that you  
13 provided to him from Site 6, that included also  
14 the northern border of Greenwood Avenue for  
15 remediation at that location?

16 A. Yes, the northern shoulder of  
17 Greenwood Avenue.

18 Q. Are you familiar with --

19 A. Yes.

20 Q. I'm sorry. Are you familiar with  
21 the Board order that was issued on December 15th,  
22 2016, in this case?

23 A. I know of it. I have not read it.

24 Q. Okay. Have you -- have you made

1     **that -- have you been asked to make any effort to**  
2     **limit the costs that you reported to Mr. Dorgan**  
3     **pursuant to the findings of the Board order?**

4             A.       No, I presented total costs.

5             MR. GRANT:   Can I have one minute,  
6     Mr. Halloran.   Just one minute, Mr. Peterson.

7                     (Whereupon, a break was taken  
8                     after which the following  
9                     proceedings were had.)

10            MR. GRANT:   Back on, please.

11            HEARING OFFICER HALLORAN:   Go ahead.  
12     I'm sorry.

13            MR. GRANT:   No, it's okay.   I  
14     stopped.

15     BY MR. GRANT:

16            **Q.       Mr. Peterson, are you familiar with**  
17     **the north side of Greenwood Avenue on Site 6?**

18             A.       I am, yes.

19            **Q.       Weren't there multiple layers of**  
20     **pavement on the north side of Greenwood Avenue?**

21             A.       Partially adjacent to Greenwood  
22     Avenue.

23            **Q.       Doesn't that indicate that there**  
24     **were several road projects over a period of time?**

1           A.       I'm not really sure what it  
2 indicates. I mean, multiple layers of pavement  
3 could be because of maintenance. It could be -- I  
4 don't know.

5           **Q.       But that would indicate different**  
6 **work at different times, wouldn't it?**

7           A.       It could, sure.

8                   MR. GRANT: That's all I have,  
9 Mr. Halloran.

10                   HEARING OFFICER HALLORAN: Thank  
11 you, Mr. Grant. Ms. Gale, redirect.

12                   MS. GALE: Just a few questions.

13           R E D I R E C T           E X A M I N A T I O N  
14 BY MS. GALE:

15           **Q.       Mr. Peterson, I'm actually going to**  
16 **sit here. Can you still hear me?**

17           A.       Yes, I can.

18           **Q.       Great. Let's go to picture -- let's**  
19 **go to Exhibit 214-15.**

20           A.       Okay.

21           **Q.       I think you were asked some**  
22 **questions on these various photos and he was**  
23 **asking you about a different photo, but can you**  
24 **just point out and describe for the record and**

1 even hold up to your screen, point out for the  
2 people in the room where you see -- where you see  
3 asbestos-containing materials?

4 A. It's kind of hard to do.

5 Q. Yeah.

6 A. There's a circle right here. You  
7 can see that's a pipe, there is a piece of pipe  
8 down here.

9 Q. So let me stop you for the record.  
10 In the circle you see, is it directly below the  
11 shelf underneath the road below -- I don't even  
12 know what these things are called. Those camels,  
13 is that the circle you're seeing?

14 A. Yeah, the barricades.

15 Q. The barricade if you go down, you  
16 know, below the barricade, is that the circle that  
17 you're describing the furthest right barricade?

18 A. Yes.

19 Q. Okay. And then keep on describing  
20 for me where you see the other pipe that you  
21 believe -- that you see asbestos-containing  
22 material?

23 A. If you go further down towards this  
24 corner of the picture.

1           **Q.       The bottom right corner?**

2           A.       Horizontal. Bottom right corner.

3           **Q.       Mm-hmm.**

4           A.       I don't -- I don't know how well  
5 this is working.

6           **Q.       I got it. And that just above the**  
7 **shadow --**

8           A.       Yeah, that's right there. The  
9 picture is kind of a low resolution.

10          **Q.       Sure.**

11          A.       But those are two obvious pieces.

12          **Q.       Right. And in your experience in**  
13 **doing projects like this -- I guess I'll back it**  
14 **up.**

15                   **Mr. Peterson, how much**  
16 **experience do you have in observing**  
17 **asbestos-containing materials in soil?**

18          A.       Well, I've been observing asbestos  
19 material out here since the building demolition  
20 and we've gone through several mediation projects  
21 to close lagoons where we have dug into soil and  
22 identified asbestos of all types. So I'm -- for  
23 20 years, I have been observing asbestos out at  
24 this project.

1           **Q.       And at this project did you also see**  
2 **transite material looking at --**

3           A.       Yes, I've seen transite material in  
4 excavations before.

5           **Q.       And look at these photos 214-14,**  
6 **214-15, do you see transite materials in these**  
7 **photos?**

8           A.       Yeah, 214-15 I believe those two  
9 that I pointed out were transite material,  
10 214-14 -- kind of far away from 214-14. And the  
11 resolution is not very high. It's hard to see.  
12 But, like I said, I was in the excavation close to  
13 it.

14           **Q.       Right. When you were there looking**  
15 **at it, what did you see?**

16           A.       I saw roofing material, I saw pipes,  
17 I saw -- I saw the shingles, the granular material  
18 with the shingles, I saw some transite wallboard.  
19 That's what comes to me off the top of my head.

20           **Q.       What did all those materials**  
21 **contain?**

22                   MR. GRANT: Objection.

23 BY THE WITNESS:

24           A.       Those were all --

1 HEARING OFFICER HALLORAN: I'm  
2 sorry. Mr. Grant has an objection.

3 MR. GRANT: Yeah. He has no way of  
4 knowing. He didn't do any testing. That question  
5 cannot be reasonably answered.

6 HEARING OFFICER HALLORAN: He can  
7 answer if he is able. Proceed.

8 BY THE WITNESS:

9 A. Those are all products that in my  
10 history out at this site my experience is they  
11 contain asbestos. In the soils that we have  
12 excavated out at the site, they have been there  
13 when asbestos has been present. I know Johns  
14 Manville made products using asbestos, made these  
15 products using asbestos.

16 BY MS. GALE:

17 Q. Mr. Peterson, you were asked a few  
18 questions about when you were doing your  
19 construction work and the excavation work out  
20 there whether you sampled and conducted the  
21 sampling and you said you didn't do any sampling,  
22 but then I believe you also said -- well, I'll ask  
23 you this question.

24 Why didn't you take any samples?

1           A.       We did not need to sample the side  
2 wall of the excavation along Greenwood Avenue.  
3 That was not part of our scope of work.

4           **Q.       Right. Because who did?**

5           A.       Nobody sampled the side wall along  
6 Greenwood Avenue.

7           **Q.       Why were you excavating there?**

8           A.       We were excavating because there  
9 were samples selected that contained asbestos and  
10 we were removing those.

11          **Q.       Okay.**

12          A.       But we were not charged with digging  
13 up Greenwood Avenue.

14          **Q.       Right. But you were charged with**  
15 **digging up just south of Greenwood Avenue,**  
16 **correct?**

17          A.       Correct.

18          **Q.       And why -- why were you excavating**  
19 **there?**

20          A.       Because there were samples that  
21 contained asbestos and the asbestos had to be  
22 removed.

23          **Q.       Thank you.**

24                   MS. GALE: Nothing further.

1 HEARING OFFICER HALLORAN: Thank  
2 you, Ms. Gale. Mr. Grant?

3 R E C R O S S E X A M I N A T I O N  
4 BY MR. GRANT:

5 Q. Turning to 214-15 again.

6 A. Okay.

7 Q. And I think you identified a pipe in  
8 the lower right-hand corner of the photograph, is  
9 that where the pipe you were talking about was?

10 A. It is, yes.

11 Q. Is that a circular pipe?

12 A. Yes.

13 Q. Cylindrical. Are you aware of the  
14 allegations -- not the allegations.

15 Are you aware of the position  
16 that the parking lot that had been on the Site 3  
17 had been partially constructed or had used split  
18 transite pipe?

19 A. Yes, I heard that.

20 Q. That they were used for auto bumpers  
21 for some reason?

22 A. Yes, I heard that.

23 Q. Okay. This is not a split pipe, is  
24 it, in this photograph?

1           A.       That's a small pipe.  It's not a  
2 pipe big enough to be used as an auto bumper.

3           **Q.       But it's not split, it's intact,**  
4 **isn't it, as an attached?**

5           A.       I'm sorry.  It's not --

6           **Q.       It's -- I'm sorry.**

7           A.       It's not what?

8           **Q.       It's -- it's intact, it's not split.**

9           A.       Oh, like cut in half?

10          **Q.       Yes.**

11          A.       Is that what you're referring?

12          **Q.       Yes.**

13          A.       Yes, I would say -- I mean, that's  
14 not one of the half -- that's not a pipe that  
15 could be cut in half to be used as a parking  
16 bumper if that's what you mean.  It's a small  
17 pipe.  That wouldn't serve that purpose, I don't  
18 believe.

19          **Q.       And pipes are made out of a number**  
20 **of different materials not just transite, correct?**

21          A.       I don't know that Johns Manville  
22 made pipes at this plant out of materials that did  
23 not include asbestos.

24          **Q.       Okay.  Do you know how this material**

1 **got into the excavation?**

2 A. I do not know how this material got  
3 into the excavation.

4 MR. GRANT: That's all I have.

5 HEARING OFFICER HALLORAN: Thank  
6 you.

7 MS. GALE: One final question. I  
8 should have asked him before and I apologize.

9 FURTHER EXAMINATION  
10 BY MS. GALE:

11 **Q. In Site 6, when you did the**  
12 **excavation, were samples taken at the bottom of**  
13 **the excavation or confirmatory samples taken at**  
14 **the bottom of the excavation?**

15 A. Yes, confirmation samples were taken  
16 because we had to demonstrate the asbestos was no  
17 longer present on the bottom.

18 MS. GALE: Thank you. We're good.

19 MR. GRANT: I think we're through.

20 HEARING OFFICER HALLORAN:

21 Mr. Grant, you're done? Mr. Peterson, I have a  
22 question. You stated that you went to the  
23 University of Michigan.

24 MR. GRANT: I did. Go blue, baby.

1 HEARING OFFICER HALLORAN: And you  
2 live in the Buckeye state, how's that working?

3 THE WITNESS: I'm sorry. What's  
4 that?

5 HEARING OFFICER HALLORAN: And you  
6 live in the Buckeye state?

7 THE WITNESS: Oh, my gosh it's  
8 horrible. The last 19 years with, what is it, two  
9 wins? I get pummeled every single November. It's  
10 now I'm just hoping since it's in December I have  
11 a chance. There might be enough snow to slow the  
12 Buckeyes down. That's what I'm hoping for.

13 HEARING OFFICER HALLORAN: Good luck  
14 and thank you, Mr. Peterson.

15 MS. GALE: Thank you.

16 MS. BRICE: Thank you.

17 THE WITNESS: All right. Thank you,  
18 buh-bye.

19 HEARING OFFICER HALLORAN: We're off  
20 the transcript.

21 (Whereupon, a break was taken  
22 after which the following  
23 proceedings were had.)  
24

1 WHEREUPON:

2 DOUGLAS DORGAN

3 called as a witness herein, having been first duly  
4 sworn, deposeseth and saith as follows:

5 DIRECT EXAMINATION

6 BY MS. BRICE:

7 Q. Good afternoon, Mr. Dorgan.

8 A. Good afternoon.

9 Q. Okay. Could you please state your  
10 name for the record.

11 A. Douglas G. Dorgan, Junior.

12 Q. And you testified for Johns Manville  
13 in this case before, correct?

14 A. That's correct.

15 Q. And I'll refer to that as the  
16 liability hearing.

17 A. That's fine.

18 Q. You were found to be an expert for  
19 purposes of offering your opinions in the  
20 liability hearing, is that right?

21 A. That's correct.

22 MS. TIPSORD: Off the record for  
23 just a second.

24

1 (Whereupon, a discussion was had  
2 off the record.)

3 BY MS. BRICE:

4 **Q. Mr. Dorgan, can you just briefly**  
5 **describe your educational background for us.**

6 A. I have a Bachelor's of Science in  
7 Earth Science with a minor in Geology and I have a  
8 Master of Science in Geography with a  
9 concentration in environmental science.

10 **Q. And can you tell us a bit about your**  
11 **work history.**

12 A. I've been an environmental  
13 consultant since roughly 1986. Early in my  
14 career, I did a wide variety of work including  
15 environmental/civil engineering surveying. As I  
16 progressed in my career, I began doing and  
17 concentrating more on the environmental side and  
18 in that capacity I've managed environmental  
19 investigations, I have managed design of  
20 remediation systems, I have prepared bid  
21 documents, I have let out bids, I have evaluated  
22 bids, I have evaluated pay requests under those  
23 bids and a number of different times I have been  
24 involved in allocating costs related to the

1 implementation of environmental work.

2 Q. And what is your current title?

3 A. Co-president.

4 Q. Co-president of what?

5 A. Weaver Consultants Group and its  
6 affiliated entities.

7 Q. Okay. And I did what Kristen did.  
8 I forgot to pass out the binders. Sorry about  
9 that.

10 HEARING OFFICER HALLORAN: We can go  
11 off the record.

12 (Whereupon, a break was taken  
13 after which the following  
14 proceedings were had.)

15 BY MS. BRICE:

16 Q. One thing. You are -- are you  
17 familiar with the opinion in this case?

18 A. With the opinion?

19 Q. The Board's opinion in this case?

20 A. Yes, ma'am.

21 Q. And have you read it?

22 A. Yes, I have.

23 Q. And what generally did the Board  
24 conclude?

1           A.           That IDOT was found to have violated  
2 the act in allowing the placement of asbestos  
3 materials as part of their construction project at  
4 Greenwood Avenue.

