

ILLINOIS POLLUTION CONTROL BOARD

Johns Mansville, a Delaware Corporation,
Complainant
v.
ENFORCE - ILLINOIS DEPARTMENT OF LAND TRANSPORTATION,
respondent.

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The report of proceedings had in the hearing of the above-entitled cause before Hearing Officer Bradley Halloran, called by the Pollution Control Board, taken by PAMELA A. MARZULLO, a Notary Public in and for the County of Pinellas and State of Florida, via Zoom, 1230 Gulf Boulevard, Clearwater Beach, Florida, on October 29th, 2020, at the hour of 9:00 o'clock a.m.

PRESENT:

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HEARING OFFICER HALLORAN: We're on the record.
Good morning. My name is Bradley Halloran. This is
the fourth day of hearing in 14-3 JM versus IDOT.
The date is October 29th, approximately 9:05
daytime. We're in the middle 45 cross-examination
by Ms. Brice 45 Mr. Gobelman. I would ask -- I'm
sure Mr. Gobelman remembers the hour when he was
first sworn. I would ask Pam to swear Mr. Gobelman
in again.

(Mr. Steven Gobelman was duly
sworn.)

STEVEN GOBELMAN,
was adduced as the witness herein; after having been first
duly sworn, testified as follows:

HEARING OFFICER HALLORAN: Miss Brice?

MS. BRICE: Thank you, sir.

CROSS-EXAMINATION (Continued)

BY MS. BRICE:

**Q. I'm just going to remind everybody we were
discussing the Utility ACM soils excavation action,
and we had talked about how your denominator for
this attribution was 5470 linear feet.**

Divide that by 470 linear feet, which you

1 had calculated the north side and south side 45 site
2 6. We're now turning to your numerator. So, if you
3 go to 205-11, please.

4 A. Okay.

5 Q. You say you calculate by measuring --
6 I'm going back to your numerator on 205-11, and you
7 said you calculated this by measuring the distance
8 45 site 6 halfway between 4S and 5S, which said was
9 197; is that right?

10 A. Yes.

11 Q. And then you divided that get to the
12 3.6 percent?

13 A. Yes.

14 Q. And you applied these Site 6 test pit
15 borings using scaling off 45 a pdf, which is 205-46,
16 correct?

17 Turn to 205-46 just so -- I believe we
18 established this earlier, but just to be sure.

19 A. Well, that's not what --

20 Q. Take a look at 205-7. At the very bottom
21 45 that page, that might help you with your
22 recollection, and I'm talking about the Site 6 soil
23 borings.

24 A. Yes.

1 Q. So, did you use this C-0022JM004753, which
2 was hearing 6699, which is also I think we
3 established up on the screen yesterday the same at
4 205-46, to scale in your Site 6 soil borings?

5 A. Right.

6 Q. Okay. I would like you to turn to 67 --
7 one second. Sorry. Back up.

8 This says this was AE Con's Work Plan
9 Revision 2 March 13, 2014 on 205-7. Do you see
10 that?

11 A. Yes.

12 Q. So, if you turn 67, please, 67-1. Let me
13 know when you're there. 670-1 is the final removal
14 of as per plan, correct?

15 A. Yes.

16 Q. And if you could turn to 675-36. This is
17 just an excerpt. So, 536 is somewhere in the middle
18 I apologize it's not right on top.

19 HEARING OFFICER HALLORAN: What book is this,
20 Ms. Brice?

21 MS. BRICE: Gobelman testified from this binder
22 yesterday.

23 THE WITNESS: Okay, thank you.

24 BY MS. BRICE:

1 Q. The same thing from yesterday is going to
2 be the same thing I'm using today.

3 Can you tell me when you get to 57-536?

4 A. Yes, I'm there.

5 Q. Okay. So, 67-536 is -- we said is the
6 fine plan, and you had access to this document, have
7 you not, since you -- since before you wrote your
8 first expert's report on damages, right?

9 A. I believe so.

10 Q. And this document contains excavation
11 coordinates; in other words, latitudes and
12 longitudes for Site 6 construction work, does it
13 not?

14 A. Yes.

15 Q. And you didn't rely on this document in
16 creating your base map, did you?

17 A. No.

18 Q. Instead of using this document for
19 latitudes and longitudes, you mainly measured in
20 distances off a paper pdf off from an earlier
21 version of this report for plotting the Site 6 soil
22 borings; is that correct?

23 A. I measured it, yes.

24 Q. So the answer is yes?

1 A. Yes.

2 Q. Okay. I'm going to turn to the North
3 Shore gas line. With respect to the North Shore gas
4 line on site 3, a claim corridor was required around
5 it, correct?

6 A. Yes.

7 Q. Okay. If you could turn to 207-17,
8 please. This is part 45 your expert report,
9 correct, your supplemental expert report 207-17?

10 A. Yes.

11 Q. Okay. And on 207-17 -- Drew, could you
12 please load that up for us?

13 I would like you to tell me which soil
14 borings fall within the green that are on your
15 document?

16 A. That fall within the green?

17 Q. Correct.

18 A. D3-15 and D3C.

19 Q. Were those built in line with the hearing?

20 A. Yes.

21 Q. I would just like to note on this map,
22 compared to and on 205-22, which is the base map for
23 this map, you don't have all the same borings that
24 you had on Exhibit 202, correct?

1 A. Correct. I only put in the borings that
2 were associated with the Pollution Control Board's
3 drawing and some of the borings that Mr. Dorgan put
4 in his report, which he made his calculations off
5 45.

6 Q. So, to arrive at your attribution
7 calculated as your denomination, the square footage
8 of the North Shore gas line work on Site 3, which
9 you said was 10,866 square feet; is that right?

10 A. Yes.

11 Q. And then you calculated your numerator,
12 the square footage of the gas line that you believed
13 ran through parcel 0393, based upon your
14 supplemental map, which you say here is 4,271 square
15 feet; is that right?

16 A. Yes.

17 Q. Okay. You then took -- you then divided
18 those numbers and came up with 39.3 percent?

19 A. Yes.

20 Q. If the location of the North Shore gas
21 line on your map here, that you're using on site 3,
22 is accurate, then your numerator and your
23 calculations would be inaccurate; is that correct?

24 A. I wouldn't know.

1 Q. You wouldn't know? So, your calculation
2 is based upon the division 45 a numerator and a
3 denominator correct?

4 A. Yes.

5 Q. So, if your numerator is different, you're
6 going to go come up with a different percentage,
7 correct?

8 A. If the numerator is different, yes.

9 Q. So, if the numerator is different, and
10 then you use that numerator to multiply that by the
11 overall cost for a particular area, you're going to
12 come up with a different number, correct?

13 A. If the calculations were different, yes.

14 Q. Okay. Let's talk about the North Shore
15 gas line on Site 6.

16 Here you didn't use square footage, did
17 you?

18 A. No.

19 Q. Rather, you used linear footage, right?

20 A. Correct.

21 Q. And linear footage, based upon your base
22 map in your expert's report, correct?

23 A. Correct.

24 Q. Okay. If you can go to 207-05. Going to

1 the bottom 45 that page, and I'm just going to read
2 for the record the sentence, "Mr. Dorgan states the
3 length along the south side 45 Site 6 is
4 approximately 2,500 feet."

5 Do you see that?

6 A. Yes.

7 Q. How did you use that 2,500 linear feet in
8 your attribution calculation?

9 A. I used that in -- that's exactly what the
10 percentage of the gas line is in this site 6.

11 Q. Was that your denominator, the 2,500
12 linear feet?

13 A. Yes.

14 Q. Okay. If you can turn to 204-24, please.
15 204-24, which is Mr. Dorgan's report where he talks
16 about the North Shore gas was line. Are you there?

17 A. I am now.

18 Q. Okay. The very last paragraph I'm going
19 to read into the record, "It's my understanding that
20 a total 452,500 linear feet of the North Shore gas
21 line was removed on Site 6."

22 Do you see that?

23 A. Yes.

24 Q. So, he's not talking solely about the

1 south side 45 Site 645 that measurement, is he?

2 A. No.

3 Q. You define the portion before of the area
4 that is attributable to IDOT based upon your base
5 map 207-17, correct?

6 A. I'm sorry, what?

7 Q. You used the base map to come up with your
8 numerator in your attribution, correct?

9 A. Right.

10 Q. 207-17, because you did a measurement off
11 45 it, correct, the 72 feet?

12 A. I have to go back.

13 Q. 207-5.

14 A. What was this again, the measurement?

15 Q. Sure. Is 7200 linear feet -- I just want
16 to establish that was measured off 45 this base map,
17 the base map being 207-17. It's the one
18 specifically is the one about the North Shore gas?

19 A. Yes.

20 Q. So, the numerator here is 72 linear feet,
21 and you divided the numerator by the 2,500 linear
22 feet to get to 3.6, correct, percent?

23 A. Yes.

24 Q. And, so, these distances would need to be

1 accurate in order for the 3.6 attribution to be
2 correct; isn't that true?

3 A. Yes.

4 Q. Okay. Combined Site 3 plus 6 -- all I
5 really want to establish here is that your combined
6 Site 3 plus 6 numbers depend upon the attributions
7 you made to site 3 for North Shore gas and site 6
8 for North Shore gas.

9 A. Yes.

10 Q. Let's go to the northeast excavation
11 207-18 is the map in play, I believe. Could you
12 please turn to that?

13 A. Okay.

14 Q. Okay. Again, you used 205-46, which we
15 were looking at a moment ago up on the screen, to
16 scale in the northeast excavation.

17 And you said the distance from 9S to the
18 eastern edge of the northeast excavation is
19 140 feet. That's on 205-8.

20 Is that accurate. Is that what you did?
21 And take your time.

22 A. Say your question again.

23 Q. Sure. Let me break it down. You used
24 205-46 to locate the northeast excavation, correct,

1 based on what you say here on 205-8?

2 A. Yes.

3 Q. Okay. And then how you did that was you
4 hand scaled it in; isn't that true?

5 A. I measured it in, yes.

6 Q. You measured it in using an engineer's
7 scale map on a computer, correct?

8 A. I believe in this case, I would have used
9 as the -- the borings were in place. I would have
10 CAD measured from 9S to the distance 45140 feet, and
11 then that would create the eastern edge.

12 Q. You don't recall, do you, specifically how
13 you did it?

14 A. It was measured in.

15 Q. You measured it in, but it whether you did
16 hand scaling, or whether you did it another way, we
17 can look at your deposition and figure that out at
18 some point.

19 But you don't recall right now exactly how
20 you did it; is that correct?

21 A. No, not really.

22 Q. All right. And then you state the
23 distance from the soil boring location 9S, to the
24 eastern edge of the northern location, is about

1 **140 feet. Do you see that?**

2 A. Where are you reading from?

3 Q. **205.**

4 A. 205?

5 Q. **205-8.**

6 A. Would did you read out?

7 Q. **140 feet.**

8 A. Yes.

9 Q. **Okay. But wouldn't it have been better to**
10 **use the final work plan to plot the northeast**
11 **excavation instead of the Revision 2?**

12 A. I don't know.

13 Q. **Okay. Turning to your deposition, your**
14 **second deposition, which is page number on the**
15 **deposition 53; but on the exhibit number, it's going**
16 **to be 229D-54.**

17 A. Okay.

18 Q. **Are you there?**

19 A. Yes.

20 Q. **Line 5. Okay, "If you were to go back and**
21 **do it now, what would be the right source to use to**
22 **locate the northeast excavation, the final report?**

23 **"Answer: It would be. I would assumed**
24 **that it would be the final report and the work plan**

1 that depicts actually how it was laid in, how it was
2 supposed to be measured in."

3 MS. O'LAUGHLIN: Objection. The deposition
4 transcript is hearsay. It's not an appropriate use
5 45 a deposition transcript. It's not a prior
6 inconsistent statement.

7 HEARING OFFICER HALLORAN: Ms. Brice?

8 MS. BRICE: I'm impeaching him with the
9 deposition testimony. He said he didn't know; and
10 in his deposition, he said, "Yes."

11 HEARING OFFICER HALLORAN: I agree. Overruled.

12 BY MS. BRICE:

13 Q. Your northeast excavation attributions are
14 based upon square footage, right? If you want to
15 turn to 207-18, it might make it easier.

16 A. Okay.

17 Q. I believe you said on direct that the
18 northeast excavation in total is 7500 square feet;
19 is that right?

20 You added those two numbers together in
21 the boxes?

22 A. Yes.

23 Q. Okay. The portion of the northeast
24 excavation, that falls within 0339, is 1,889 square

1 feet, correct?

2 A. It probably says that.

3 Q. I think it says 1,889 square feet.

4 A. Yes.

5 Q. Okay. And you divided 1,899 by 7500 and
6 came to 25.12 percent; is that right?

7 A. Yes.

8 Q. This northeast excavation is comprised 45
9 three grids; isn't that correct?

10 A. Yes.

11 Q. The denominator we just talked about, the
12 7500 square feet, is based opinion measurements you
13 made off 45 this map 207-18, right?

14 A. Yes.

15 Q. The same is true for the 1,889 square feet
16 numerator, it's also measured off 45 this map
17 207-18, right?

18 A. Yes.

19 Q. Okay. You testified -- so, there's three
20 grids here. The grid on the left, you testified
21 that you included that boring B350 in your IDOT area
22 45 liability, correct?

23 A. Yes, the Board ruled that it was in our
24 liability.

1 Q. And then you said you also included B345
2 in your IDOT area of liability, right?

3 A. Yes, even though it fell in my drawing
4 outside.

5 Q. And we you talked a lot about -- you've
6 talked a lot about the next cleanest boring rule.

7 Do you remember that?

8 A. A little bit, just depending on where we
9 were at.

10 Q. You said that, you know, the USEPA
11 required the contamination to be excavated to the
12 next cleanest boring; do you recall that?

13 A. Are you saying that I said that?

14 Q. Yes.

15 A. I don't recall saying that.

16 Q. I'm going to hand you -- give me a second,
17 I'm going to be back, because I think we already
18 went through this.

19 If you would give me one second, I would
20 appreciate it.

21 HEARING OFFICER HALLORAN: Yes.

22 (Pause)

23 BY MS. BRICE:

24 Q. Okay. Let's go to your first deposition

1 45 page 28, line 11, please. I'm going to read it
2 into the record.

3 You were deposed. You know we went over
4 this yesterday, but these are both in your
5 depositions, correct?

6 A. Correct.

7 Q. We've been reading -- okay. "Question:
8 If ACM is detected in a boring, how much of the area
9 around the boring did USEPA assume to be
10 contaminated?"

11 "Answer: Well, typically, I think there
12 was a number of figures that represented different
13 methodology to determine the extent. But in most
14 cases, it went to the next cleanest boring."

15 Do you see that?

16 A. Yes.

17 Q. Okay. So, here we've got B350, and can
18 you pull up the map, please, Drew? 207-18, please.
19 Thank you.

20 Okay. And EPA also required the
21 excavation 45 an entire grid, if a portion of the
22 grid was contaminated; is that correct?

23 A. Yes.

24 Q. But here you did not include the entire

1 grid 45 B350 or B345 in your IDOT attribution, did
2 you?

3 A. No, I only included the areas that the
4 Pollution Control Board said IDOT was liable for.

5 Q. But, again, the EPA required the whole
6 grid to be excavated, if there was a contaminated
7 boring in the grid, correct?

8 A. Those were areas that were outside of
9 IDOT's responsibility.

10 Q. Please answer the question that I asked.

11 A. They required it to be excavated.

12 Q. Correct. Okay. And then -- so, just
13 talking about the next cleanest boring. Was B346 a
14 clean boring?

15 A. I don't know. I don't have it
16 represented.

17 Q. Okay. I'll represent that B346 was a
18 contaminated boring.

19 And I understand that if you believe you
20 were liable for the neighboring contaminated boring,
21 you counted halfway to the next boring.

22 I believe that was your testimony, right?

23 A. Yes.

24 Q. Okay. This concept is not what is stated

1 in the enforcement action memorandum, is it?

2 A. I don't know how it was stated in the
3 enforcement memorandum.

4 Q. It's not how EPA treated contaminated
5 areas, is it?

6 A. I don't know for sure.

7 Q. Okay. Let's go to -- I'm going to go to
8 Exhibit 120. I'm not sure if everybody has a copy
9 45 this, but I will have Drew pull it up on the
10 board here and go to Exhibit 120, please.

11 A. It's not in here.

12 Q. I'm going to hand it to you. He's going
13 to pull it up here, 120-3.

14 This is Figure 8. Just keep going back on
15 paragraph 9. Okay. Do you see that? Did you have
16 a copy?

17 A. I have a copy 45 it here.

18 Q. Okay, great. I'm just going to read this
19 into the record. For purposes of identification,
20 this is a letter on 120-1 from USEPA to Bill Bell at
21 LSR and Dr. Dr. Ebihara testified LSR was working on
22 this project at the very beginning."

23 And on 123, USEPA says, quote, "To
24 determine the extent 45 ACM, it appears that it was

1 assumed that ACM was present in the entire grid, and
2 the sample collected within that grid contained
3 ACM."

4 And then further down, it says, "If the
5 current sampling results are to used to determine
6 the extend of ACM that needs to be addressed in this
7 report, then it is recommended that the area
8 containing ACM should be depicted as follows: For
9 the grid that contained ACM, the boundary 45
10 ACM-containing material should be extended all the
11 way to the nearest non-detected sample."

12 They did give an example that I don't
13 think I need to read into the record. Then it says,
14 "This approach should be taken for all the sampled
15 locations with ACM detected."

16 Do you see that, sir?

17 A. Yes.

18 Q. But you didn't count this report 346
19 halfway or all the way, did you?

20 A. I don't have 346.

21 Q. 346 is in the third grid.

22 A. Okay.

23 Q. 45 site soil excavation.

24 A. I'll take your word for it.

1 Q. Okay. You don't have to take my word for
2 it. I remember it correctly.

3 Let's go to 204-38 super fast. If you
4 could just pull it up on the board, I would
5 appreciate it. Yes, there it is. You see B346 up
6 there on the board?