5           **Q.           And where -- any other spots?**

6           A.           Well, between both Site 6 and Site  
7 3, various areas on both of those two sites.

8           **Q.           Could you please turn to Exhibit**  
9 **204. Do you recognize this?**

10          A.           Yes, I do.

11          **Q.           And what is it?**

12          A.           This is my June 13th, 2018, Expert  
13 Report of Douglas G. Dorgan, Junior on Damages  
14 Attributable to IDOT.

15          **Q.           Okay. And does it contain your --**  
16 **at least your initial opinions in this case?**

17          A.           Yes, it does.

18          **Q.           And you -- you actually had a**  
19 **rebuttal report in this -- I'm sorry. You had --**  
20 **let's just back up. Let's keep going.**

21                        **Can you turn to 204-4, please.**  
22 **Here you lay out your various qualifications in**  
23 **204-4 and 204-5, correct?**

24

1 (Document marked as Complainant  
2 Exhibit No. 204-4 and 204-5 for  
3 identification.)

4 BY THE WITNESS:

5 A. That is correct.

6 BY MS. BRICE:

7 **Q. And, in particular, are some**  
8 **examples of your experience that are relevant to**  
9 **your work in the damages phase of this matter?**

10 A. I have previously completed projects  
11 where environmental work had been completed.  
12 There were various parties that were involved,  
13 that had been funding the cost of the cleanup and  
14 part of my responsibility was to evaluate both  
15 contribution and allocate out the cost based upon  
16 the contributions that were made to the cleanup  
17 scope of work.

18 **Q. What about with respect to your**  
19 **engineering -- your background on dealing with**  
20 **environmental cleanups and surveying and that sort**  
21 **of thing?**

22 A. It's just been relevant to a lot of  
23 the technical issues that are involved in this  
24 particular matter in terms of your original road

1 construction that took place, the various  
2 discussions around some of the figures, the  
3 elevations of where things happened. It's all  
4 been very relevant and contributory.

5 **Q. And your experience in that area**  
6 **goes back how far?**

7 A. 1986.

8 **Q. On 204-5, you have a section about**  
9 **information considered.**

10 **Can you briefly describe for us**  
11 **what information you considered in comparing this**  
12 **report -- preparing this report?**

13 A. Yeah. So as I lay out here of  
14 course I looked at the documents that had been  
15 prepared historically, including those that had  
16 been generated and used in the earlier phase of  
17 hearing, reviewed the depositions that had been  
18 taken by a number of the witnesses that were  
19 called, reviewed the work plan and the final  
20 report that was generated for the work that was  
21 implemented and then, of course, spent a lot of  
22 time looking at the costs that were incurred as  
23 tabulated by Dr. Ebihara and Mr. Peterson.

24 **Q. Okay. With respect to the**

1 information you relied upon, is this the type of  
2 information reasonably relied upon by experts in  
3 your field?

4 A. Yes.

5 Q. Since the parties have stipulated  
6 to the costs incurred, I'd like you to briefly  
7 explain what you did briefly to determine that  
8 JM occurred \$5,579,794 in response costs at  
9 Sites 3 and 6?

10 A. Well, basically, I asked Dr. Ebihara  
11 and Mr. Peterson to tabulate their costs that they  
12 had been respectfully managing and they provided  
13 that to me. Of course as we have previously  
14 heard, there were a couple variations on that as I  
15 was asking questions and having those questions  
16 responded to. And then once I had them, I had to  
17 try to make sense of them. There was some strong  
18 alignment even with what was originally given to  
19 me. I believe Dr. Ebihara kind of categorized it  
20 as categories. Mr. Peterson categorized it as  
21 work elements. I coined the term task bucket just  
22 for purposes of making sense out of how the work  
23 was grouped between the two parties that were  
24 managing different aspects of the work.

1 Q. If you look at Page 9 through --  
2 204-9 through 204-13 of your report. And I'm  
3 going through this quickly simply because most of  
4 this is stipulated to.

5 Can you just -- what are these  
6 pages detailing?

7 (Document marked as Complainant  
8 Exhibit No. 204-9 - 204-13 for  
9 identification.)

10 BY THE WITNESS:

11 A. So these pages are basically  
12 grouping the different types of costs in terms of  
13 broader categories before splitting them into the  
14 task buckets. So here I'm looking initially at  
15 the professional engineering services, which was  
16 primarily the work that Dr. Ebihara was  
17 responsible for through his involvement with the  
18 project. I then looked separately at the  
19 construction services.

20 Those were more related to the  
21 work that Mr. Peterson had overseen and then the  
22 way that I broke that out is I kind of looked at  
23 the contractor's costs, which were here at the top  
24 under 2.1.2.1 Campanella -- and performed by

1 Campanella & Sons and then Mr. Peterson's company  
2 had provided onsite management services. So I  
3 looked at his costs and grouped them together and  
4 then there were a series of incidental costs that  
5 were more directly related to the utility  
6 companies and some of the fencing that had to be  
7 put up around the site and then finally I was  
8 provided with some cost detail for Donald Manikas  
9 who had provided some legal support on the utility  
10 work and then finally U.S. EPA's regulatory  
11 oversight costs were provided and I included those  
12 in the tabulation as well.

13 BY MS. BRICE:

14 **Q. And why did you ask for a tabulation**  
15 **of all of the costs for Site 3 and Site 6?**

16 A. I needed to have a starting point to  
17 understand what the total cost, what the total  
18 spending was on Site 3 and Site 6 so I could begin  
19 trying to pull out those that were not related to  
20 the Board's opinion in terms of their findings in  
21 the earlier hearing.

22 **Q. If you take a look at 204, just turn**  
23 **the page, a couple of pages 13 and 15 there are --**  
24 **you have your discussion of I guess it's 13, 14**

1 and 15 discussion of reasonableness, which, again,  
2 is stipulated to.

3 Can you just really briefly  
4 tell us what you did to come to that opinion?

5 A. Well, you know, obviously, first, I  
6 wanted to know I had everything and that I was  
7 tracking it accurately. So I was creating some  
8 tables that allowed me to crosscheck my  
9 tabulations. I then kind of looked at the costs  
10 themselves just to get a feel for whether they  
11 were reasonable in terms of what I could have  
12 expected for the type of work that was implemented  
13 and I lay out here a number of bases for coming to  
14 the conclusion that I felt that they were  
15 reasonable and then after I had done that I began  
16 looking at whether or not the costs had actually  
17 been paid and found that they had been in each  
18 instance.

19 Q. Okay. Let's go to 204-16 of your  
20 report.

21 (Document marked as Complainant  
22 Exhibit No. 204-16 for  
23 identification.)  
24

1 BY MS. BRICE:

2 Q. You say that after the cost had been  
3 allocated into the task buckets, you needed to,  
4 quote, determine how best to align the task  
5 buckets to the Board's finding of liability which  
6 focused on boring locations, how did you do this?

7 A. Basically what I looked at was the  
8 Board had identified a series of locations that  
9 they had ruled as being IDOT's responsibility for  
10 the conditions that existed at those locations. I  
11 then considered the work that ended up being done  
12 as a result of the presence of those locations in  
13 terms of, you know, at those locations there was  
14 certain work that was caused by the fact that the  
15 conditions existed at the locations where the  
16 Board had ruled the asbestos could be present. So  
17 that's how I began doing my attribution of costs  
18 that were incurred at both sites.

19 MS. O'LAUGHLIN: I'm going to lodge  
20 an objection here. Some more foundation about how  
21 you allocated your costs -- I get with the borings  
22 and things like that, but the last thing I think  
23 that we need some more foundation in your  
24 testimony today.

1 MS. BRICE: I'm sorry. The  
2 allocation into the task buckets was done by  
3 Dr. Ebihara and Mr. Peterson.

4 MS. O'LAUGHLIN: Right.

5 MS. BRICE: So his attributions  
6 we're going to go through in detail.

7 MS. O'LAUGHLIN: Okay.

8 MS. BRICE: This is just sort of a  
9 setup question.

10 MS. O'LAUGHLIN: Okay.

11 BY MS. BRICE:

12 Q. Okay. If you take a look at 204-38,  
13 which I actually have up here and I imagine it is  
14 going to magically appear on the screen over here.

15 MS. BRICE: Thank you, Drew.

16 BY MS. BRICE:

17 Q. This is -- this is the Dorgan Figure  
18 1 that we have been referring to previously. Who  
19 created this document?

20 A. I did.

21 Q. And why did you create this map?

22 A. I was trying to show the various  
23 work elements that took place across both Site 3  
24 and Site 6.

1 Q. Okay. I want you to orient us a  
2 little bit and I'm going to serve as your pointer  
3 and I'm going over here so you guys can see.

4 So where -- where is the Johns  
5 Manville, you know, former site?

6 A. North and east of these two.

7 Q. So up here --

8 A. That's correct.

9 Q. -- is that right? And then where is  
10 Lake Michigan?

11 A. East.

12 Q. So it's over here?

13 A. Correct.

14 Q. And so is this Site 3 right here,  
15 this kind of -- I don't even know what that is a  
16 trapezoid or something like that?

17 A. Yes, that's Site 3.

18 Q. That's Site 3. And then you've got  
19 0393 is here with this black line, is that  
20 correct, right here on the northwest portion of  
21 Site 3?

22 A. That's correct.

23 Q. And then Site 6 starts here a little  
24 bit west of 01S and 01N, correct?

1 A. That's correct.

2 Q. And then goes further east as we've  
3 previously discussed, correct?

4 A. That's correct.

5 Q. Okay. And there is a bunch of --  
6 what -- what do we have here? What do we have  
7 here?

8 A. That's the North Shore gas line.

9 Q. That's the North Shore gas line.  
10 And what is this line here?

11 A. The Nicor gas line.

12 Q. And there is some lines that have  
13 Ts on them. I believe there is one here, there is  
14 one here, there is one here, there is one up  
15 there, what are those?

16 A. AT&T telephone lines.

17 Q. And what is this purple line coming  
18 down there?

19 A. That's a fiberoptic line.

20 Q. Okay. And then what about up here?

21 A. That is a fiber line as well.

22 Q. Okay. And we have green in here.  
23 What is the green denoting?

24 A. That is referred to as the

1 embankment.

2 Q. And what -- what is this up here,  
3 this backwards L?

4 A. That's the City of Waukegan  
5 waterline.

6 Q. And then here -- down here on your  
7 legend you say, "Note sample locations with ACM  
8 detected above or equal to 0.2 percent and/or  
9 visibly observed ACM are shown," do you see that?

10 A. I do.

11 Q. Okay. Why -- why did you pick those  
12 sample locations to go on your map?

13 A. Well, the original work that had  
14 been done at the site had been -- the site had  
15 been graded out and there were samples collected  
16 from every grid. So there was a lot of sampling  
17 data that did not show asbestos. These were the  
18 ones that had. So I thought they were relevant to  
19 making the demonstration of where asbestos was  
20 detected on the property.

21 Q. Okay. Thank you. One more thing  
22 about this.

23 So they're boring locations in  
24 Site 3 with Bs on them, B3s on them. What kind of

1 **borings were those?**

2 A. Those would have been soil borings.

3 **Q. Okay. And how big is a soil boring?**

4 A. Most of the time they're about two  
5 inches in diameter.

6 **Q. Two inches in diameter. And how do**  
7 **you take a soil boring?**

8 A. You pound a sampling device down  
9 into the ground. As you pound it down, there's an  
10 opening at the end and the soil goes up into the  
11 device and then when you bring it to the surface  
12 you crack it open and then you can see the soil  
13 profile from the depth that you've just collected  
14 the sample from.

15 **Q. And is -- is the -- is the two**  
16 **inches representative of how much contamination is**  
17 **located in and around that particular area in the**  
18 **environmental field?**

19 A. Typically, the boring and the sample  
20 that you pull ends up being representative of a  
21 larger area, not just the specific location where  
22 the sample was pulled.

23 **Q. Okay. And then up here in this 01S**  
24 **through 08S, 01N through 8N and then I think there**

1 is some S -- S3-50s and a few other in here, what  
2 kind of boring locations were those?

3 A. Those were test pits.

4 Q. Okay. And how big is a test pit?

5 A. It can vary. Typically, it's the  
6 width of an excavator bucket to some usually four  
7 feet, five feet by five feet. It can vary, but  
8 depending on the excavator used.

9 Q. Okay. And is that sample done with  
10 the test pit, is that necessarily representative  
11 of what is below the sample?

12 A. Below --

13 Q. How much -- how much contamination  
14 is right around the sample or is part of the  
15 sample?

16 A. Again, usually the sample that is  
17 collected from a test pit is going to be a sample.  
18 So, therefore, it's representative of the  
19 materials around it, not necessarily just the  
20 sample itself.

21 Q. Okay. And Dorgan Figure 1 here,  
22 how -- how is this created? We have had some  
23 discussion about AutoCAD and that Mr. --  
24 Dr. Ebihara gave you his AutoCAD, what does that

1 **mean to you? What happened?**

2 A. So -- there's a notation at the  
3 bottom of our figure that references the fact that  
4 we had -- we had based our drawing off of AECOM's  
5 original DWG. That's a file format used for  
6 AutoCAD. So we're able to receive a DWG file,  
7 we're then able to open it in our own AutoCAD  
8 software and then as was described earlier in that  
9 file there is a series of layers and we can choose  
10 which layers to look at and which layers to look  
11 at.