7 A. Yes.

8 Q. Okay, thank you. So, here is the question
9 I have: If the northeast excavation is plotted too
10 far to the east" -- go back to 207-17, please.

11 If it's plotted too far to the east --
12 Sorry. 207-18, "Two parts to the east," meaning two
13 parts to the right, "if it happens to be that, if
14 that happens to be the case, then you were counting
15 less in your IDOT attribution; is that correct,
16 because it's not falling within" --

17 A. Say that again. I lost it.

18 Q. Sure. If it's plotted too far to the
19 east, you are basically moving everything to the
20 east, and less 45 it falls within what you have as
21 depicted as 0393; isn't that right?

22 A. If I have plotted it too far to the east,
23 yes.

24 Q. Let me put it this way: The further east,

1 the northeast excavation sits, the less amount that
2 falls within 0393; is that right?

3 A. I'm sorry, you're talking about the actual
4 excavation dimensions?

5 Q. Correct.

6 A. If I had lined it up much too far east?

7 Q. Yes. Then it's less 45 it is falling
8 within 0393; is that right?

9 A. Yes.

10 Q. I would like to turn to dewatering. You
11 said that you took an approach similar to
12 Mr. Dorgan's, right?

13 A. Yes.

14 Q. And like Mr. Dorgan, you agreed the report
15 gas references drove that need to dewater on Site 3,
16 which is the Nicor gas line, the North Shore gas
17 line, the Waukegan waterline and the northeast
18 excavation, right?

19 A. I think so.

20 Q. Okay. And then you took your attributions
21 for two of the four, correct, the North Shore gas
22 line and the North Shore excavation, because you did
23 not consider the Waukegan water line or the Nicor
24 line to be part of the IDOT's liability?

1 **Go to 207-7, if that's helpful.**

2 A. Yes, I utilized the cost of the Nicor
3 line -- or utilized Nicor, North Shore, Waukegan
4 line in the northeast excavation.

5 **Q. And your attributions came with the North
6 Shore gas line excavation, correct?**

7 A. Yes.

8 **Q. You added up these costs and came to
9 143,265; is that right?**

10 A. Yes.

11 **Q. And you divided this number, which was
12 your numerator, by the total cost to complete these
13 tasks on Site 3, which was 661,565, which became
14 your denominator; is that correct?**

15 A. Correct.

16 **Q. And then you came up with a percentage
17 4521.7 percent?**

18 A. Correct.

19 **Q. Okay. On 207-6, one page back, you have
20 point one, two, three, four categories 45 dewatering
21 costs; do you see that?**

22 A. Yes.

23 **Q. Okay. And you applied, as I understand
24 it, the same 21.7 percent to all four categories for**

1 Site 3 dewatering, so all four 45 these categories
2 listed on 207-6 under "dewatering."

3 I think if you look the on 207-7, it
4 explains it.

5 A. Yes, I applied 21.7 percent to those four
6 things.

7 Q. So, you didn't treat DMP dewatering costs
8 noted here as construction management for dewatering
9 differently, right, obviously?

10 A. I didn't treat any 45 those four things
11 any differently.

12 Q. Mr. Dorgan explained these costs were 100
13 percent related to the North Shore gas work on
14 Site 3.

15 Do you recall that?

16 A. No, I don't.

17 Q. Okay. Do you dispute that?

18 A. It can just be that I don't remember.

19 Q. Okay. And Mr. Dorgan discussed the
20 destruction services came into utility work and
21 comprised the category in your charts.

22 Do you dispute the characterization of the
23 work done as set forth in Footnote 1945 Mr. Dorgan's
24 report?

1 A. I don't remember what his footnote is.

2 Q. Actually, you said here you don't dispute
3 it.

4 A. I can't dispute something that I don't
5 know what it is.

6 Q. Okay. That's fine. Let's move to Site 6,
7 dewatering. This is again on 207-7, and here you
8 were charged with linear footage calculations,
9 right?

10 A. Yes.

11 Q. Okay. And you say that the dewatering was
12 required to create a clean bore corridor for 1S --
13 sorry, 1N through 9N and 1S through 9S, which you
14 measured as at 838 linear feet off 45 your map; is
15 that correct?

16 A. Yes.

17 Q. And this sum became your denominator;
18 isn't that right?

19 A. Yes.

20 Q. So, for your attribution to be correct,
21 your denominator needs to be correct, right?

22 A. Correct.

23 Q. And your numerator here was 1S through
24 4.5S, which you measured off 45 your base map to be

1 197 linear feet; is that right?

2 A. Yes.

3 Q. Sorry. No problem. And just if you go --
4 to make it easy, I'm on 207-7, second paragraph of
5 Site 6. I'm going to summarize this.

6 To arrive at your attributions divided as
7 197 by 838 linear feet, to get to 23.5 percent; and
8 then you multiplied that 23.5 percent by the Site 6
9 dewatering cost total 45160,587; is that right?

10 A. Yes, divided by the total. I multiplied
11 that cost to those two items in Site 6.

12 Q. Yes, correct. Sorry, if I misspoke, I
13 apologize.

14 And the total was 37,738, right?

15 A. Correct.

16 Q. And then, again, on the site green, six
17 calculations for dewatering.

18 Those calculations attributions depend
19 upon how much you attribute to Site 3 work, along
20 for dewatering in Site 6 work alone for dewatering,
21 right?

22 A. Yes.

23 Q. If you turn to 207-19, please.

24 A. Okay.

1 Q. So, I believe the ramp is this area over
2 here on the left that is -- it says "ramp," and it
3 has a cross hatched through it, and it's contained
4 in a box, correct?

5 A. Yes.

6 Q. And what work was done in that area, that
7 hatched area, to your knowledge?

8 A. It was capped. It was too wide. It was
9 right on top of, the cover.

10 Q. And was there ACM found in that area, to
11 your knowledge?

12 A. I don't recall of the top of my head.

13 Q. But you mean by that an allocation 45 zero
14 for the ramp 7, because you thought it was too far
15 west on parcel 039, right?

16 A. Correct, outside of the borings allocated.

17 Q. All right. Let's turn to filling and
18 capping, and I'm going to go to 207-20, the next
19 page.

20 I believe you testified you did this, and
21 this is on 205-15, but I don't think you have to
22 look back.

23 You took 3.1-acres, right, as your total
24 square footage for the entire site 3, right?

1 A. Yes.

2 Q. Okay. And that's your denominator for
3 your calculation, correct?

4 A. Correct.

5 Q. Okay. And then you took a measurement of
6 the area that you have with slanted hashing going to
7 the -- from the northeast to the southwest as your
8 denominator, and it came to .2 acres; is that right?

9 A. Correct.

10 Q. And you then got 6.5 percent; is that
11 correct?

12 You want to look back on 205-15, I believe
13 is where this is?

14 A. What percentage is that?

15 Q. I said 6.5 percent.

16 A. Yes.

17 Q. Okay. But just to be clear, you don't
18 include in this area where ACM was found 45 -- you
19 don't include within this area the ramp, right?

20 A. No, I do not.

21 Q. You don't include the Waukegan water line?

22 A. No, I do not.

23 Q. You don't include the entire grid for B350
24 or B345?

1 A. No, I do not. They are outside of the
2 boring liabilities.

3 Q. And you don't include B346, correct?

4 A. Correct, because it's outside IDOT.

5 Q. You didn't include all of the AT&T lines
6 that ran through 0393, just a portion 45 that; is
7 that right?

8 A. Correct.

9 Q. Let's go to filling and capping Site 6.
10 here you say you used the same method you used for
11 ACM soils excavation.

12 So we're back again to that calculation
13 455,470 feet, which is the entire length 45 the
14 north side and south side 45 Site 6 as your
15 denominator; is that right?

16 A. What page are you on? I'm sorry.

17 Q. I'm thinking -- I don't have it here, but
18 it's got to be probably 205-16-ish.

19 A. Okay.

20 Q. Do you see that?

21 A. Yes.

22 Q. So, here you've got that 5470 linear feet,
23 correct?

24 A. Yes.

1 Q. Okay. And that's the entire north side
2 and south side 45 Site 6?

3 A. Yes.

4 Q. And your metric denominator for this
5 calculation, and then your numerator on 207-20 --
6 I'm sorry. Pardon me. I'll turn back.

7 Your numerator on this was the 197 linear
8 feet, correct; is that right?

9 A. Yes.

10 Q. And that's measured off 45 your base maps,
11 correct?

12 A. Yes.

13 Q. Okay. And you didn't take into account
14 volume 45 filling in any way, shape 45 form, in
15 determining your site 6 attributions for filling and
16 capping?

17 A. No.

18 Q. Now, I'm going to -- the combined Site 3
19 and 6, again, your numbers are dependent upon the
20 allocation numbers you gave as inputs for Site 3
21 alone and Site 61, correct?

22 A. Correct.

23 Q. Okay. So, let's go to the general
24 site/site prep maps. Well, there's not a map for

1 this.

2 Let's go to 207-8. Tell me when you are
3 there.

4 A. I'm in.

5 Q. Okay. You stated that you used the same
6 zero approach as Mr. Dorgan for general site
7 preparation work.

8 Do you recall that?

9 A. Yes.

10 Q. Okay. But on direct, you couldn't
11 identify which gas buckets, or as you said cells,
12 you used to reach your calculations, could you?

13 A. Correct, I didn't remember what cells I
14 used in the spreadsheet. I don't know if it's the
15 same cells that Mr. Dorgan used.

16 Q. Okay. I'm going to pull up demonstrative
17 205, and I used this with Mr. Dorgan.

18 Did you remember seeing this?

19 A. Yes.

20 Q. You had it presented to you -- I believe
21 IDOT sent it to you ahead 45 time.

22 You agreed that it was accurate?

23 A. Yes.

24 Q. So, for general site/site 3 prep, both you

1 and Mr. Dorgan added up your IDOT attributions for
2 construction services on Site 3, and divided this
3 number by the total maps of construction services
4 for Site 3, right?

5 A. Yes.

6 Q. And construction service in this process
7 are 54 -- is half of line AT&T Nicor gas; is that
8 right?

9 A. Yes, the same ones as Dorgan.

10 Q. And the number that you guys both used as
11 the total amount spent was 1,476,454.

12 So, that was the denominator, right?

13 A. Yes.

14 Q. The numerators were different because you
15 had different attributes, right?

16 A. Correct.

17 Q. The percentage you came up with was
18 16.8 percent; is that right?

19 A. Yes.

20 Q. Okay. And you applied 16.8 percent to all
21 of the general site/site prep categories on 207-8
22 related to Site 3; is that correct?

23 A. Yes, I applied all the ones that
24 Mr. Dorgan applied his percentages to.

1 Q. Okay. But you didn't treat the O&M cost
2 bucket differently, did you?

3 This O&M bucket, which is on 207-8 in the
4 chart, you treated that the same and applied the
5 60.8 percent, right?

6 A. I applied that percentage in the same
7 manner that Mr. Dorgan applied. So, if he applied
8 his percentage to those pieces, I applied to those
9 pieces as well.

10 Q. Do you know if Mr. Dorgan applied that
11 attribution to -- let's just do this, let's go to
12 204-32. I'm almost done.

13 HEARING OFFICER HALLORAN: Do you have a page
14 number?

15 MS. BRICE: 204-32.

16 BY MS. BRICE:

17 Q. I'm going to the second paragraph
18 45204-32, and here Mr. Dorgan -- Mr. Dorgan had been
19 applying, if you look at the paragraph above,
20 74.2 percent for these gas buckets, correct?

21 A. Yes.

22 Q. Okay. But on the O&M, he applied the
23 factor of 80 percent, does he not?

24 A. Correct.

1 Q. Let's go back to 207-8. We're going to
2 talk about general Site 6 prep work.

3 So, once again, same methodology, right,
4 for your numerator and denominator, you used these
5 different construction work categories of gas
6 buckets, which are listed on Exhibit 2 under the
7 column "Site 6 prep," which are AT&T North Shore
8 gas, northeast excavation and utility and filling
9 and capping, right?

10 A. Yes, I used that that same cells that
11 Mr. Dorgan did that I added to the cost.

12 Q. And this gave you 5.5 percent?

13 A. For Site 6.

14 Q. For Site 6, correct, on the bottom
15 45207-8?

16 A. Yes.

17 Q. But the attribution that you made for
18 these tasks in 204 -- on 245, excuse me. Take just,
19 for example, the Waukegan water line is wrong, then
20 that's going to impact your overall Site 6 prep
21 calculations; is that right?

22 A. If there were adjustments in the
23 measurements, yes, there would be a marginal
24 increase or decrease with the different numbers.

1 Q. The point I'm just trying to get across is
2 that all 45 these tasks are in Site 3 prep, Site 6,
3 Site 3 and 6 prep, compensate in Site 3 oversight
4 and Site 6 oversight and legal, all depend upon the
5 allocations for the attributions that you made to
6 various task methods that we just went through?

7 A. Yes, I did that.

8 Q. And if I want to find out which task
9 buckets that you used for Site 3 and 6 prep, health
10 and safety, Site 3 oversight, Site 6 oversight and
11 legal, I'll just take a look at Exhibit 245, and
12 it's the ones that have the X on it; is that
13 correct, underneath --

14 A. Health and safety, is that your question?

15 Q. Overall with respect to Exhibit 245. So,
16 I'm trying to look at health and safety. I'm trying
17 to figure out how you did your calculation.

18 Your calculation was based upon your
19 attribution numbers and the overall numbers for
20 AT&T, North Shore Gas, AT&T and utility and filling
21 and capping, correct?

22 A. Yes, I used the same methodology.

23 Q. I'm just trying to cut through the chase
24 here. Exhibit 245 has listed for each one of those

1 columns, right, underneath each column, there are
2 Xes; and those Xes denote which structured task
3 buckets were used to form your calculations, with
4 respect to these oversights for services task
5 buckets; is that right?

6 A. Yes. That's how Mr. Dorgan did it, and
7 that's how exactly I did it.

8 Q. One last question for you. Did the Board
9 find anyone, other than IDOT, liable in the earlier
10 hearing in this matter?

11 A. I don't understand your question.

12 Q. Did the Board find anyone else, other than
13 IDOT, liable in the hearing order?

14 A. I don't know.

15 Q. Turn to your first deposition and page
16 140, lines 12 through 16. Ellen, did you get that?

17 MS. O'LAUGHLIN: No. Sorry.

18 THE WITNESS: 229B 140?

19 BY MS. BRICE:

20 Q. Page 140, lines 12 through 16, and the
21 question is: "Did the Board make any finding that
22 anyone other IDOT was liable from ACM at gas Site 3?

23 "Answer: I don't believe that was a
24 subject to the ruling."

1 **Do you see that?**

2 A. Yes.

3 **Q. Did you dispute saying that?**

4 A. No.

5 MS. BRICE: Okay. No further questions.

6 HEARING OFFICER HALLORAN: Ms. O'Laughlin, do
7 you need a few minutes?

8 MS. O'LAUGHLIN: Yes.

9 HEARING OFFICER HALLORAN: Pam, we're taking a
10 ten-minute break.

11 (A Recess was taken.)

12 HEARING OFFICER HALLORAN: We're back on the
13 record. Ms. O'Laughlin is doing her redirect 45
14 Mr. Gobelman. You made proceed, Ms. O'Laughlin.

15 MS. O'LAUGHLIN: Thank you, Mr. O'Haloran.

16 REDIRECT EXAMINATION

17 BY MS. O'LAUGHLIN:

18 **Q. So, Mr. Gobelman, you testified that you**
19 **used a map from the ELM report to show the soil**
20 **borings that you created; am I correct on that?**

21 A. Yes.

22 **Q. Okay. Can you turn to Exhibit 57?**

23 A. In what book?

24 **Q. It's Exhibit 57. It would begin in 06.**

1 **It's not listed. It should be. I direct you to 57.**

2 **And what is this document?**

3 A. It's the surface and subsurface
4 characterization of Site 3.

5 **Q. What does this report seek to accomplish?**

6 A. It provided the final surface and
7 subsurface characterizations 45 Site 3, showing the
8 sample locations and boring logs and analytical of
9 what they found.

10 **Q. And I note that on the cover page it's**
11 **marked as a draft?**

12 A. Correct.

13 **Q. If you could turn to page Exhibit 57-19,**
14 **if you could look to paragraph 5.3 in the second**
15 **photograph that begins at 5550 grid?**

16 A. Yes.

17 **Q. If you could read that, please?**

18 A. "The 5550 grid was established on Site 3,
19 so that random sampling points could be created at
20 the intersection of the grid lines.

21 "Once the grid was established, each
22 sampling point was surveyed as to elevation and
23 location, with respect to site boundaries."

24 **Q. If you could turn to 57-536.**

1 A. Yes.

2 Q. 536.

3 A. I'm there.

4 Q. And see if you could read the top 45 this
5 map or document?

6 A. It's Figure 15 soil boring location map
7 for Site 3.

8 Q. And did you use this map in preparation 45
9 your report for the second round of hearings?

10 A. Yes.

11 Q. And that's the report that Ms. Brice asked
12 you about yesterday; is that true?

13 A. Correct.

14 Q. Just turning randomly to a page -- let's
15 go to 57-2087.

16 A. I did.

17 Q. And what is this? Describe what that page
18 depicts on this report?

19 A. It depicts a boring log for location D315
20 that was conducted by ELM Consultants.

21 Q. Okay. So, is this the company that
22 actually did all the soil borings or reported on all
23 the soil borings?

24 A. Yes, I believe so.

1 **Q. So, this is basically a soil boring**
2 **report; is that a fair description?**

3 A. It's a report that discusses all the
4 sample locations and provides all the backup
5 documents that they used to -- you know, where they
6 took the samples, the boring logs for the
7 description of the geology and the analytical
8 results that they found.