12 The reason they're in layers is  
13 because if you put everything into one layer you  
14 would hardly be able to see anything because there  
15 would be so much information. So what you do is  
16 you put certain information on each layer and then  
17 you choose what layers you're going to look at in  
18 terms of what you're trying to represent.

19 **Q. Does the -- when you get the DWG**  
20 **file from Dr. Ebihara and you put it into your**  
21 **AutoCAD, is it going to be showing the same thing**  
22 **it would be showing in his AutoCAD?**

23 A. Yes.

24 **Q. Okay. And will it show -- will the**

1 **state plane coordinates automatically be placed on**  
2 **your figure?**

3 A. Yes.

4 **Q. And, again, the state plane**  
5 **coordinates are what?**

6 A. They're a geographic information  
7 system that is used to ground -- ground locate  
8 certain features relative to survey information so  
9 that you can be precise in terms of where things  
10 are actually located.

11 **Q. Okay. So we had earlier, and I'm**  
12 **doing this for purposes of brevity, I think it was**  
13 **an exhibit that was a screenshot of the AutoCAD,**  
14 **do you remember that?**

15 A. Yes.

16 **Q. That is not the AutoCAD drawing that**  
17 **you were using, that screenshot itself, to create**  
18 **the maps and figures in Dorgan 1, is it?**

19 A. I didn't actually see the  
20 screenshot. So I'm not actually sure what it  
21 showed.

22 **Q. Here, I think it is 229F something.**  
23 **So this was --**

24 MS. BRICE: Do you have it?

1 MR. NISHIOKA: I definitely have it.  
2 I saved it somewhere.

3 BY MS. BRICE:

4 Q. So this was a screenshot taken so  
5 this is -- this is not exactly what you used. I  
6 mean, why don't you explain it. How -- explain  
7 what this is compared to how this is used to  
8 create your maps?

9 A. Yeah. So there is -- I mean, the  
10 screenshot shows some basic information, but you  
11 can see it doesn't show everything. So it's a  
12 screenshot of whatever layers were actually being  
13 projected at the time that the screenshot was  
14 taken.

15 Q. So it's not everything that is in  
16 the AutoCAD file that you gave to Mr. Dorgan --  
17 Dr. Ebihara gave to you?

18 A. That's correct.

19 Q. Thank you. What agency or agencies  
20 oversaw the cleanup of Sites 3 and 6?

21 A. U.S. EPA and IEPA.

22 Q. Did AECOM submit its Site 3 and Site  
23 6 maps to U.S. EPA?

24 A. Yes.

1 Q. And are you familiar with those  
2 maps?

3 A. Yes.

4 Q. And did U.S. EPA approve them?

5 A. Yes.

6 Q. And does Dorgan Figure 1, does it  
7 align with those maps submitted to U.S. EPA?

8 A. Yes.

9 Q. How do you know that?

10 A. Because we did a comparison.

11 Q. You did a comparison. Who did a  
12 comparison?

13 A. Weaver Consultants did.

14 Q. Okay. You and -- did you do it  
15 yourself or did you have help?

16 A. Ms. Dunton supported me on that.

17 Q. Is that Riah Dunton?

18 A. Yes, correct.

19 Q. And did you approve of the  
20 comparison that she did?

21 A. Yes.

22 Q. Your report refers to multiple task  
23 buckets, what is a task bucket in your mind?

24 A. It's a consolidation of the work

1 that was taking place around kind of a more  
2 specific work effort that was occurring at the  
3 site.

4 Q. Turn to 204-7 in your report,  
5 please.

6 (Document marked as Complainant  
7 Exhibit No. 204-7 for  
8 identification.)

9 BY MS. BRICE:

10 Q. Here, you discuss the history of the  
11 remedial action process. Can you please summarize  
12 that for us?

13 A. So obviously there had been a number  
14 of investigations that occurred at the site.  
15 Things really kind of got going when the  
16 engineering evaluation and cost analysis, which we  
17 had been earlier heard as an ECA was submitted by  
18 Johns Manville to U.S. EPA. U.S. EPA commented on  
19 that, went through a series of revisions before it  
20 was finally summarized and then under that there  
21 had been a series of options considered for what  
22 was going to be done for corrective action at both  
23 Sites 3 and 6 and then based upon that back and  
24 forth EPA issued what's referred to here as an

1 enforcement action memorandum and that's what  
2 really drove the work that ended up having to be  
3 done at the site. It was the enforcement action  
4 memorandum that really became the basis for  
5 developing the scope of work that was eventually  
6 written into the removal work plan that was  
7 prepared by AECOM.

8 Q. Okay. And let's turn to Exhibit 65,  
9 please.

10 (Document marked as Complainant  
11 Exhibit No. 65 for  
12 identification.)

13 BY MS. BRICE:

14 Q. Are you there?

15 A. Yes, I am.

16 Q. Is this the enforcement action  
17 memorandum?

18 A. Yes, it is.

19 Q. And this was written by U.S. EPA?

20 A. That's correct.

21 Q. Okay. If you turn to Page 5 --  
22 65-5?

23  
24

1 (Document marked as Complainant  
2 Exhibit No. 65-5 for  
3 identification.)

4 BY THE WITNESS:

5 A. Yes.

6 BY MS. BRICE:

7 **Q. What are the utilities on Sites 3**  
8 **and 6 reflected in this document?**

9 A. The Site 3 utilities are the North  
10 Shore gas line, the City of Waukegan waterline  
11 Commonwealth Edison both underground electric and  
12 fiberoptic lines, the Nicor gas line and then a  
13 series of AT&T telephone cables.

14 And then on Site 6 we have more  
15 AT&T telephone cables, the North Shore gas line,  
16 the City of Waukegan waterline and then, again,  
17 Commonwealth Edison both underground electric and  
18 fiberoptic lines.

19 **Q. Okay. Can you turn to 65-16,**  
20 **please.**

21 MS. BRICE: And, Drew, if you can  
22 please pull that up for us.

23  
24

1 (Document marked as Complainant  
2 Exhibit No. 65-16 for  
3 identification.)

4 BY MS. BRICE:

5 Q. If you'll go down to maybe it's the  
6 second to last sentence. It starts with  
7 "Therefore" under B. Sorry.

8 A. I see it.

9 Q. Okay. Can you read that to us?

10 A. It says, "Therefore, excavation of  
11 clean corridors for all such utilities must be  
12 provided as soon as possible to prevent potential  
13 release of ACM and asbestos fibers.

14 Q. What does this mean to you?

15 A. Basically, that means that they --  
16 U.S. EPA was requiring that a clean corridor be  
17 created for certain utilities as a result of the  
18 asbestos that was identified in proximity of the  
19 utilities.

20 Q. Right. And in the sentence right  
21 before that, it talks about "In the event of a  
22 breach or other loss of integrity, pressurized  
23 utilities and underground utilities also have the  
24 potential to force overlying soils to the surface

1 **resulting in the potential release of ACM and**  
2 **asbestos fibers," do you see that?**

3 A. I do.

4 Q. Now, if you can turn to 65-11,  
5 please.

6 (Document marked as Complainant  
7 Exhibit No. 65-11 for  
8 identification.)

9 BY MS. BRICE:

10 Q. This is just by way of example.  
11 This is -- what is this? They have Site 3  
12 modified alternative 2, what is this? Is this  
13 EPA -- what is EPA doing here?

14 A. They are basically laying out  
15 certain conditions relative to the alternatives  
16 that have been presented in the ECA.

17 Q. Are they making a decision as to  
18 what needs to be done?

19 A. That's correct.

20 Q. Okay. And what do they say onsite  
21 3B utility areas, means needs to be done?

22 A. Well, as it says here "Within 90  
23 days of approval of the work plan, excavate soil  
24 and sediments contaminated with ACM and/or

1 asbestos fibers to a minimum depth of two feet  
2 below each utility line and extending to the depth  
3 requested by the owner of the utility line with  
4 placement of a continuous barrier at the base and  
5 sides of the excavation to inhibit further  
6 excavation and/or exposure beyond the clean fill  
7 and a minimum width of 25 feet centered on each  
8 utility line and clean backfill to provide a clean  
9 corridor for utility maintenance on Site 3."

10 **Q. So what is this telling you about**  
11 **which utilities needed clean corridors?**

12 A. Basically all of them.

13 **Q. And was there anything specific --**  
14 **is that because -- why is that? Because they had**  
15 **asbestos detected near them?**

16 A. That's correct. And what they're  
17 trying to do is prevent the possibility that in  
18 the future workers come to maintain those lines  
19 and at that point they're not dealing with hazards  
20 associated with potential asbestos exposure.

21 **Q. Okay. If you can turn to 79 --**  
22 **Exhibit 79 in your book, please, for me and**  
23 **actually 79 -- and what is this?**

24

1 (Document marked as Complainant  
2 Exhibit No. 79 for  
3 identification.)

4 BY THE WITNESS:

5 A. This is a correspondence from Bryan  
6 Cave on behalf of Johns Manville responding to the  
7 administrative order on consent. Basically  
8 lodging a dispute concerning the enforcement  
9 action memorandum that U.S. EPA had issued.

10 BY MS. BRICE:

11 Q. Okay. If you turn to Page 79-7  
12 under U.S. EPA action memorandum?

13 (Document marked as Complainant  
14 Exhibit No. 79-7 for  
15 identification.)

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. BRICE:

19 Q. Second sentence, can you read that  
20 into the record, please.

21 A. Starting with "The new remedy"?

22 Q. Yes, please.

23 A. "The new remedy expands the  
24 necessary excavation to include clean corridors

1 for all utilities regardless of whether impacts  
2 from ACM were noted in the overlying soil during  
3 the assessment."

4 Q. Okay. Is it your understanding of  
5 what occurred, meaning that there was asbestos in  
6 one part of the -- one part of the line and then  
7 they had to take out the entire line?

8 A. They had to create a clean corridor  
9 for the entire line.

10 Q. So that's your understanding of what  
11 U.S. EPA was requiring?

12 A. That's correct.

13 Q. If you can turn to 120, please. And  
14 have you seen this before?

15 (Document marked as Complainant  
16 Exhibit No. 120 for  
17 identification.)

18 BY THE WITNESS:

19 A. Yes, this appears to be the EPA  
20 response to the ECA.

21 BY MS. BRICE:

22 Q. And if you turn to Page 120-3.  
23 Paragraph 8 if you take a second and read this and  
24 then if you can summarize for us what -- what U.S.

1 **EPA is saying here?**

2 (Document marked as Complainant  
3 Exhibit No. 120-3 for  
4 identification.)

5 BY THE WITNESS:

6 A. Well, they're taking a relatively  
7 conservative approach. They recognize that the  
8 ACM across the site is somewhat sporadic, both in  
9 location and at depth and because of that they are  
10 still requiring that the full utility clean  
11 corridors be -- be advanced.

12 BY MS. GALE:

13 Q. Okay. What about in the sampling  
14 locations, so for the grids that contain ACM. It  
15 says the boundary of ACM-containing material  
16 should be extended all the way to the nearest  
17 non-detect sample, what does that mean?

18 MS. O'LAUGHLIN: I'm sorry. Where  
19 are you?

20 MS. BRICE: 120-3 middle of  
21 Paragraph 9.

22 BY THE WITNESS:

23 A. Basically what it is saying is there  
24 is no asbestos at a certain location and at

1 another location it's deemed to be there was no  
2 asbestos detected. So they're taking the  
3 materials out up to that next clean sample being  
4 conservative that -- wherever that demarcation  
5 line is between, it's been captured.

6 BY MS. BRICE:

7 Q. So if one sample was contaminated,  
8 they had to clean up everything -- in a grid, they  
9 had to clean up everything within that grid, is  
10 that correct?

11 A. That's correct.

12 Q. And then everything else around it  
13 until they got to a clean grid?

14 A. To a clean grid.

15 Q. Okay. After creating this map,  
16 Dorgan Figure 1, you say you defined what you  
17 called the IDOT areas of liability, what do you  
18 mean by this?

19 A. So, for me, the IDOT areas of  
20 liability I started with the borings that had been  
21 identified in the Board's ruling and then I  
22 considered what work had to be done because of the  
23 presence of the asbestos in those specific borings  
24 and I, therefore, attributed that work that was a

1 result of and had been caused by the presence of  
2 the asbestos at the locations that the Pollution  
3 Control Board had identified them as the IDOT area  
4 of liability.

5 Q. Okay. Let's -- let's walk through  
6 this. 204-16.

7 A. Just one second, please.

8 Q. Take a look at 204-16. Site 3 IDOT  
9 area of liability. Do you have that?

10 A. Yes, I do.

11 Q. You start out and you identify an  
12 area of liability with respect to Parcel 0393, can  
13 you explain this, please?

14 A. Yes. Well, first of all, a number  
15 of the borings that had been identified as having  
16 contained asbestos were located within 0393 and  
17 then I also understood that IDOT had been  
18 determined to have been owner of and in control of  
19 Parcel 0393. So all of the activities that took  
20 place within 0393 I found to be an area of  
21 liability for IDOT.

22 MS. O'LAUGHLIN: Objection. I'd  
23 like to lodge an objection here on relevance. The  
24 Board's order was very clear on what areas should

1 be included and any testimony regarding areas  
2 outside of that area in 0393 is not relevant to  
3 this proceeding.