9 **Q. And was this report submitted to USEPA, if**
10 **you know?**

11 A. I don't know off the top of my head. I
12 would assume it was utilized in some way.

13 **Q. Do you know whether the Board relied upon**
14 **this report in coming to its interim opinion and**
15 **order?**

16 A. I don't recall off the top 45 my head.

17 **Q. If you could turn to Exhibit 203.**

18 A. Okay. What page?

19 **Q. The third page in. The area below soil**
20 **sample line at Site 3 and site 6.**

21 **If you could begin to read the second**
22 **paragraph that begins, "In 1998, ELM investigated"?**

23 A. "In 1998, ELM investigated Site 3,
24 Exhibit 57 ELM report. ELM visually inspected the

1 site surface and found 74 suspicious ACM fragments."

2 **Q. This was all suspected?**

3 A. All suspected, right. "At ID 23, ELM
4 removed this official ACM from the site ID. ELM
5 described 65 of the suspected ACM fragments as
6 transite 5 and the remaining as concrete salt paper,
7 tar paper, roofing material for installation ID at
8 177 through 179."

9 **Q. That's good. If you could turn the page**
10 **to 203-4. If you could just read the first sentence**
11 **of the first full paragraph on that page.**

12 A. "At Site 3, ELM also collected 48 soil
13 bore samples drilled at a depth of four feet."

14 **Q. Okay. So, the Board Order didn't site**
15 **EML, and apparently the Board relied on this report,**
16 **in drafting and arriving at its interim opinion**
17 **order; is that accurate?**

18 A. I would assume so.

19 **Q. If you could turn to Exhibit -- excuse me,**
20 **206, which is Mr. Dorgan's initial report, and this**
21 **is the first hearing map.**

22 **It's Mr. Dorgan's initial expert report.**
23 **If you could turn to 0625.**

24 A. Yes.

1 Q. Do you recall this document?

2 A. Vaguely, yes.

3 Q. Can you go to the bottom 45 this document
4 where is says "Legend"?

5 A. Yes.

6 Q. And what is the first line?

7 A. "ELM boring location 1999."

8 Q. Okay. And this is a figure from
9 Mr. Dorgan's initial expert report 45 March 16,
10 2015?

11 A. Yes.

12 Q. So, apparently Mr. Dorgan used the ELM
13 report in his figure from the first hearing?

14 A. Yes.

15 MS. BRICE: Objection.

16 HEARING OFFICER HALLORAN: Could you please
17 restate the question, please?

18 BY MS. O'LAUGHLIN:

19 Q. Exhibit 0625 -- excuse me, Exhibit 06,
20 what is this document? What is this?

21 A. Dorgan's expert report from March 16 of
22 2015.

23 Q. And this would have been part of the first
24 round of hearings, the first stage 45 this matter?

1 A. Correct.

2 Q. His Figure 2, which is 0625, the same
3 document 25.

4 A. Yes.

5 Q. The first line of the legend states what?

6 A. "ELM boring location 1999."

7 Q. And what does having ELM boring location
8 1999 indicate to you?

9 MS. BRICE: Objection, lack 45 foundation. He
10 didn't draft this document, and the document appears
11 to be saying how it's denoting B3-SS is a ELM
12 boring.

13 HEARING OFFICER HALLORAN: No, I'll allow it.
14 He can say, you know, what he thinks this means.
15 You can take it up on recross.

16 MS. BRICE: No problem.

17 HEARING OFFICER HALLORAN: Okay, thank you.
18 Overruled.

19 THE WITNESS: I would assume that the boring
20 locations depicted on this map came from the ELM
21 boring location -- form the ELM report from 1999.

22 BY MS. O'LAUGHLIN:

23 Q. Thank you. And that's the same report
24 that you used in creating your base map for creating

1 the second round?

2 A. Yes.

3 Q. Thank you. I wanted to use -- yesterday
4 Ms. Brice asked you some questions about a
5 demonstrative exhibit they had regarding the
6 construction 45 Detour Road A.

7 Do you recall that?

8 A. I'm not sure which demonstrative.

9 Q. I'm not sure which demonstrative either.
10 Off the record.

11 MS. O'LAUGHLIN: Off the record real quickly.

12 HEARING OFFICER HALLORAN: Sure, off the
13 record.

14 (Discussion off the record.)

15 HEARING OFFICER HALLORAN: Back on the record.
16 You may proceed, Ms. O'Laughlin.

17 BY MS. O'LAUGHLIN:

18 Q. Mr. Gobelman, yesterday Ms. Brice asked
19 you some questions about Exhibit 204-41A; do you
20 recall?

21 A. Yes.

22 Q. And what is this figure for 204-41A?

23 A. It's letting out Site 6 stationing for
24 Greenwood Avenue and a cross-section of the -- in

1 essence, the geology that was expanding the IDOT
2 plans associated with the embankment work to be done
3 on Greenwood Avenue.

4 Q. Okay. And you talked about black cinder
5 fill. What does this marking -- you know, the
6 orange marking of block cinder fill. What does that
7 mean to you?

8 A. That was what was the black cinder fill
9 and the peat beneath it was loaded in the
10 information provided to the contractor in a
11 cross-section in the GASK bulletin -- well, still in
12 the active plans. It was in the original plans.

13 It provided them with the information on
14 the -- what was going to be beneath the grade of --
15 well, some of these grades on Greenwood Avenue, so
16 they would know what type of material they would be
17 encountering.

18 Q. Okay. And this area 7.0 matches up with
19 the station at Greenwood Avenue up at the top,
20 correct?

21 A. Yes.

22 Q. In the direct testimony, as you did in
23 your first round 45 hearing, you stated that the
24 as-built plans indicated the road would begin at

1 **approximately 7 plus 60?**

2 A. Construction on the Greenwood Avenue
3 embankment begins at 7 plus 60.

4 **Q. Okay.**

5 A. No construction on Greenwood Avenue occurs
6 to the east of the station, other than at the end of
7 the project, the pavement that was resurfaced back
8 to 7 plus general general for a smooth area for new
9 construction.

10 **Q. Okay. So, there was no embankment east**
11 **457?**

12 A. No subsurface excavation in the Greenwood
13 Avenue.

14 **Q. Okay. If you could in turn to 21A-72.**

15 A. 21? Okay.

16 **Q. What is shown on this page?**

17 A. The pictures in the binders are upside
18 down.

19 **Q. 21A-72.**

20 A. 72?

21 **Q. Yes, 72.**

22 MS. BRICE: We don't have that.

23 BY MS. O'LAUGHLIN:

24 **Q. As you said, it's upside down?**

1 A. Yes.

2 Q. In looking at this document, the exhibit
3 number should be on the top left.

4 A. Yes.

5 Q. So, what does this page show?

6 A. It is the cross-section for the Greenwood
7 Avenue, as in the figure that was being used showing
8 the existing grade and future grade 45 Greenwood
9 Avenue that provides information regarding the
10 geology, what potential unsuitable material may be
11 lying beneath Greenwood Avenue. That figure was
12 just for the contractors information.

13 The cross-sections --

14 Q. I'm sorry, what document is just for the
15 contractor's information? Is that 21A-24 that says,
16 "For information only"; is that what you're
17 referring to?

18 A. 21A26.

19 Q. 26. Where it says, "For information
20 only"?

21 A. For information only. It gives the
22 existing grade, future grade 45 both Greenwood
23 Avenue and Sands Street.

24 Q. Okay. So, you are back to page 72, right?

1 A. 72. This provides the contractor exactly
2 what he needs to remove. As I stated earlier,
3 construction for the embankment does not start until
4 7 plus 60, and you can see at the bottom, there's a
5 circle on the right that says "7 plus 60." That is
6 the beginning 45 excavation.

7 If excavation started at 7 plus 00, or 6
8 plus 00, there would be cross-sections showing those
9 locations because those cross-sections go in every
10 hundred-foot intervals, unless there's something in
11 between that 100 foot that the contractor needs to
12 be aware of.

13 **Q. Such as this at 7.60, not 7.0?**

14 A. Right, because there was nothing to occur
15 at 7.0. It's the beginning of the excavation. And
16 in here, it says that there was 190 square yards 45
17 unsuitable material that needs to be the removed in
18 this area.

19 **Q. Okay. And these are the construction**
20 **plans for the embankment?**

21 A. Yes.

22 **Q. And there are no construction plans for**
23 **answer embankment east 457 plus 60?**

24 A. There is no surface excavation requirement

1 to the east 457 plus 60.

2 Q. And this is for the Greenwood Avenue
3 construction?

4 A. Correct.

5 Q. Okay. Again, just to make the record
6 clear, 7.60 is approximately a little bit more than
7 halfway between 7 and 8, which is approximately west
8 45 station -- of 4S that we referred to in this
9 hearing; is that right?

10 A. I believe so, but I would have to look.
11 Yes, I would say that's a good figure showing the
12 area 7 plus 60 would be slightly west 454S.

13 Q. Correct. Mr. Gobelman, in your experience
14 in your work, and your work experience, have you
15 ever been involved with submitting plans to the
16 USEPA?

17 A. I submitted work plans and final reports
18 to USEPA regarding ECB cleanups.

19 Q. In your experience, does USEPA
20 independently verify the accuracy of any maps
21 provided in such reports?

22 A. I have not found that they did.

23 Q. They approve the report, or don't approve
24 the report with comments, et cetera, but they don't

1 specifically verify the accuracy of a map, in your
2 experience?

3 A. I haven't found them to do that.

4 Q. Do they typically, in responding to a
5 report, specifically approve every map and verify
6 every map within a report?

7 A. They approve the report, and what's in it.

8 Q. Okay. But they don't specifically verify
9 of the accuracy of every map contained in the
10 report?

11 A. They don't spell it out.

12 Q. Mr. Gobelman, for this second hearing
13 round, you created a base map?

14 A. Yes.

15 Q. And you did not use the map that you used
16 in the first hearing round, Exhibit 2452, if you
17 look at it?

18 A. Correct.

19 Q. So, what was your goal in creating a base
20 base map for this second hearing round? Was it to
21 show the utility distribution?

22 A. It was to come up with a map that I could,
23 as accurately as possible, to assess IDOT
24 allocation, in regards to how the Board rules, and I

1 needed something that was as accurate as possible.

2 That wasn't just a pdf that was just
3 scanned into an attachment file.

4 Q. If you could turn to Exhibit 204, and,
5 Mr. Dorgan's Figure 1, 204-2A, the utility
6 information there is a lot 45 information on this,
7 and it's not -- am I correct in assuming it's
8 stating that you wanted to create a number of
9 figures to show each utility, rather than doubling
10 it altogether in one figure?

11 MS. BRICE: Ellen, just for clarification where
12 are you?

13 MS. O'LAUGHLIN: I'm sorry. Yes, please stop
14 me. 204-3A.

15 MS. BRICE: Okay. Thank you.

16 THE WITNESS: Early in the process my thought
17 was to simplify the viewing 45 figures and try to,
18 in essence, create a map for each utility that is
19 being described, so it doesn't get lost in the
20 number of other utilities that are marked on the
21 map.

22 During Johns Manville's cross-examination,
23 I just want to clarify a point regarding the
24 Waukegan water line.

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BY MS. O'LAUGHLIN:

Q. Did the location of the Waukegan water line change in your figures from your report for the second round 45 hearings to your supplemental report? Did the Waukegan line water change?

A. The first hearing --

Q. I'm sorry, yes. Let me ask it again.

So, for this second hearing round, you have a report and a supplemental?

A. Correct.

Q. Okay. Does the location of the Waukegan water line change from your report to your supplemental report? Just a second here.

A. Its location moved. Its location moved in the same layout 45 this location within 0393.

Q. What pages are you looking at?

A. I'm lock being at 205-24 and 207-15.

Q. Now, in your report, in your supplemental report?

A. Correct.

HEARING OFFICER HALLORAN: 205 what, Mr. Gobelman?

THE WITNESS: 205-24.

1 HEARING OFFICER HALLORAN: Okay, 16.

2 BY MS. O'LAUGHLIN:

3 Q. Okay. So that the actual location of the
4 Waukegan water line changed, or is it just in
5 relation to all the other things you depict?

6 A. How it plays into 0393 doesn't change.
7 It's just that when the north edge where things were
8 tied into the northern edge, when they dropped ten
9 feet back down to be where the right-of-way actually
10 is, the entire water line drops that ten feet as
11 well, but it's still within the same -- it still
12 lays in 0393 the same.

13 Q. Right, and then from the first hearing
14 round, the Waukegan water line -- we talked about
15 this on direct.

16 The Waukegan water line was bound to be
17 further north than the record reflected in the first
18 hearing round; is that accurate?

19 I just want to clarify the Waukegan line
20 didn't change in the second hearing round, it
21 changed from the first to the second?

22 MS. O'LAUGHLIN:

23 MS. BRICE: Objection to the form of the
24 question, vague.

1 THE WITNESS: Yes, could you rephrase that, Ms.
2 O'Laughlin?

3 MS. O'LAUGHLIN: Yes. I agree.

4 BY MS. O'LAUGHLIN:

5 Q. So, you corrected the location of the
6 Waukegan water line from the first hearing -- from
7 where it was depicted in the first round of
8 hearings, to this round 45 hearing, the second one,
9 if you recall?

10 A. During the remediation, it was found that
11 the water line was not located where they originally
12 thought it was located. The water line had to be
13 adjusted. The location, in essence, it's adjusted
14 50 feet to the north.

15 Q. I just wanted the record to be clear
16 regarding this. Thank you for that clarification.

17 For that purpose, your bibliography cites
18 a work plan; is that correct? In your bibliography,
19 you found in Exhibit 205-36?

20 A. Site 3, 4, 5 and 6, Johns Mansville site
21 work Waukegan, Illinois, March 31, 2014.

22 HEARING OFFICER HALLORAN: Ms. O'Laughlin, is
23 that 205-36.

24 MS. O'LAUGHLIN: Yes.

1 HEARING OFFICER HALLORAN: I don't see that
2 happen. I'm looking at the book she gave me. It
3 jumps from 32 to 42. No, 33 to 43.

4 (Discussion off the record.)

5 BY MS. O'LAUGHLIN:

6 Q. And what was this plan? What was the
7 removal action of the plan?

8 A. It was the work plan that was going to be
9 used for remediation at those various sites.

10 Q. Is it a reliable plan?

11 A. I would take it as a reliable plan.

12 Q. As far as you know, did AE Con that did
13 the remediation, rely on the work plan?

14 A. They relied on the work plan, they took
15 the work plan.

16 Q. And you used this work plan as support for
17 your expert report?

18 A. Yes.

19 Q. Mr. Gobelman, I want to ask you about this
20 concept 45 the next clay boring going all the way to
21 halfway to the next clean boring. Okay?

22 Johns Mansville asked you questions about
23 that. And I think that this is a figure which will
24 explain what you did.

1 Just tell me first if before -- it's
2 **Figure 8.** I'm just asking if you if this is the
3 right figure.

4 Does the figure -- would this be able to
5 explain what you did, in terms 45 boring halfway to
6 the next big boring?

7 A. I think., we'll figure it out.

8 Q. Well, you know what, I'll show that.

9 You testified earlier that in some 45 your
10 calculations, you did halfway you to the next clean
11 boring within site -- the next clean boring within
12 site 0393, and the boring locations referenced by
13 the Board; is that correct?

14 A. Yes.

15 Q. Okay. And why did you go to halfway to
16 the next cleaning Board in that context?

17 A. In that context, it was -- the Board's
18 ruling only gave the boring locations, and then I
19 applied what this sort 45 staggered acceptable
20 practice, in this process 45 going halfway between
21 boring as the extent of examination associated with
22 that boring, as it relates to another boring.

23 Q. Okay. Johns Manville asked you about the
24 concept for a remediation plan, for a remediation

1 **project, that you have to remediate to the next**
2 **clean boring. Do you recall that?**

3 MS. BRICE: Objection, mischaracterizes his
4 testimony.

5 HEARING OFFICER HALLORAN: Can you rephrase
6 that, please?

7 BY MS. O'LAUGHLIN:

8 **Q. Sure. Let's go to Exhibit 120-2. If you**
9 **could turn to 120-3?**

10 A. Okay.

11 **Q. And what is the document in 120?**

12 A. It's a letter from USEPA to LRF, stating
13 that they reviewed the engineering evaluation and
14 cost analysis report that was dated -- Revision 1
15 dated February 6th, 2019.

16 **Q. Okay. And turning to paragraph 8 on**
17 **120-3, if you can go to that same sentence that**
18 **begins "The current sampling results that are to be**
19 **used.**

20 A. "The current sampling results are to be
21 used to determine the status of ACM that needs to be
22 addressed in those reports, that it is recommended
23 that the area containing ACM should be depicted as
24 follows."

1 HEARING OFFICER HALLORAN: Ms. O'Laughlin, I'm
2 not sure I have your exhibit book here, Exhibit 120.
3 I don't see -- I got 120-3 you said 1, 2, 3?

4 MS. O'LAUGHLIN: 120-3, yes.

5 HEARING OFFICER HALLORAN: And what date letter
6 we're looking at from USEPA?

7 MS. O'LAUGHLIN: The beginning of the document
8 is dated February 3rd, 2010.

9 HEARING OFFICER HALLORAN: Okay.

10 MS. O'LAUGHLIN: This is a document that
11 Ms. Brice asked Mr. Gobelman about.

12 HEARING OFFICER HALLORAN: Okay. I just wasn't
13 finding it. Now Mr. Gobelman is reading paragraph D
14 on Exhibit 120-3.

15 MS. O'LAUGHLIN: Paragraph 9 regarding Figure
16 8.

17 HEARING OFFICER HALLORAN: Thank you. You may
18 proceed.

19 BY MS. O'LAUGHLIN:

20 **Q. So, Mr. Gobelman, these are USEPA comments**
21 **to the remediation necessary at Johns Manville's**
22 **facility in Waukegan; is that right?**

23 A. Yes.

24 **Q. Explain the concept of you have to mediate**

1 **until you find a playing forum?**

2 A. In this case, USEPA wanted all of the
3 asbestos removed within -- you know, in those set
4 corridors in those cases in this area to be removed.