4 HEARING OFFICER HALLORAN: Ms. --

5 MS. BRICE: Yes, I completely  
6 disagree. I think the Board's order is clear in  
7 the other direction in that it's all about the  
8 interest or control with respect to 0393. That's  
9 by which they were found liable and at the time of  
10 the first hearing the Waukegan waterline location  
11 was not known as we have already heard testimony  
12 about and some of the work that was done -- the  
13 ramp had not been done and if you read the intent  
14 of the Board's decision a violation under 21(a)  
15 relates to if you own or control something and  
16 they said the Parcel 0393 was owned and controlled  
17 by -- or they held a possessory interest in --  
18 sorry. Own is not accurate. And that that is how  
19 Mr. Dorgan interpreted it, it's how I interpreted  
20 it and I think that that's obviously relevant to  
21 the -- the Board can make up its mind as to how  
22 that happens, but I think the evidence should come  
23 now.

24 HEARING OFFICER HALLORAN: As

1 before, I said the order, the 2016 order, it was a  
2 little confusing and -- but based on what they had  
3 to work with, it's understandably so. I've given  
4 so far, and I have given, the parties a little  
5 latitude. The Board can interpret their own order  
6 and move forward. Because I know we don't want to  
7 come back here again. So I think we should -- we  
8 should go with it and have the Board decide what  
9 they meant in the 2016 order.

10 MS. BRICE: Thank you, Mr. Halloran.

11 HEARING OFFICER HALLORAN: You may  
12 proceed. Thank you.

13 MS. BRICE: Okay.

14 BY MS. BRICE:

15 **Q. So you have 0393 as part of your**  
16 **IDOT area of liability and then you have certain**  
17 **boring, sample borings, as part of your IDOT area**  
18 **of liability, can you explain that, please.**

19 A. Yeah, these were specifically  
20 referenced in the Board order B3-25, B3-15, B3-16,  
21 B3-50 and B3-45 the work that was done that was  
22 related to these sample locations I included as  
23 part of the Site 3 area of liability.

24 **Q. Or your damages, right, the damages**

1 with respect to the response costs?

2 A. That's correct.

3 Q. And so the area of liability are the  
4 areas that the Board recognized and then you used  
5 that, as I understand it, to develop your  
6 attribution?

7 A. To the extent -- to the extent any  
8 work was done related to those borings, I included  
9 it in the attribution.

10 Q. Okay. And why is that? What made  
11 you -- what about the Board's order made you do  
12 that?

13 A. The Board references that the --  
14 that IDOT should be responsible for the work that  
15 was implemented, that was caused by the actions  
16 and conditions that were determined to be their  
17 responsibility from the earlier hearing. So I  
18 just maintained that approach in the way I looked  
19 at the attribution.

20 Q. On Site 6, you identify the area of  
21 01S/04S in your IDOT area of liability, why is  
22 that?

23 A. That was specifically referenced in  
24 the Board order.

1 Q. And then you -- you include 05S to  
2 08S in your IDOT area of liability. Did the Board  
3 specifically find that IDOT buried ACM from 05S to  
4 08S?

5 A. No.

6 Q. So just to keep for reference here.  
7 Sorry. You guys know.

8 So 01S through 04S goes to here  
9 and 05S through 08S goes to here, correct?

10 A. That's correct.

11 Q. Briefly, and I'll go into this more  
12 in detail, why did you include 05S to 08S in your  
13 IDOT area of liability?

14 MS. O'LAUGHLIN: Objection.  
15 Similarly -- but similarly for the reasons I  
16 object to relevance again. The liability  
17 regarding 05S to 08S was litigated at the first  
18 hearing. So any testimony about 05S to 08S is  
19 outside of the purpose of this hearing.

20 HEARING OFFICER HALLORAN: I'll  
21 allow it. The Board can disregard if they see  
22 fit, but you may proceed. Thank you.

23 MS. BRICE: Thank you.

24

1 BY MS. BRICE:

2 Q. Why did you include 05S through 08S  
3 generally?

4 A. Well, first, I wasn't sure that the  
5 conditions that had been evaluated by the Board in  
6 the earlier hearings were necessarily completely  
7 understood. I thought maybe there was a  
8 disconnect in an understanding of some of the  
9 earlier work, but more importantly I felt that  
10 there was new information that had been generated  
11 as a result of the actual removal that had taken  
12 place and as Mr. Peterson earlier testified, and I  
13 agree with him based on my own independent  
14 evaluation of the photos that he provided, I  
15 believe that what was seen during the removal  
16 action was a seam of asbestos that ran from  
17 basically the west end of Site 6 out to 04S which  
18 it earlier had been identified as having been  
19 IDOT's responsibility, but that seam continued out  
20 past 08S and I concurred with Mr. Peterson in  
21 looking at the information that is available that  
22 that seam of asbestos material appears to be  
23 consistent. There doesn't appear to have been  
24 multiple construction efforts when those materials

1 would have been placed and, therefore, it was my  
2 opinion that if IDOT was responsible for 01S to  
3 04S it was the same of material that continued out  
4 to 08S and I felt that it should be included as  
5 part of my attribution.

6 MS. O'LAUGHLIN: I'd like to  
7 complete my objection here. The things that  
8 Mr. Dorgan is talking about would have been more  
9 proper in a motion for reconsideration. He is  
10 basically talking about reopening things that were  
11 dealt with days in the first hearing. To allow  
12 him to again present testimony and regarding 05S  
13 to 8A is something we have already done and to the  
14 extent that we can streamline this it would be  
15 helpful -- or it would be appropriate. This  
16 should have been done through a motion for  
17 reconsideration. It should not be the subject of  
18 this hearing.

19 HEARING OFFICER HALLORAN: Okay.  
20 I'll address that in a minute. I think I already  
21 have three times. Ms. Brice.

22 MS. BRICE: Sure. I think  
23 Mr. Dorgan has testified, and we'll get into this,  
24 in addition his argument is based upon causation

1 from the Board's order as a result of the Board's  
2 order says one party can recover costs as a result  
3 of the other party's violations and we've just  
4 heard that underneath 04S is a consistent seem of  
5 asbestos, whether it's -- if 05S, 06S, 07S, 08S  
6 that's one issue, but there is other things that  
7 Mr. Dorgan will talk about as to his causation  
8 opinion with respect to 05S to 08S that I think  
9 are relevant here and we're not going to spend --  
10 you can see I'm running through this pretty fast.  
11 So we're not going to spend a lot of time on this.

12 HEARING OFFICER HALLORAN: Yeah,  
13 IDOT's objection is noted and, again, if it is  
14 beyond the scope, I would ask the Board to  
15 disregard it, but I think, you know, it's their  
16 neighborhood to interpret their 2016 order and if  
17 it is beyond the scope, they will throw it out and  
18 not look at it, but so noted Ms. O'Laughlin and  
19 Ms. Brice said she'll try to streamline this  
20 matter along 05S and 08S. So overruled. You may  
21 proceed.

22 BY MS. BRICE:

23 Q. So, in your opinion, what was found  
24 underneath 04S?

1           A.       Asbestos-containing material in the  
2 layer with fill that had been placed during the  
3 IDOT road project.

4           **Q.       And how far did that layer expand?**

5           A.       It extended at least as far as the  
6 western end of Site 6 and out past 08S.

7           **Q.       You also say that Mr. Peterson said**  
8 **he encountered soils with ACM within IDOT fill**  
9 **materials, can -- can you explain this and how**  
10 **this supports your opinion?**

11          A.       Well, the zone -- as we had  
12 determined in the earlier hearing there was a zone  
13 of fill materials that were placed during the road  
14 construction project that were subsequently having  
15 to be excavated and of the materials that were  
16 excavated that were found to be within the seam  
17 that was in that zone of material that had earlier  
18 been determined to have been placed by IDOT.

19          **Q.       Okay. Thank you. Just quickly can**  
20 **you turn to 21A-23, please, and Figure 3 that we**  
21 **have up here which is from your report 204-40.**

22          A.       Sorry. Which exhibit?

23          **Q.       204-40 and 21A-23?**

24

1 (Document marked as Complainant  
2 Exhibit No. 204-40 and 21A-23  
3 for identification.)

4 BY THE WITNESS:

5 A. Yes. I don't think I have 21A.

6 BY MS. BRICE:

7 Q. **It's in the very back. It just says**  
8 **21, I think.**

9 A. I have it.

10 Q. **Do you see 21A-23?**

11 A. Yes.

12 Q. **What is 21A-23?**

13 A. This is a profile of Detour Road A  
14 from the original IDOT construction project.

15 Q. **And how is that depicted in Figure**  
16 **3?**

17 A. It's basically replicated with the  
18 profile that is shown at the bottom of the figure.

19 Q. **What -- what is Figure 3 trying to**  
20 **show all of us?**

21 A. It is showing the fill that was  
22 needed between the original grades that existed at  
23 the time of the project and where the finished  
24 elevation was intended to be.

1           **Q.       Okay.  Could you -- do you mind if I**  
2 **approach?**

3                   HEARING OFFICER HALLORAN:  No, go  
4 ahead.

5                   MS. BRICE:  Do you have a marker  
6 with you by any chance?  Here we go.

7 BY MS. BRICE:

8           **Q.       Here on Figure 3, can you tell me**  
9 **how far the construction on the Detour Road A**  
10 **goes?**

11           A.       It goes out nearly to Station 15.

12           **Q.       Station 15.  What is a station?**

13           A.       A station is just a way of demarking  
14 different locations along the road so that you  
15 have -- they're usually on hundred foot increments  
16 and it just gives both the field and the design  
17 team an understanding of where you're at relative  
18 to the project.

19           **Q.       Okay.  Can you please circle Station**  
20 **15 for us?**

21           A.       (Witness complies.)

22           **Q.       How is Station 15 aligning with what**  
23 **is going on down here?  Can you just sort of**  
24 **explain this figure to -- what is the best way for**

1 **him, to explain it to you guys to explain it to**  
2 **the camera?**

3 MS. TIPSORD: Explain it for the  
4 record.

5 HEARING OFFICER HALLORAN: Explain  
6 it for the record.

7 BY MS. BRICE:

8 **Q. Explain it for the record.**

9 A. So basically what you have is the  
10 vertical -- the profile which is basically the  
11 cross section --

12 **Q. On the bottom?**

13 A. -- on the bottom lines up with the  
14 stationing on the plan view at the top.

15 **Q. Of the detour road?**

16 A. Of the detour road. So Station 15,  
17 which I circled, lines up with 15 and the vertical  
18 profile of the bottom right of the figure and then  
19 Station 14, which would be a hundred feet back to  
20 the west lines up with Station 14 on the profile.

21 **Q. Okay. And what is -- and what is it**  
22 **showing here that is needed at Stations 14 and 15?**

23 A. Fill.

24 **Q. Fill material. And that's from the**

1 IDOT documents?

2 A. That's correct.

3 Q. Okay. And what boring locations  
4 does that lineup with?

5 A. Station 14 is basically Sample 05S.  
6 14 plus 50 would be 06S and 15 would be 07S.

7 Q. Okay. And did you -- did you  
8 prepare this -- this figure?

9 A. Yes, I did.

10 Q. We're going to talk about one more  
11 figure and 21A-26 and I gave to Ellen earlier a  
12 cleaner version of that and I'm not sure if it's  
13 in your binders or not, but, Doug, do you have one  
14 with the red -- yes.

15 A. Yes. It doesn't have an exhibit  
16 number on it, though.

17 Q. It doesn't have an exhibit number in  
18 it, but what we did for the record is just try and  
19 clean up this very old document and I've shown it  
20 to Ellen and she agrees that it is accurate. We  
21 just put in the numbers and some of the words just  
22 to make it clear. Can you explain what 21A-26 is?

23 A. Yeah, this is a profile Greenwood  
24 Avenue roughly from Station 7 out to, I believe,

1 Station 15.

2 MS. O'LAUGHLIN: I'm sorry. He is  
3 looking at this document?

4 MS. BRICE: Yes.

5 MS. O'LAUGHLIN: 21A-26?

6 MS. BRICE: Sorry. I apologize. My  
7 binder is falling apart. That's the problem when  
8 you don't have tables and chairs the right way.  
9 Go ahead. Sorry.

10 BY THE WITNESS:

11 A. I'd just like to clarify.

12 BY MS. BRICE:

13 Q. Yes.

14 A. Are you asking me to look at 21A-26  
15 or the blow up of it that was --

16 Q. The blow up of it. Sorry.

17 A. So then my earlier testimony is  
18 consistent.

19 Q. Okay. So is the blow up the same as  
20 the 21A-26 except it has some markings on it for  
21 clarification purposes?

22 A. Yes, and it's a cutout of 21A-26.

23 Q. And what is 21A-26 showing? I'm  
24 sorry you might have said this. I was having a

1 **binder drama.**

2 A. Again, 21A-26, the top half of it,  
3 shows the profile for Greenwood Avenue and the  
4 soil conditions over the extent of the planned  
5 construction effort.

6 Q. Okay. And then Figure -- Figure 4  
7 here, what is this document here? This is  
8 contained in your expert report, correct?

9 A. That's correct.

10 Q. What is this document?

11 A. That is a plan and profile showing  
12 the Greenwood Avenue project detail with a plan at  
13 the top and a profile at the bottom.

14 Q. Okay. And why are these going  
15 backwards five-fifty to nine when the other ones  
16 were going that way?

17 A. The stationing that was used for  
18 Greenwood Avenue was different than the station  
19 used for Detour Road A.

20 Q. Okay. And so what -- what are you  
21 showing -- what are you showing in this document?

22 A. Basically, again, we're showing the  
23 profile at the bottom that according to IDOT's  
24 plans there was a zone of material, soft peat in

1 this particular case, that had to be removed  
2 before suitable fill could be brought in to  
3 support the construction for the new Greenwood  
4 road.

5 Q. Okay. And that is going -- how deep  
6 is that -- what elevation is that fill having to  
7 be removed at, let's say, 05S?