5 To do so, you've to go to the next planned
6 boring to let you know that you got all what's in
7 between the two borings.

8 **Q. Right. And in your process to determine**
9 **IDOT liability, that's a whole different**
10 **consideration?**

11 **It's like comparing apples to oranges,**
12 **because you just extracted the certain area, not**
13 **remediation to the next boring? I just want to make**
14 **it clear.**

15 A. I don't believe the Board's ruling
16 specified. They only specified borings that were
17 reliable, not how that's to be interpreted.

18 **Q. Irrespective 45 whether it was clean or**
19 **not for remediation, it's the location of the**
20 **borings, not the concept of the remediation to the**
21 **next clean boring?**

22 A. The Board didn't make any determination in
23 regards to that.

24 **Q. So much has been made you spent a lot 45**

1 time in this hearing discussing your math, a lot 45
2 witnesses, a lot 45 effort regarding your base map.

3 And if you could turn to page -- the
4 figure in your report that shows the different
5 calculation lines in the site map. I believe that's
6 205-43.

7 A. Okay.

8 Q. And what is this figure, Exhibit 2,
9 205-43. I'm sorry, I take that back -- strike that.
10 I was in the wrong place.

11 In Exhibit 207 -- I apologize, 207-29.
12 What is this Exhibit 207-29 from your supplemental
13 report?

14 A. It shows the layout 45 the various Site 3
15 locations, one of them being how the final report
16 from CQM for site 3 laid out, lays in, and the
17 Atwell survey that was provided in Mr. Dorgan's
18 report, and then the layout of what Mr. Dorgan used
19 in his expert witness report Figure 1; and then lays
20 in what, in essence, is the new site base map that I
21 used in the supplemental.

22 Q. Okay. And those are all shown by these
23 all different colored lines surrounding site 3?

24 A. Correct.

1 Q. And yours is the dotted line?

2 A. The black dotted line, yes.

3 Q. Okay. So, what is the economic impact 45
4 these different site boundaries for purposes 45
5 this? They have no economic impact?

6 HEARING OFFICER HALLORAN: Can you rephrase
7 that?

8 MS. O'LAUGHLIN: Sure.

9 HEARING OFFICER HALLORAN: Thank you.

10 BY MS. O'LAUGHLIN:

11 Q. The parties here have been discussing how
12 much, per the Board's order, state responsibility
13 you believe IDOT should -- what damages IDOT should
14 be allocated.

15 Is that a fair summary?

16 A. I believe that is what this is all about.

17 Q. And in terms 45 figuring out the dollars
18 that IDOT should be allocated, following the Board's
19 interim order, what difference does the different
20 site 3 boundaries, that are depicted in this 207-9
21 map?

22 MS. BRICE: Now, objection, this is would be a
23 new opinion?

24 HEARING OFFICER HALLORAN: What kind 45

1 opinion?

2 MS. BRICE: This would be a new opinion that
3 has not been discussed in this Board hearing about
4 comparing economic impacts of the boundaries.

5 HEARING OFFICER HALLORAN: I think he can
6 answer. Thank you.

7 THE WITNESS: In the approach that I took, I
8 believe it would change the percentages marginally.
9 You know, obviously those changes in those buckets
10 would affect the other big items later on how they
11 are adjusted.

12 Depending on which one you use, the
13 percentages could go off or could go down. I don't
14 know.

15 BY MS. O'LAUGHLIN:

16 **Q. Okay. So, you were asked about whether**
17 **the Board found any other attorney liable, other**
18 **than IDOT?**

19 A. Correct.

20 **Q. Did the Board consider culpability 45 any**
21 **other party or entity in the action?**

22 A. No, if I don't believe so. It just an
23 action against IDOT.

24 **Q. And the Administrative Order on Consent is**

1 **what Johns Mansville and Commonwealth Edison; is**
2 **that correct?**

3 A. I believe so.

4 **Q. Did Board consider the source of this**
5 **esbestos-containing materials?**

6 MS. BRICE: Objection, your Honor. This is
7 outside of the scope 45 this witness.

8 THE WITNESS: You opened the door, Ms. Brice.
9 So, I can allow a little latitude about third-party
10 I can read the deposition, I think.

11 HEARING OFFICER HALLORAN: You may proceed, but
12 very limited.

13 THE WITNESS: Can you repeat the question,
14 please?

15 BY MS. O'LAUGHLIN:

16 **Q. Did the Board the source of this**
17 **asbestos-containing material?**

18 A. I believe they did.

19 MS. O'LAUGHLIN: Can I take just a minute?

20 HEARING OFFICER HALLORAN: One minute. We're
21 off the record.

22 (Recess taken.)

23 HEARING OFFICER HALLORAN: We're back on the
24 record., ma'am. Thank you.

1 MS. O'LAUGHLIN: We have nothing further at
2 this time.

3 HEARING OFFICER HALLORAN: Okay, 16 Ms. Brice,
4 are you going to need a minute before your recross
5 or are you ready to go?

6 MS. BRICE: I can go.

7 HEARING OFFICER HALLORAN: We're taking a
8 minute off the record, please.

9 (Recess taken.)

10 HEARING OFFICER HALLORAN: We're back on the
11 record. Ms. Brice, you nay proceed.

12 MS. BRICE: Yes, thank you. Is the court
13 reporter ready?

14 RECCROSS EXAMINATION

15 BY MS. BRICE:

16 Q. MR. Gobelman, you testified on redirect
17 about Exhibit 203, which is the Board's order. I
18 believe you recall that?

19 A. Yes.

20 Q. There were some questions about whether
21 Exhibit 57 was mentioned in that order?

22 A. Yes.

23 Q. Okay. But the order did not mention
24 57-565, which is also 205-45, which is the map you

1 used to locate your Site 3 borings, does it?

2 A. I would have to go back and look.

3 Q. Okay. The record will reflect what the
4 Board Order says?

5 A. Yes.

6 Q. You don't know; is that a fair
7 characterization?

8 A. I don't remember right now what the entire
9 language said.

10 Q. You were asked some questions about this
11 figure over here, Exhibit 204-41A.

12 Do you recall that?

13 A. Yes.

14 Q. And we talked yesterday a bit about how
15 there's 2 and then there's this figure here, 204-40.

16 Do you remember this?

17 A. Yes.

18 Q. Okay. This one, 204-40 -- so, there were
19 at least two sort 45 construction projects happening
20 right around the same time, right?

21 You had detour road A happening before you
22 could do the embankments, right? So you had two
23 construction projects going on; is that right?

24 A. Yes, that was discussed in the first

1 hearing there was a sequence events that had occur
2 before the embankment could be built.

3 Q. Okay. But they both were happening right
4 around the same time, correct?

5 They were both were discussed in the
6 Atwell plans, correct?

7 A. They were both in the plans that the
8 contractor bid on, yes.

9 Q. Right. Which is 21A, correct?

10 A. Correct.

11 Q. Okay. And as we discussed yesterday, the
12 detour road A comes into -- and I believe you said
13 abuts Greenwood Avenue here at Station 14 and
14 Station 1545 Detour Road A, correct, which is in
15 station 15 plus 50?

16 If you go down below it you, have 7S,
17 which is the 7S location for the soil boring on
18 Greenwood, correct?

19 A. I believe that's how you have it depicted.

20 Q. That's what's on here, correct?

21 A. Yes.

22 Q. Okay. I would like to go back to 204-41A,
23 and you had some testimony about how the Greenwood
24 Avenue embankment construction only went to 7.60,

1 correct?

2 A. It starts at 7 plus 60.

3 Q. Yes. And then goes west?

4 A. Correct.

5 Q. Yes. Okay. But, again, the detour road A
6 comes in here east 457.60, does it not, and abuts
7 Greenwood Avenue east 457.60 around -- it looks like
8 station 7, 6 and 5.50 on this video.

9 Do you see that? Those are Greenwood
10 Avenue stations?

11 A. Correct.

12 Q. Now, you said that these were Atwell's
13 plans, correct. These figures are based off 45,
14 correct, 21A-26, correct?

15 A. Plans that were built were converted to
16 what was considered the as-builts.

17 Q. Okay. And if there was something changed
18 in what happened from the proposal of the project to
19 the end of the project, that should be denoted on
20 the as-built plans?

21 MS. O'LAUGHLIN: Objection, relevance. This
22 goes beyond the parameters 45 this second round 45
23 hearing.

24 We have rehashed this argument throughout

1 the first round 45 hearing, and this is a very
2 specific area, so I object on the basis that it's
3 irrelevant to this second round 45 hearings.

4 HEARING OFFICER HALLORAN: Overruled. You may
5 answer, if you are able.

6 THE WITNESS: Can you repeat that one, please?

7 BY MS. BRICE:

8 Q. Yes. When you are dealing with at
9 as-built plans, once the as-built plans are the
10 done, if there has been a change in the construction
11 from the original proposed plans, those as-built
12 plans should have that marked on them, if there was
13 a change; isn't that correct?