8 A. At 05.

9 Q. 05S is right here.

10 A. 05S. So it's roughly 584, I  
11 believe.

12 Q. And how much was -- fill was added  
13 back in?

14 A. Over 5 feet.

15 Q. Okay. And then how about at 6S?

16 A. 6S it was even deeper, about 5- --  
17 583.9 roughly.

18 Q. Okay. And then they had to add  
19 again with more fill material, correct?

20 A. To nearly 589.

21 Q. Okay. And then how about at 07S?

22 A. 07S I think was the one we just did.

23 Q. No, we did 06S. Sorry.

24 A. Oh, 07S, the sample location?

1 Q. Correct.

2 A. Again, that would be from roughly  
3 583.75 or so up to about 580- -- 588.5.

4 Q. Okay. So the 21A-26 drawing was  
5 done before IDOT did any work, correct?

6 A. That's correct.

7 Q. So in this area here above the peat,  
8 it says black cindery fill, correct?

9 A. That's correct.

10 Q. Was there any black cindery fill  
11 found when the soil borings were done from 01S to  
12 08S?

13 A. Not that I'm aware of.

14 Q. What was found instead?

15 A. Asbestos.

16 Q. And if you can take a look at your  
17 report, I think you have some numbers about where  
18 the asbestos was found at maybe 05S, 06S and 07S  
19 and if you can just draw on there where the  
20 asbestos was found within those zones, that would  
21 be appreciated.

22 HEARING OFFICER HALLORAN: The  
23 record should reflect this is still all inside  
24 IDOT's objection beyond the scope. Ms. Brice?

1 MS. BRICE: Yes, he is drawing on  
2 it.

3 HEARING OFFICER HALLORAN: Your  
4 mask.

5 MS. BRICE: Sorry. Yes, I  
6 apologize. It gets hard to remember sometimes.

7 MS. VAN WIE: Sometimes you just  
8 want to remove it --

9 MS. BRICE: That's true.

10 MS. VAN WIE: -- for normal air for  
11 a minute.

12 BY MS. BRICE:

13 Q. This is all noted in your footnote  
14 in your report, correct?

15 A. Footnote 14 on Page 204-17.

16 Q. Is where you have the elevations  
17 of where ACM was found, correct, in these borings?

18 A. That's correct. And, of course,  
19 this is --

20 Q. Approximate?

21 A. Yes.

22 Q. I'm moving on right after this.

23 Thank you, Mr. Dorgan. So I'm representing for  
24 the record where Mr. Dorgan has drawn the lines at

1 05S, 06S and 07S and are those all within the IDOT  
2 areas of fill based upon the IDOT engineering  
3 drawings from your perspective?

4 A. That is correct.

5 Q. And I don't know how to show that  
6 to -- sorry about that. Okay. One second. So  
7 we've been having this dispute about 05S, 06S, 07S  
8 and 08S.

9 Would your attribution opinions  
10 change if you had not included 05S, 06S, 07S and  
11 08S in your IDOT area of liability?

12 A. No.

13 Q. Why?

14 A. Because we already knew that there  
15 was asbestos at 01S to 04S and we needed a clean  
16 corridor for the entire length of the south side  
17 of Greenwood Avenue. So I would have taken the  
18 same approach. It's just further validated with  
19 the presence of those materials at those  
20 locations.

21 Q. Thank you.

22 HEARING OFFICER HALLORAN: We'll  
23 take a short break. Maybe 10, 12 minutes, is that  
24 okay?

1 MS. BRICE: Yes, we're making good  
2 progress.

3 (Whereupon, a break was taken  
4 after which the following  
5 proceedings were had.)

6 BY MS. BRICE:

7 Q. All right. So I just have one quick  
8 question again about Figure 3, 204-40, which you  
9 have here and you say there's work going out all  
10 the way here to -- to where?

11 So it shows on here 07S, but how  
12 much further to the east did the work occur based  
13 upon the documents -- based upon the Detour Road A  
14 document 21A-23?

15 A. It shows it's out to about 15 plus  
16 50 --

17 Q. Okay.

18 A. -- in terms of the stationing.

19 Q. What boring location would that be?

20 A. That would be close to 08S.

21 Q. And this is showing that there  
22 needed to be fill in that location, correct?

23 A. That's correct. At 07S.

24 Q. And at --

1           A.       Station 16 and the actual 08S  
2 location isn't actually shown on that profile, but  
3 right on the edge of it.

4                   HEARING OFFICER HALLORAN:   Ms.  
5 O'Laughlin, do you --

6                   MS. O'LAUGHLIN:   I just don't know  
7 which -- thank you.

8 BY MS. BRICE:

9           Q.       Okay. All right. In your report,  
10 you say that you quote -- and this is on 204-15.

11                               (Document marked as Complainant  
12                               Exhibit No. 204-15 for  
13                               identification.)

14 BY MS. BRICE:

15           Q.       You evaluated each task bucket to  
16 determine whether the IDOT area of liability  
17 caused JM to incur the implementation cost  
18 associated with that task bucket, can you  
19 elaborate, please?

20           A.       So what I looked at was the work on  
21 any given task bucket. The work that was related  
22 to an area that the Board had determined IDOT was  
23 responsible for if those conditions caused the  
24 work to be done, then I included it in the

1 attribution. If it was not related to those  
2 locations, then I did not.

3 Q. Okay. If you can turn to 204-39,  
4 please.

5 MS. BRICE: And, Drew, if you can  
6 please pull that up on the screen.

7 (Document marked as Complainant  
8 Exhibit No. 204-39 for  
9 identification.)

10 BY MS. BRICE:

11 Q. This is a figure from your report.  
12 And I have a couple of questions.

13 Do you recognize this figure?

14 A. I do.

15 Q. And did you create it?

16 A. Yes.

17 Q. Okay. And this figure, as well as  
18 the other figures that we have talked about,  
19 Figure 3, Figure 4 and Dorgan 1, are they all  
20 based upon the AutoCAD drawings given to you by  
21 Dr. Ebihara and the IDOT plans with respect to  
22 Figure 3 and Figure 4?

23 A. Yes.

24 Q. So here on Exhibit 204-39 there are

1 orange dots in this figure.

2 What do those orange dots  
3 denote?

4 A. Exhibit 204-39 is basically the same  
5 as dash 38. The exception being the location  
6 where visual ACM had been observed during the  
7 earlier investigation work, those locations had  
8 been highlighted with the orange circle around the  
9 sample location.

10 Q. What are you trying to show here  
11 with Dorgan Figure 2?

12 A. Just where on the site visual ACM  
13 was predominantly identified.

14 Q. And if there had been -- if IDOT  
15 hadn't buried ACM for which it was found liable,  
16 what do you believe would have happened based upon  
17 your expertise?

18 MS. O'LAUGHLIN: Objection.  
19 Misstates the record and the findings of the  
20 Board.

21 BY MS. BRICE:

22 Q. If IDOT had not buried the ACM for  
23 which it was found liable.

24 MS. O'LAUGHLIN: You're on 0393. It

1 **was not found liable for --**

2 MS. BRICE: No, I'm just talking  
3 about -- let's just talk about the soil borings.  
4 Okay. Take out 0393.

5 MS. O'LAUGHLIN: Okay.

6 BY MS. BRICE:

7 **Q. If IDOT -- I'll take out 0393 for**  
8 **the purposes of my question.**

9 HEARING OFFICER HALLORAN:

10 Sustained. Thank you. You may proceed.

11 BY MS. BRICE:

12 **Q. If IDOT had not buried the ACM in**  
13 **the soil boring locations for which it was found**  
14 **liable by the Board, realizing we think that the**  
15 **area is bigger, but just based upon those, what do**  
16 **you think would have happened, what would U.S. EPA**  
17 **have required?**

18 A. It would have likely been less than  
19 what was actually done. If there had been no ACM,  
20 there probably would have been no work done, but  
21 certainly you can see from this figure the  
22 predominant presence of surface ACM was in the  
23 IDOT area of liability.

24 **Q. Surface or subsurface?**

1 A. Surface.

2 Q. **Visual ACM observed, are you sure**  
3 **about that being surface or subsurface?**

4 A. That would have been ACM that was  
5 observed at the -- at the -- I'm sorry. You're  
6 correct.

7 In this particular case, there  
8 were actual fragments of asbestos-containing  
9 material that were present in the locations that  
10 were being sampled. There were other instances  
11 where ACM was observed at the surface.

12 Q. **Okay. So these are visual ACM**  
13 **fragments found buried, correct?**

14 A. That's correct.

15 Q. **I'd like to turn to 204-36, which is**  
16 **right here. 204-36, do you have that?**

17 (Document marked as Complainant  
18 Exhibit No. 204-36 for  
19 identification.)

20 BY THE WITNESS:

21 A. Yes, I do.

22 BY MS. BRICE:

23 Q. **And what is this, Mr. Dorgan?**

24 A. This is basically a summary table

1 that presents my allocation of costs attributable  
2 to IDOT based upon task buckets in each of the  
3 sites.

4 Q. So you have -- you have -- so  
5 here -- down here all the task buckets in this row  
6 that says task bucket, and do these align with the  
7 task buckets that you were given the numbers for  
8 from Dr. Ebihara and Mr. Peterson?

9 A. Yes.

10 Q. Okay. And then you've got Site 3  
11 and you've got numbers here and these are your  
12 attribution numbers, is that correct?

13 A. That's correct.

14 Q. Okay. So the allocation numbers are  
15 much bigger than these attribution numbers in some  
16 instances?

17 A. The total cost incurred are larger  
18 than these numbers in many instances, yes.

19 Q. Okay. And then you have Site 6 and  
20 what is this Sites 3 and 6?

21 A. That was work that was done where  
22 there was no clear demarcation between -- the work  
23 effort was done both in support of activities on  
24 both Site 3 and Site 6 and there was difficulty in

1 teasing them apart in terms of which site that  
2 they should go into. So they were collectively  
3 referenced as Site 3 and Site 6 costs.

4 Q. Did Mr. Gobelman in his expert  
5 report go through the same exercise, obviously  
6 reaching different attribution numbers, but using  
7 the same overall costs and the costs for Site 3,  
8 Site 6 and Site 3/6 and the task buckets?

9 A. Yes, he did.

10 Q. We have one thing in common. All  
11 right.

12 You discussed the Nicor gas  
13 line. You attributed nothing to IDOT for the  
14 Nicor gas line, why is that?

15 A. Because the Nicor gas line was not  
16 located within an area -- IDOT area of liability  
17 and as a result I did not attribute any of the  
18 costs to IDOT.

19 MS. BRICE: Drew, if you wouldn't  
20 mind pulling that up to 204-38, please. It's  
21 Dorgan Figure 1.

22 BY MS. BRICE:

23 Q. So this right here is the Nicor gas  
24 line, correct, it sort of cuts the Site 3 in half

1 about midway down?

2 A. That's right.

3 Q. Okay. And I believe Mr. Gobelman  
4 agreed with you on that that nothing should be  
5 attributed to IDOT for the Nicor gas line?

6 A. That's correct.

7 Q. Okay. I'd like to go to the  
8 Waukegan waterline and on 204-18 you discussed the  
9 Waukegan waterline and I believe we identified  
10 that earlier as that backwards L-shape feature on  
11 Dorgan Figure 1, is that correct?

12 (Document marked as Complainant  
13 Exhibit No. 204-18 for  
14 identification.)

15 BY THE WITNESS:

16 A. That's correct.

17 BY MS. BRICE:

18 Q. Okay. And before we go any further,  
19 you have these sort of three categories of service  
20 in here in your report, can you explain that for  
21 us?

22 A. Yeah. So the professional  
23 engineering, that would have been the work that  
24 Dr. Ebihara and AECOM and its predecessors would

1 have been performing and then the construction  
2 base bid was that work that was included in the  
3 original scope that went out for bid to the  
4 contractors and then the construction T&M is as  
5 Mr. Peterson described is the work that was  
6 done -- that needed to be done, but that happened  
7 after the work plan had gone in and approved. So  
8 that was done on a time and materials basis rather  
9 than being included in the original base bid.

10 MS. O'LAUGHLIN: I'm sorry. Where  
11 are you?

12 MS. BRICE: I am here right 204-18.

13 MS. O'LAUGHLIN: Thank you.

14 BY MS. BRICE:

15 Q. Did Mr. Gobelman dispute these  
16 numbers in any way?

17 A. Yes, he challenged my allocation of  
18 the amounts to IDOT.

19 Q. Right. But the base numbers, the  
20 original numbers?

21 A. No, not the total spend.

22 Q. Okay. What work was done on the  
23 Waukegan waterline?

24 MS. BRICE: And, Drew, if you can

1 please pull up 204-39 for us.

2 (Document marked as Complainant  
3 Exhibit No. 204-39 for  
4 identification.)

5 BY THE WITNESS:

6 A. A clean corridor was created for the  
7 Waukegan waterline.

8 BY MS. BRICE:

9 Q. Okay. So this -- this entire line  
10 here in a clean corridor, correct?

11 A. That's correct.

12 Q. Okay. And there's this B3-40 in  
13 there, do you see that?

14 A. Yes, I do.

15 Q. And is that within -- denoting it is  
16 within the Waukegan waterline area?

17 A. No.

18 Q. Is it right outside of it?

19 A. Yes.

20 Q. Okay. Well, there is S- -- S3-40B  
21 if you see here -- actually, I think it's on the  
22 line. Take a closer look at it or maybe, Drew,  
23 you can blow it up.

24 Do you see the mark there, the

1 boring location?

2 A. Yes.

3 Q. Which is B3-40, is that this one  
4 here on the line?

5 A. I believe so.

6 Q. So is it within 0393 or on the line?

7 A. Yes, it's on the line at least.

8 Q. Okay. We've discussed earlier that  
9 the location of the Waukegan waterline was not  
10 known at the first hearing and that they thought  
11 it was located further south.

12 I believe you say in your report  
13 that they determined it was in a different  
14 location in August and I heard Mr. Peterson say  
15 June, do you know which one it is?

16 A. I'm not certain.

17 Q. Okay. Do you know where you would  
18 have gotten your information from?

19 A. From Mr. Peterson.

20 Q. Okay. So we can double check that  
21 with Mr. Peterson.

22 How do you know that the  
23 Waukegan waterline now is in the right spot?

24 A. Based upon the survey that was

1 provided.

2 Q. Okay. And so the centerline -- I  
3 just want to explain like -- so this is the  
4 centerline of the Waukegan waterline, right?

5 A. That would be the waterline itself.

6 Q. Okay. That's what I'm trying to  
7 understand.

8 A. It serves as the centerline of the  
9 clean corridor.

10 Q. So can you explain that in words for  
11 everybody?

12 A. So basically on either side of the  
13 waterline soils were excavated down to at least  
14 two feet below the depth, the invert depth, of the  
15 waterline.

16 Q. So that's this area and this area up  
17 here?

18 A. That's correct. And that was  
19 backfilled and I think Mr. Peterson explained how  
20 a geocomposite -- or geotextile was laid in,  
21 backfilled with sand and then topsoil was placed  
22 in order to establish a vegetative cover.

23 Q. But the actual line itself is  
24 actually up here above the bottom of 0393, is that

1 right?

2 A. That's correct.

3 Q. And so this is just the corridor,  
4 the clean corridor is what we're seeing when we're  
5 looking at the L, is that right?

6 A. Except the waterline is represented  
7 as being right in the center of the clean  
8 corridor.

9 Q. Okay. How much -- so is -- is the  
10 waterline entirely within parcel 0393?

11 A. Yes.

12 Q. If you can stay on 204-18 for me.  
13 How much money was incurred for the Waukegan  
14 waterline work?

15 A. \$61,037 on Site 3 and \$86,674 on  
16 Site 6.

17 Q. Okay. So for Site 3, how much did  
18 you attribute to IDOT?

19 A. 100 percent.

20 Q. I'm sorry?

21 A. 100 percent.

22 Q. And why is that?

23 A. Because all of the waterline was  
24 located within Parcel 0393.

1 Q. Okay. And how about Site 6?

2 A. I attributed none of that cost to  
3 IDOT.

4 Q. And why is that?

5 A. Because it was outside of the IDOT  
6 area of liability.

7 Q. Okay. So I'm just trying to hurry  
8 things along.

9 As I understand it, the Waukegan  
10 waterline went north out of Site 3, across  
11 Greenwood and then there was work done on it on  
12 the north side of 6, correct?

13 A. That's correct.

14 Q. And you're not including any of  
15 those costs in the IDOT attribution, right?

16 A. I am not.

17 Q. Okay. So let's go back here to  
18 204-36. So here we go. This is the summary. So  
19 here is your \$61,037 which is the hundred percent  
20 and here is your zero for Site 6.

21 And were there any Sites 3  
22 and 6 costs incurred onsite -- for the waterline?

23 A. No.

24 Q. Okay. So your total here for the

1 **waterline is \$61,037, correct?**

2 A. That's correct.

3 **Q. Let's turn to the AT&T lines and**  
4 **that's on Exhibit 204-20.**

5 (Document marked as Complainant  
6 Exhibit No. 204-20 for  
7 identification.)

8 BY MS. BRICE:

9 **Q. Again, you have some categories of**  
10 **service. Can you explain these.**

11 A. Basically, the same first three that  
12 I described for the Waukegan waterline  
13 professional engineering -- actually, in this  
14 case, they had -- there is work not only for the  
15 engineering, but there was some projected costs  
16 for completing the project on the professional  
17 side that AECOM was intending to do and then there  
18 is the construction T&M, which I described  
19 previously and then there was construction  
20 management services provided by Dave Peterson's  
21 company related to the AT&T line abandonment and  
22 then ultimately payments that were needed to be  
23 made to AT&T regarding their work in abandoning  
24 the lines.

1 Q. Okay. And what did AT&T do as far  
2 as you know with respect to abandoning the lines?

3 A. They basically rerouted the service  
4 and put it above grade on poles and took it around  
5 the site.

6 Q. And JM -- so that was -- they had to  
7 reroute the stuff that was underground, correct?

8 A. Yes.

9 Q. And JM then paid them back for doing  
10 that?

11 A. That's correct.

12 Q. And that's what's reflected here in  
13 utility payment to AT&T?

14 A. That's correct.

15 Q. What work was done on the AT&T lines  
16 on Site 3?

17 A. They were removed.

18 Q. And how --

19 MS. BRICE: Drew, if you can pull  
20 up, again, Dorgan Figure 1, please. 204-38.

21 BY MS. BRICE:

22 Q. And how many lines -- AT&T lines  
23 were on Site 3?

24 A. There were 3 in total.

1           **Q.       And how did you determine IDOT's**  
2 **attribution for the work done regarding these**  
3 **three lines?**

4           A.       I looked at the three, I looked at  
5 the location of the three lines. Two of them were  
6 running entirely within Parcel 0393 and one was  
7 not. So I basically took two-thirds of the cost  
8 for the line abandonment for AT&T on Site 3 and  
9 attributed it to IDOT.

10          **Q.       Okay. And you're talking about**  
11 **these orange lines, right, with the T --**

12          A.       That's correct.

13          **Q.       -- is that correct?**

14                    **And there is one -- there is one**  
15 **up here as well. Okay. What was your total for**  
16 **IDOT Site 3 AT&T line attribution?**

17          A.       Total was \$71,710.

18          **Q.       And that's reflected here on 204-36,**  
19 **correct?**

20          A.       That's correct.

21          **Q.       Let's talk about Site 6. What work**  
22 **was done on Site 6 for the AT&T lines?**

23          A.       The same type of work.

24          **Q.       Okay. And if you turn to 204-21, I**

1 **believe you discuss how many AT&T lines were on**  
2 **Site 6?**

3 (Document marked as Complainant  
4 Exhibit No. 204-21 for  
5 identification.)

6 BY MS. BRICE:

7 **Q. Can you please discuss that for the**  
8 **record?**

9 A. Yeah, there were -- there was one  
10 AT&T phone line, one fiberoptic line that was on  
11 the north side of Site 6, and there was one  
12 telephone line that was on the south side of Site  
13 6 running through the Site 6 area of liability.

14 **Q. Okay. And where does that run**  
15 **through the Site 6 area of liability?**

16 A. Right on -- you can see where it  
17 comes --

18 **Q. Is it this one?**

19 A. It's a continuation of --

20 **Q. Is it purple?**

21 A. No, it's one of the telephone lines  
22 that comes up and then you can see it running  
23 right along on Site 6.

24 **Q. So -- right. It's this one right**

1 here --

2 A. Yes.

3 Q. -- correct? And then it comes  
4 through here and then runs up through here --

5 A. Right.

6 Q. -- is that right?

7 A. That's correct.

8 Q. And describing it for the record,  
9 what -- what -- can you describe where it's  
10 running through like in terms of boring locations?  
11 It's coming in at --

12 A. Just past 03S and then runs past  
13 08S.

14 Q. Okay. How did you determine IDOT's  
15 attribution for the AT&T lines on Site 6?

16 A. There were a total of three lines  
17 for AT&T on Site 6. Two of them were on the north  
18 side of Site 6, which I did not consider to be  
19 within the IDOT area of liability. One was on the  
20 south side. So I took a third of the costs for  
21 the AT&T line abandonment and attributed them to  
22 IDOT.

23 Q. And what was your total for IDOT  
24 Site 6 AT&T line attribution?

1           A.           \$88,858.

2           **Q.           And that's reflected here on 204-36**  
3 **under --**

4           A.           That's correct.

5           **Q.           -- Site 6 AT&T, correct?**

6           A.           That's right.

7           **Q.           And then we come to one of these**  
8 **Sites 3 and 6 calculations which I will admit is**  
9 **somewhat confusing. So let's start off by**  
10 **saying -- explaining what costs for both Site 3**  
11 **and Site 6 with respect to the AT&T lines and why?**

12          A.           There were various steps that were  
13 taken during the construction project that Dave's  
14 group was providing services for. I think he  
15 described a few of them earlier about some of the  
16 telephone pole work and so those were related to  
17 just in generally to the relocation work that was  
18 being done for Site 3 and Site 6 not specific to  
19 either one of them.

20          **Q.           Okay. And so you had a number that**  
21 **was both Site 3 and Site 6, correct?**

22          A.           Mm-hmm.

23          **Q.           For cost incurred?**

24          A.           That's correct.

1 Q. And did Mr. Gobelman agree with that  
2 number?

3 A. Yes.

4 Q. And is that -- and what exhibit is  
5 that from, is that from Mr. Peterson's exhibits to  
6 your report?

7 A. It's from my tabulation of the  
8 documentation Mr. Peterson gave me.

9 Q. Okay. Gotcha. I'm going to get  
10 into this specifically in a moment and walk  
11 everybody through it because it's complicated, but  
12 can you just generally explain how you attributed  
13 these combined Sites 3 and 6 costs?

14 A. Yeah. So basically what I did is I  
15 looked at my attributions to IDOT for Site 3 and  
16 Site 6.

17 Q. Can you give me numbers, too, while  
18 you're doing that.

19 A. \$71,710.

20 Q. Yeah?

21 A. And the \$88,858.

22 Q. Okay.

23 A. I then divided that by the total  
24 costs that were incurred.

1 Q. So you added those together?

2 A. Yes.

3 Q. And what was that when you added  
4 those together?

5 A. I believe that's \$160,568.

6 Q. Okay. And then what did you do?

7 A. I divided that by the total cost for  
8 the Site 3 and Site 6 independent work.

9 Q. Okay. And what was that?

10 A. \$392,918.

11 Q. When you divided that, what did you  
12 come up with?

13 A. 40.9 percent.

14 Q. And then what did you do with the  
15 40.9 percent?

16 A. I took the combined Site 3 and  
17 multiplied it by the 40.9.

18 Q. What is the combined Site 3?

19 A. That comes out -- well, actually, I  
20 did that for each independent work effort.

21 Q. Yes.

22 A. So the first one was for the  
23 Campanella T&M and that was \$21,901.

24 Q. Okay. Let me back up because I

1 think it's going to get confusing. Can we try to  
2 do it this way? Can you turn to Exhibit F?

3 (Document marked as Complainant  
4 Exhibit No. F for  
5 identification.)

6 BY MS. BRICE:

7 Q. I'm going to go to 204-108.

8 MS. BRICE: Drew, if you can pull  
9 that up, that would be helpful.

10 HEARING OFFICER HALLORAN: What  
11 exhibit is this?

12 MS. BRICE: 204-108.

13 HEARING OFFICER HALLORAN: Thank  
14 you.

15 (Document marked as Complainant  
16 Exhibit No. 204-108 for  
17 identification.)

18 BY MS. BRICE:

19 Q. Are you there, Mr. Dorgan?

20 A. Yes, I am.

21 Q. Okay. So you've got here total cost  
22 right in here under AT&T Site 3 \$108,651, do you  
23 see that?

24 A. I do.

1           Q.       And how did you come up with that  
2       number?

3           A.       That's just a sum of the individual  
4       amounts that are shown above it in the column for  
5       Site 3.

6           Q.       Okay. Then you've got the \$284,266,  
7       how did you come up with that number?

8           A.       That's a sum of the total amounts  
9       that are shown in the column for Site 6 above it.

10          Q.       Okay. And then you -- if I  
11       understand this correctly, right underneath that  
12       there is a section that says AT&T total, AT&T  
13       Sites 3 and 6 costs and is this -- is this  
14       \$392,918, is that the combined number of those  
15       two?

16          A.       Yes, that would be the sum of the  
17       \$108,651 and the \$284,266.

18          Q.       Okay. And then you've got the  
19       \$71,710 and what is that?

20          A.       That's the amount that I attributed  
21       to IDOT for Site 3.

22          Q.       Then you have the \$88,858 right next  
23       to it, what is that?

24          A.       That's the amount attributed to IDOT

1 for Site 6.

2 Q. Okay. Then you add those together,  
3 I take it, and that's where you got \$165,068 down  
4 here below?

5 A. That's correct.

6 Q. Okay. And then your 40.9 percent is  
7 dividing the \$392,918 and the \$165,068, correct?

8 A. That's correct.

9 Q. Okay. And then you have this  
10 IDOT -- AT&T IDOT total of 201 -- sorry. Let's  
11 just skip that.

12 You have this under here, under  
13 total IDOT attribution, Sites 3 and 6 AT&T right  
14 underneath the \$89- -- the \$98,898 you have  
15 \$40,449, how did you come up with that?

16 A. That would be the \$98,898 multiplied  
17 by the 40.9 -- or multiplied by .409 in this case.

18 Q. Okay. So down here at the bottom  
19 you have AT&T IDOT total \$201,017, do you see  
20 that?

21 A. I do.

22 Q. And what is that?

23 A. That's the sum of the total IDOT  
24 attribution row. So that would be the sum of the

1 three figures, the sum for Site 3 of \$71,710; the  
2 sum for the Site 6 attribution of \$88,858; and  
3 then the sum for the Sites 3 and 6 combined  
4 attribution of \$40,449 --

5 Q. Okay.

6 A. -- those add up to \$201,017.

7 Q. And all of those numbers, as I see  
8 them, are depicted here on 204-36 in the AT&T row,  
9 is that correct?

10 A. That's correct.

11 Q. Now, did Mr. Gobelman use this same  
12 methodology for determining his site for three  
13 plus six costs obviously using different  
14 attribution numbers?

15 A. Yes, he did.

16 Q. Now, I'd like to talk about utility  
17 ACM soils task bucket. Can you tell me what that  
18 is?

19 A. Yeah. So this was the soils that  
20 were excavated where the utilities had been. The  
21 utilities were abandoned. That was part of the  
22 work to relocate them so service wasn't  
23 interrupted and then those soils were actually  
24 excavated and removed both on the north and south

1 sides of Site 6.

2 Q. Okay.

3 MS. BRICE: Drew, if you can please  
4 pull up Dorgan Figure 1 again.

5 BY MS. BRICE:

6 Q. Okay. Can you describe for me where  
7 this utility ACM soils task bucket is located on  
8 Dorgan Figure 1?

9 A. Let me go back to that.

10 Q. This could be on 204-21.

11 A. So on this figure it's shown as  
12 being the soils that were excavated both on the  
13 north side which is shown with the crosshatching  
14 and then on the south side of Site 6 with the  
15 crosshatching.

16 Q. So what -- what sample locations are  
17 we talking about here?

18 A. We're talking about from 01S out  
19 past 08S.

20 Q. Okay. What about on the north side?

21 A. From 01N out past 08N.

22 Q. And did you attribute any of the  
23 soils -- this work in this task bucket on the  
24 north side to IDOT?

1           A.       No.

2           **Q.       And on 204-21, you say the**  
3 **enforcement action memorandum required soils to be**  
4 **excavated from Sites 3 and 6, can you elaborate?**

5           A.       Yeah. So, basically, there was  
6 asbestos found on both the north side and south  
7 side of the right of way. Even though the utility  
8 lines were being removed, it was still within a  
9 public right of way. So they wanted the asbestos  
10 materials to be removed so they wouldn't present a  
11 future hazard to those that might come in contact  
12 with it or as was discussed earlier the potential  
13 of it being brought to the surface through some  
14 other situation.

15           **Q.       And is this task bucket work**  
16 **separate from the North Shore gas line work on**  
17 **Site 6 that runs through some of this same area?**  
18 **Were the costs segregated out separately?**

19           A.       Yes.

20           **Q.       So there is no double counting with**  
21 **respect to that?**

22           A.       No.

23           **Q.       On 204-22, you say there were eight**  
24 **utility lines involved in this work, which ones**

1     **are those?**

2                                    **(Document marked as Complainant**  
3                                    **Exhibit No. 204-22 for**  
4                                    **identification.)**

5     BY THE WITNESS:

6             A.       The City of Waukegan waterline, the  
7     North Shore gas line, AT&T phone lines, the AT&T  
8     fiberoptic line and then the ComEd fiberoptic line  
9     and ComEd electric line.

10    BY MS. BRICE:

11            Q.       **And how many of these were on the**  
12    **north side of six?**

13            A.       Four of them.

14            Q.       **How many were on the south side of**  
15    **six?**

16            A.       Four.

17            Q.       **And how many of the four on the**  
18    **south side of 6 ran through the IDOT area of**  
19    **liability?**

20            A.       All of them.

21            Q.       **And did they all go through 01S**  
22    **through 04S?**

23            A.       Yes.   A --

24            Q.       **At least some of them did?**

1 A. At least some of them.

2 Q. Somewhere in there, they hit 01S to  
3 04S?

4 A. The telephone line came past to  
5 about 03S.

6 Q. Okay. And the North Shore gas line  
7 comes in at --

8 A. 04S.

9 Q. -- 04S? ComEd fiberoptic line is  
10 01S through 04S?

11 A. That's correct.

12 Q. And ComEd electric line is 01S  
13 through 08S, correct?

14 A. That's correct.

15 Q. So how did you calculate the IDOT  
16 attribution for this task bucket?

17 A. I basically took 50 percent, half of  
18 the total costs that were spent for the utility  
19 and ACM impacted soil removal for Site 6 and  
20 attributed it to IDOT.

21 Q. And why did you take half?

22 A. Because half of the lines that were  
23 utility lines that were on the north side and half  
24 of them were on the south side. So I took it

1 50/50.

2 Q. And if that number is reflected over  
3 here as well again --

4 A. Yes.

5 Q. -- ACM utility soils zero for Site 3  
6 because this is all really within Site 6, correct?

7 A. That's right.

8 Q. So you've got \$77,659 for Site 6 and  
9 that's all on the south side, correct?

10 A. That's correct.

11 Q. Nothing -- there was nothing in that  
12 category that Mr. Peterson didn't have anything  
13 for the Site 3 plus 6, correct?

14 A. Correct.

15 MS. VAN WIE: I have a question,  
16 Susan.

17 MS. BRICE: Yes.

18 MS. VAN WIE: Does the number  
19 reflect the work on all of Site 6 on the south  
20 side from 01S to 08S or are we just talking  
21 specifically about the area 01S to 04S?

22 THE WITNESS: Just 08S.

23 BY MS. BRICE:

24 Q. To 08S. However, would your opinion

1 **change if it was only 01S to 04S?**

2 A. I believe it would still have had to  
3 be done because of the asbestos present in 01S to  
4 04S.

5 MS. VAN WIE: Thank you.

6 BY MS. BRICE:

7 **Q. Let's talk about the northeast**  
8 **excavation.**

9 MS. BRICE: How much time do I have?

10 MS. TIPSORD: It's about 4:30.

11 MS. BRICE: Okay. Great.

12 BY MS. BRICE:

13 **Q. On 204-22, you talk about the**  
14 **northeast excavation. We talked about that a lot.**

15 **Those are the three -- these**  
16 **three grids basically, correct, right here on the**  
17 **northeastern portion of Site 3?**

18 A. That's correct.

19 **Q. And what work did U.S. EPA require**  
20 **to be done here?**

21 A. They had to remove soils through the  
22 three grids down to a predetermined depth.

23 **Q. And where does the ComEd fiberoptic**  
24 **line run through the northeast excavation?**

1           A.       It kind of traverses across the top  
2 of the middle one and, again, eastern and then  
3 transverses the eastern grid.

4           **Q.       And how did you attribute cost to**  
5 **IDOT for the northeast excavation?**

6           A.       I took 100 percent of the costs to  
7 IDOT.

8           **Q.       And why is that?**

9           A.       Because the work that was being done  
10 was being done because of the sample locations  
11 that had been previously ruled by the Board as  
12 being the responsibility of IDOT.

13          **Q.       And which ones were those?**

14          A.       That was B3-50 and B3-45.

15          **Q.       Okay.**

16          A.       And then, of course, those were  
17 locations representing the larger grid.

18          **Q.       And B3-46, which is a boring next**  
19 **door, is not a clean boring, correct?**

20          A.       That's correct.

21          **Q.       And what else was happening in**  
22 **B3-46?**

23          A.       The fiber line was being taken out.

24          **Q.       Okay. So you attributed 100**

1 percent, which was \$49,934, correct?

2 A. That's correct.

3 Q. And that's reflected there on the  
4 tabulation 204-36, correct?

5 A. Yes.

6 Q. I will show you.

7 A. I see it, yes.

8 Q. You see it. Okay. And obviously  
9 northeast excavation is not on Site 6 and there  
10 were no Site 3 -- so there's no Site 3 plus 6  
11 costs, so it's just the \$49,934?

12 A. That's correct.

13 Q. Okay. Now, we're going to talk  
14 about North Shore gas. This is the line -- can  
15 you describe for the record -- it's sort of --  
16 I'll try to describe it I think just to hurry  
17 things along. It cuts diagonally a bit through  
18 the northern portion of Site 3 and then it enters  
19 into 0393 and then I think Mr. Peterson testified  
20 right about 03S -- 04S-ish they capped it,  
21 correct, and then it extends east, correct, along  
22 the south side of Site 6?

23 A. That's generally correct.

24 Q. Okay. Fix me, please.

1           A.       They capped it where it entered Site  
2       6, but basically put a flange on it and then now  
3       that it was no longer in use east of where it  
4       entered Site 6 if they excavated to remove the ACM  
5       soils that we just talked about, if they had to  
6       excavate down to a depth that encountered the gas  
7       line, they just took the gas line out.

8                       Once they no longer had to dig  
9       that deep and the gas line was lower than the  
10      bottom of what they had to excavate to, they left  
11      the gas line in, but, at that point, it was  
12      abandoned and no longer in service. It could be  
13      left in place.

14           Q.       Okay. Thank you. So here on 204-23  
15      you have four services mentioned.

16                       (Document marked as Complainant  
17                       Exhibit No. 204-23 for  
18                       identification.)

19      BY MS. BRICE:

20           Q.       We have kind of gone through the --  
21      actually, on -- North Shore gas is kind of  
22      important. There is construction T&M for North  
23      Shore gas Site 3. It's in T&M. It's not in  
24      necessarily like the base bid and I think

1 **Mr. Peterson might have testified about this, but**  
2 **can you explain your understanding of why that is?**

3 A. Yeah, I believe that was primarily  
4 related to in order to deenergize the gas line so  
5 they could cut it and cap it where it enters --  
6 where it goes from Site 3 to Site 6 they had to  
7 shut the gas supply off. So they had to access  
8 that valve that Mr. Peterson talked about. So  
9 that they could actually turn the valve off, turn  
10 the gas off, do the disconnection, put the new  
11 flange on and then they ultimately reenergized  
12 just that portion that traverses across Site 3.

13 Q. And let's just take -- you have in  
14 here utility payments to North Shore gas on  
15 204-23, what is that?

16 A. That was work -- that was for costs  
17 that they paid to North Shore gas for the work  
18 that they did in support of this abandonment  
19 effort.

20 Q. Okay. So as we said on Site 3, they  
21 capped it and -- they deenergized the line and  
22 they capped it, correct?

23 A. Correct.

24 Q. And then what else did they do?

1           A.       They created a clean corridor.

2           **Q.       They created a clean corridor.  And**  
3 **how did you determine IDOT's Site 3 North Shore**  
4 **gas attribution?  And if you can please use boring**  
5 **numbers and your Dorgan Figure 204-38 to describe**  
6 **it for the record, it would be much appreciated?**

7           A.       Well, the clean -- the gas line and  
8 the clean corridor that was needed for it ran up  
9 through the boring locations B3-50 and B3-15 which  
10 were both identified as borings in the Board's  
11 order as IDOT responsibility and the clean  
12 corridor was required to be constructed for the  
13 remainder of the line regardless whether asbestos  
14 was found in it.  So I attributed a hundred  
15 percent of the North Shore gas Site 3 clean  
16 corridor to IDOT.

17           **Q.       And just for the record, were there**  
18 **any borings along the North Shore gas line on Site**  
19 **3 that were not identified by the Board to be**  
20 **contaminated?**

21           A.       No.

22           **Q.       So what was your total North Shore**  
23 **gas Site 3 attribution?**

24           A.       \$332,524.

1 Q. And that's here under the row for  
2 North Shore gas on 204-36.

3 Okay. Let's talk about Site 6.  
4 Can you show us or explain for the record, more  
5 likely, and we just sort of talked about it, but  
6 I'd like you to explain it please where the North  
7 Shore gas is on the south side of Site 6?

8 A. So when the EAM was written, there  
9 was still the intention at that time of actually  
10 putting the clean corridor in for the North Shore  
11 gas line. Later on, it was determined that they  
12 were going to end up capping that, but they still  
13 were required to have the clean corridor across  
14 all of the south side of Site 6 as far as where  
15 the North Shore gas line ran to and that was all  
16 part of the clean corridor construction.

17 Q. Okay. And you said the capping --  
18 did the capping occur at what boring location?

19 A. 04S.

20 Q. And is that an area that the Board  
21 identified as an area of liability?

22 A. Yes.

23 Q. Did you attribute any costs  
24 associated with the North Shore gas line on the

1 north side of Site 6 to IDOT?

2 A. No.

3 Q. Why not?

4 A. Because it was outside of the IDOT  
5 area of liability.

6 Q. And at time -- you talk about the  
7 enforcement action memorandum. At the time of the  
8 enforcement action memorandum, was there any  
9 asbestos containing material east of 08S that had  
10 been detected?

11 A. No.

12 Q. So what -- what is that telling you,  
13 what was driving the need to do the clean  
14 corridor?

15 A. The asbestos that had been  
16 identified from 01S to 08S was driving the clean  
17 corridor construction, the remainder of the south  
18 side of Site 6.

19 Q. And, again, if 05S to 08S weren't  
20 part of your opinion, would you still -- let me  
21 back up.

22 Would your opinion be the same  
23 if the IDOT area of liability in your report was  
24 just 01S to 04S?

1 A. Yes.

2 Q. **And explain, again, please why?**

3 A. Because the presence and the  
4 potential presence of asbestos along the clean  
5 corridor would have driven the need for the clean  
6 corridor itself.

7 Q. **And Mr. Peterson testified about the**  
8 **photographs taken along the south side of 6.**

9 **Do you -- do you have any**  
10 **opinions about those photographs --**

11 A. Yes.

12 Q. **-- other than what you've already**  
13 **stated?**

14 A. Yes, I've already stated that I  
15 believe it's consistent with his description. I  
16 can see a seam of material that is rather uniform  
17 in depth and inconsistency across that entire  
18 site.

19 Q. **Okay. So how did you attribute the**  
20 **Site 6 North Shore gas cost to IDOT?**

21 A. I believe I took the total amount of  
22 work that was done for North Shore gas on Site 6  
23 and I calculated just the number of feet that were  
24 related to work that was done within the IDOT area

1 of liability and made that attribution.

2 Q. And how many feet -- how many feet  
3 was that?

4 A. It was 560 feet.

5 Q. Okay. But you have something in  
6 here that talks about 205 lineal feet, is that on  
7 the south side of 6?

8 A. That's on the total.

9 Q. Are you sure about that?

10 A. I believe so.

11 Q. Okay. So 205 lineal feet and then  
12 560 feet is what you believe happened -- sorry.

13 Can you explain that again? I  
14 got lost.

15 A. Yes, 560 feet was the distance that  
16 was within the IDOT area of liability.

17 Q. Okay. And where is that? What does  
18 the 560 feet comprise of?

19 A. That would be from 04S to 08S.

20 Q. Okay. So how did you get your 27.9  
21 percent?

22 A. Actually, excuse me. That would  
23 have been the linear feet from 04S to the eastern  
24 extent of the North Shore gas line run on the

1 south side of Site 6. It then goes underneath  
2 Greenwood and continues running east on the north  
3 side. So that 560 would have been that length  
4 from where it enters Site 6 and runs to, I  
5 believe, it's somewhere around location 30.

6 **Q. Okay. And the 2005 is the amount of**  
7 **what?**

8 A. The total linear feet for the North  
9 Shore gas line work that was done on Site 6.

10 **Q. And that was North Shore gas line**  
11 **work of what was removed, correct?**

12 A. That's right.

13 **Q. Okay. And then you take and you got**  
14 **the 27.9 percent how?**

15 A. Divided the 560 linear feet by the  
16 2005 linear feet.

17 **Q. To give you 27.9 percent?**

18 A. That's correct.

19 **Q. And how do you get to your**  
20 **attribution to IDOT?**

21 A. Basically, take the total amount for  
22 Site 6 and multiply it by the 27.9 percent.

23 **Q. Okay. So the total amount for Site**  
24 **6 for the North Shore gas costs which was given to**

1 you by compiling what you got from Dr. Ebihara and  
2 Mr. Peterson, correct?

3 A. That's right.

4 Q. And then you multiplied that by the  
5 27.9 percent and came up with \$65,597?

6 A. That's correct.

7 Q. Okay. And, again, that's on the  
8 figure over here 204-36?

9 A. Yes.

10 Q. Okay. So there is a Sites 3 and 6  
11 cost category for the North Shore gas line on  
12 204-35 -- it must actually be 25, I think, not 35.

13 (Document marked as Complainant  
14 Exhibit No. 204-25 for  
15 identification.)

16 BY MS. BRICE:

17 Q. Can you explain to me what those  
18 costs were?

19 A. Yeah, those were the costs that were  
20 implemented that Campanella incurred on a T&M  
21 basis and some of Dave Peterson's oversight costs  
22 related to the North Shore gas line work that was  
23 being done in support of the clean corridor on  
24 both Site 3 and Site 6.

1 Q. Okay. And who made the  
2 determination that they applied to both Site 3 and  
3 Site 6?

4 A. Mr. Peterson.

5 Q. Okay. Let's go back to Exhibit F.  
6 We have a number of these complicated calculations  
7 and if you can turn to 204-108 -- I mean, 109.  
8 Sorry.

9 (Document marked as Complainant  
10 Exhibit No. 204-109 for  
11 identification.)

12 BY MS. BRICE:

13 Q. I'm going to be focusing here on  
14 similarly these similar columns and then down here  
15 on the bottom under North Shore gas there's a  
16 calculation that is shown, correct --

17 A. That's right.

18 Q. -- underneath? So can you explain  
19 these numbers, the \$332,524, what number is that?

20 A. That's the IDOT attribution for Site  
21 3.

22 MS. BRICE: Drew, can you pull that  
23 up, please? Thanks.

24

1 BY MS. BRICE:

2 Q. And what is the \$234,861?

3 A. That's the total cost for Site 6  
4 North Shore gas line work.

5 Q. Okay. And then 332 -- so that's 524  
6 because that's the same number in the attribution  
7 because you attributed 100 percent for Site 3,  
8 correct?

9 A. That's correct.

10 Q. And then under here for Site 6 you  
11 have \$65,597 and how did you come up with -- what  
12 number is that?

13 A. That is the percentage that I  
14 attributed -- that's the allocation to IDOT based  
15 upon that 27.9 percent calculation we discussed  
16 earlier. So that would be the sum of the IDOT  
17 attributions from the column above where that  
18 number appears.

19 Q. Understood. So it's over here a  
20 little bit to the right. So if you go down under  
21 North Shore gas, the Sites 3 and 6 column right  
22 beneath that -- the \$40,826 you've got \$567,385,  
23 is that just adding together the numbers, the  
24 \$332,000 and the \$234,000?

1 A. That's correct.

2 Q. Okay. And then the 398 number, is  
3 that adding -- what is that adding exactly?

4 A. That's adding the \$332,524 plus the  
5 \$65,597.

6 Q. Okay. How did you get to this 70.2  
7 percent?

8 A. Basically, the 7 -- \$398,121  
9 represents 70.2 percent of the total cost.

10 Q. And how did you get to this  
11 attribution of costs for the Site 3 and Site 6?

12 A. I multiplied the total cost by  
13 0.702.

14 Q. So the total -- so the total cost is  
15 \$58,157?

16 A. That's correct.

17 Q. And then you multiplied that by the  
18 70.2 percent by that \$58,157 to get to \$40,826?

19 A. That's correct.

20 Q. Did Mr. Gobelman approach this the  
21 same way?

22 A. He did.

23 HEARING OFFICER HALLORAN: You have  
24 about ten minutes, Ms. Brice, please.

1 BY MS. BRICE:

2 Q. Okay. We're going to move on to  
3 dewatering, which start on 204-25. Can you tell  
4 us what dewatering is?

5 A. Dewatering is basically you either  
6 drive some well points or you put a pump in the  
7 bottom of a hole and you begin pumping the water  
8 out to press the groundwater table so that any  
9 work you need to do at an elevation below the  
10 groundwater table can be done in dry conditions  
11 rather than underwater.

12 Q. And why is it necessary? Excuse me.

13 A. Because you can't actually work in  
14 the subgrade if you're trying to work in the water  
15 basically.

16 Q. Okay. In general, what was your  
17 approach to determining IDOT's dewatering  
18 attribution?

19 A. I basically looked at the elements  
20 of the work that were needed to have dewatering  
21 done in order to implement them.

22 Q. Okay. So let's -- let's -- let's go  
23 here to 204-26. What dewatering work was done on  
24 Site 3?

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(Document marked as Complainant  
Exhibit No. 204-26 for  
identification.)

BY THE WITNESS:

A. The dewater in order to do the clean  
corridors for the Nicor, North Shore gas, the City  
of Waukegan waterline and then also for the  
northeast excavation.

BY MS. BRICE:

Q. Okay. And you've got -- if you can  
turn back to 204-25 you've got multiple different  
categories of service here, do you see that?

A. I do.

Q. Okay. And I believe that you  
treated these somewhat differently, why -- why is  
that?

A. There was just some variability in  
terms of the work that was done between Site 3 and  
Site 6 and then Mr. Peterson had kind of filled me  
in on certain activities that were more focused on  
individual work elements than on a collective work  
element.

Q. So let's take this one by one. So  
the first paragraph of 204-26 under Site 3, you're

1 talking about the Campanella base bid dewatering  
2 work and that number is the -- is what? The total  
3 cost, where does that come from?

4 A. The total cost for the dewatering  
5 work for Site 3 was \$259,000 and that comes from  
6 Mr. Peterson's tabulations.

7 Q. Right. But I'm just talking about  
8 the first paragraph on this one.

9 A. Oh, the construction?

10 Q. Yeah, I'm talking about -- I'm going  
11 to go paragraph by paragraph.

12 So you have the Campanella base  
13 bid?

14 A. Mm-hmm.

15 Q. So Mr. Peterson gave you that  
16 number, correct?

17 A. That's correct.

18 Q. Okay. So can you explain how you  
19 came to this 75 percent attribution and this total  
20 of \$105,600?

21 A. Yes. So there were basically of the  
22 work elements that required dewatering, three of  
23 them I had previously determined to be IDOT's  
24 responsibility, that was the North Shore gas line,

1 the City of Waukegan waterline and the northeast  
2 excavation.

3 The last one, which was the  
4 Nicor line, I had not included. So basically I  
5 took three quarters of the work effort for the  
6 dewatering under the Campanella base bid and  
7 attributed it to IDOT.

8 Q. Okay. And this is all for Site 3,  
9 correct?

10 A. That's for Site 3.

11 Q. And you took those and you took 100  
12 percent of those because you had attributed 100  
13 percent to each one of those three task buckets,  
14 correct?

15 A. That's correct.

16 Q. Okay. Now, if you move down to  
17 Paragraph 2, you've got Campanella T&M dewatering  
18 services.

19 Can you explain this paragraph a  
20 bit? You also have the 75 percent. Can you  
21 explain what you did here?

22 A. Yeah, my understanding is that this  
23 was kind of a cost-saving measure. They had to  
24 move water from the south side of Greenwood Avenue

1 to the north side to tie into the North Shore  
2 Sanitary District sewer line. So they had to put  
3 basically a line in underneath Greenwood Avenue in  
4 order to accommodate management of the water being  
5 generated from the dewatering operation.

6 **Q. Okay. So how did you determine that**  
7 **the percentage, the 75 percent should apply here,**  
8 **and that IDOT's attribution should be \$18,244?**

9 A. I used the same methodology. I  
10 applied the 75 percent in that three of the four  
11 work elements were attributed to IDOT.

12 **Q. And that's because those three of**  
13 **the four work elements were driving the need for**  
14 **that work that you just described?**

15 A. That's correct.

16 **Q. Okay. Under the next paragraph,**  
17 **Paragraph 3, there is 100 percent attribution to**  
18 **IDOT, why -- why is that?**

19 A. This was work -- this was the work  
20 that we described previously. Mr. Peterson  
21 described as being related to the -- being able to  
22 install the valve, which was at the western  
23 boundary of the North Shore gas line so that they  
24 could cut it and cap it at that Site 3/Site 6

1 boundary.

2 Q. So, once again, we're -- we're still  
3 on Site 3, correct?

4 A. That's correct.

5 Q. Okay. So he is doing work here that  
6 he says is only related to the North Shore gas  
7 line?

8 A. That's correct.

9 Q. And because you attributed 100  
10 percent to the North Shore gas line, you  
11 attributed 100 percent for this work that was only  
12 North Shore gas line related on Site 3?

13 A. That's correct.

14 Q. Okay. Fourth paragraph, these are  
15 the DMP-incurred expenses associated with  
16 discharge of water generated from dewatering  
17 activities to the North Shore Water Reclamation  
18 District.

19 Can you explain what you did  
20 here?

21 A. So these were fees, I mentioned  
22 earlier that they had tied into the sewer system  
23 for North Shore Sanitary District. They were  
24 required to pay a fee to the district for taking

1 and treating that water and that's what these  
2 costs were related to.

3 **Q. Okay. And how did you come up with**  
4 **the allocation?**

5 A. It's rather complicated. It's all  
6 explained in Footnote 19.

7 **Q. Okay.**

8 A. It has to do with the actual days of  
9 dewatering that were being undertaken for the  
10 different areas and I basically -- Mr. Peterson  
11 broke it down for me in terms of what days  
12 dewatering was being done where and when you total  
13 it all up it comes out to \$19,429.

14 **Q. Okay. So you went to -- you got**  
15 **into the details here to make sure you got it**  
16 **right?**

17 A. Mm-hmm. Yes.

18 **Q. Okay.**

19 MS. BRICE: Mr. Halloran, is this a  
20 good place to stop?

21 HEARING OFFICER HALLORAN: Yeah,  
22 because we're going on to Site 6 now?

23 MS. BRICE: Yes.

24 HEARING OFFICER HALLORAN: All

1 right. Let's stop. Hopefully tomorrow -- it's  
2 about 5:00. Hopefully tomorrow we can start at  
3 9:00 a.m. You guys have been great today. Thank  
4 you so much and stay well.

5 MS. BRICE: Thank you.

6 MS. GALE: Thank you.

7 MR. GRANT: Thanks.

8 MS. O'LAUGHLIN: Thanks.

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<p style="text-align: center;"><b>A</b></p> <p><b>A.D</b> 311:13  <b>a.m</b> 1:15 310:3  <b>abandoned</b> 81:10              176:9 282:21              291:12  <b>abandoning</b>              271:23 272:2  <b>abandonment</b>              271:21 273:8              275:21 292:18  <b>abated</b> 193:7  <b>abbreviated</b>              149:13  <b>able</b> 21:1 24:16              50:22 104:14              105:15 126:9              168:15 170:19              192:12 200:7              223:6,7,14              307:21  <b>aboveground</b>              147:22  <b>absolutely</b> 23:14  <b>abuts</b> 113:17  <b>access</b> 139:13              151:19,20              168:11 292:7  <b>accessibility</b> 7:15  <b>accommodate</b>              307:4  <b>accuracy</b> 18:4  <b>accurate</b> 18:9              40:15 78:7              238:18 249:20  <b>accurately</b> 55:15              157:13 186:5,10              215:7  <b>ACM</b> 8:13,17 9:4              11:18 12:20              13:11 16:14,15              16:19 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