14 A. Yes, there were changes, yes, they would
15 have been so marked.

16 Q. Okay. And take a look here at 21A, 26A-1,
17 and does this document -- which is also 21A. 26 was
18 just to clarify -- denote any changes with respect
19 to that profile on Greenwood Avenue?

20 A. In regards for a document that is only
21 going to be utilized for information, that only
22 reflects the work proposed for Greenwood Avenue,
23 there appears to be no exchanges to the
24 more-information-only document.

1 **Q. It's a permission only document that is an**
2 **as-built plan? This is what happened -- this is**
3 **depicting what was done; is that not the case?**

4 A. In this, it does not depict what was done.

5 **Q. It was not depicted what was done?**

6 A. No.

7 **Q. But it is an as-built plan?**

8 A. Yes.

9 **Q. You are saying as-built plans do not**
10 **depict what is done?**

11 **MS. O'LAUGHLIN: Objection, it mischaracterizes**
12 **his testimony.**

13 MS. BRICE: He answered the question.

14 HEARING OFFICER HALLORAN: Do you want to
15 rephrase that?

16 MS. BRICE: I'm just saying is he saying --

17 HEARING OFFICER HALLORAN: I heard you. You
18 can ask him one more time.

19 BY MS. BRICE:

20 **Q. Are you saying as-built plans should**
21 **depict the work that was actually done?**

22 A. The as-built plans depicts the work that
23 is done. This figure has nothing to do with what is
24 being proposed to be done.

1 **Q. But it is in the as-built plans, correct?**

2 A. Correct. It's important information, and
3 the contractor received that information; and it
4 would stay in the as-built plans, because it's part
5 of the record that he received the information to be
6 utilized.

7 **Q. Okay. Were you involved in Greenwood**
8 **Avenue project?**

9 **MS. O'LAUGHLIN: Objection, relevance.**

10 HEARING OFFICER HALLORAN: You may answer, if
11 you're able.

12 THE WITNESS: I wasn't there in 1971, but if it
13 involved with my years -- 22 years with IDOT dealing
14 with construction plans.

15 BY MS. BRICE:

16 **Q. You weren't working for IDOT in 1971, were**
17 **you?**

18 A. No.

19 **Q. So, you didn't know exactly what was in**
20 **the as-built plans, do you?**

21 A. Exactly how it's supposed to be
22 interpreted --

23 **Q. No, I'm talking about you do not know**
24 **about this document, because you were not involved**

1 **in this project; isn't that correct?**

2 A. In 1970, no, I was not.

3 MS. O'LAUGHLIN: Objection, badgering the
4 witnesses.

5 HEARING OFFICER HALLORAN: I agree. Sustained.
6 Thanks for standing up for him.

7 BY MS. BRICE:

8 **Q. Looking at 0441A, 7S, and it talks about**
9 **black fill; is that right?**

10 A. Yes.

11 **Q. And these were based upon boring logs;**
12 **isn't that right?**

13 A. Yes, they were based upon borings and
14 relationship.

15 **Q. They show what you expected to see when**
16 **you drill down, right?**

17 A. Yes, they give you an idea of what to when
18 you expected the encounter, yes.

19 **Q. These boring logs were done in 1969, 1970,**
20 **somewhere around there, correct?**

21 A. It varies, because a lot 45 times -- a lot
22 45 work was done in that area, usually they'll take
23 both. Just technical borings they only spot check
24 to make sure the conditions haven't changed.

1 **Q. It's generally around the same time as the**
2 **Atwell drawings are put together, or as the proposed**
3 **drawings are put together?**

4 A. No.

5 **Q. It's not? So, it could be from 50 years**
6 **before for the borings?**

7 A. If they had one. But, I mean, it's put
8 together years prior to as part of the development
9 of the plans.

10 There is information that is provided as
11 to how long it took IDOT to put the set plans
12 together.

13 **Q. Okay. But you don't know when these**
14 **geotechnical borings were taken; is that accurate?**

15 A. I believe there was some information in
16 the construction plans that give salt borings
17 locations of where some of the geotechnical
18 information was provided, just technical stuff.

19 **Q. Did they say when they were taken,**
20 **generally?**

21 A. In those, it would have probably had a
22 date when they were done.

23 **Q. Do you recall when they were?**

24 A. No, I don't, off the top of my head.

1 **Q. Would with those found in 21A-26.**

2 A. I believe they should be in the as-built
3 plans because they were part 45 it.

4 **Q. I just want to note, for the record, here**
5 **under 7S, 6S, 5S and 4S, nowhere below here do you**
6 **see anything that denotes asbestos being located**
7 **there, do you?**

8 **MS. O'LAUGHLIN: Objection, lack of foundation.**
9 **It was never established that asbestos was being**
10 **tested for. There's nothing that shows that there's**
11 **anything there.**

12 HEARING OFFICER HALLORAN: You can bring that
13 up on your re-redirect. He can answer, if he's
14 able. Thank you.

15 BY MS. BRICE:

16 **Q. Were brace used for other miscellaneous**
17 **debris?**

18 A. The purpose of the geotechnical boring is
19 to come up with what the geology is and the strength
20 of the different soils that show whether or not an
21 embankment can be placed on it or not.

22 **Q. Okay. But how do you see geotechnical**
23 **soil borings that talk about debris or other things**
24 **being found within the soil boring that is being**

1 **detected, that's being analyzed?**

2 A. It would only be noted if it would cause a
3 problem in the engineering utilization 45 that
4 material, whether it had voids in it that would have
5 to be removed because of the technical borings are
6 always put for bridge abutments and embankments.

7 Whether or not debris or material that is
8 found in the borings is going to cause a problem
9 with settlement, in regards to the road, it's just a
10 scattered material of things that they would not
11 note.

12 Q. Okay. I move to strike as non-responsive.
13 I'll move along.

14 Just a question: Is there anything noted
15 that says there's debris or asbestos-containing
16 material, or anything other than black cinder fill
17 and peat?

18 A. There's nothing depicted.

19 Q. There was a recent question about accuracy
20 45 maps with the EPA, looking at map accuracy.

21 I just -- you know, or looks at the map in
22 general, with respect to reviewing documents
23 submitted to them. Do you remember that?

24 A. There were questions regarding the review

1 the maps.

2 Q. Okay. I would just like to pull up on the
3 Board Exhibit 120. If you could just turn to 120-3.
4 This is the document that is from USEPA to Bill Bell
5 providing comments on the eco.

6 I juts want to point out they are making
7 comments on Figure 8. Keep going down. On 10.
8 They are making comments on Figure 8. Going down,
9 on 11. They are making comments on Figure 9A. 12
10 they are making comments on Exhibit 13. 13 they are
11 making comment on Figure 14. 14 they are making
12 comments on Figure 15.

13 Do you see that?

14 A. Yes.

15 Q. Thank you.

16 MS. O'LAUGHLIN: Objection. Is there a
17 question with regard to this?

18 MS. BRICE: I asked him if he saw it.

19 BY MS. BRICE:

20 Q. I would like to ask you also about
21 Exhibit 207-29 that you were asked questions about.

22 A. Okay.

23 Q. This is a map from your second expert
24 report, correct?

1 A. Yes.

2 Q. And this map is only comparing Site 3
3 boundaries between different maps, correct?

4 A. Correct.

5 Q. It's not comparing Site 3 boring
6 locations, or the location of the northeast
7 excavation, or the location of the North Shore gas
8 lines, as depicted in the various maps; is that
9 right?

10 A. Correct.

11 MS. BRICE: No further questions.

12 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

13 FURTHER REDIRECT EXAMINATION

14 BY MS. O'LAUGHLIN:

15 Q. Mr. Gobelman, just a few questions. Did
16 the Board find any liability to IDOT in connection
17 with road A?

18 A. No.

19 Q. And that was looking at 24-40. That was
20 part 451JMs theory -- that was included in JM's
21 theory in the first round 45 hearings; is that
22 right?

23 A. That's correct.

24 Q. And that argued IDOT should be responsible

1 for ACM contamination throughout site 3 because of
2 the building of detour road A?

3 A. Correct.

4 Q. And the Board did not find any liability
5 for IDOT, in connection with the building of detour
6 road A on Site 3?

7 A. In my opinion, they did not.

8 Q. And in site 6, is that also the case, no
9 liability to IDOT for detour road A that falls
10 within site 6?

11 A. They did not include those borings.

12 MS. O'LAUGHLIN: That's all that I have.

13 FURTHER RECROSS EXAMINATION

14 BY MS. BRICE:

15 Q. One question. And the Board's ruling on
16 the discussion 45 detour road A, did they look at
17 Exhibit 21A-26 at all?

18 A. I would have to refresh my memory on that.
19 I don't remember.

20 Q. Okay. In 21A-26 is the foundation for
21 what is going on along Greenwood Avenue; is that not
22 the case?

23 A. Say that again?

24 Q. 21A-26 is the document that was used to

1 generate this figure go to show the cross-section 45
2 Greenwood Avenue, correct?

3 A. As far as Greenwood Avenue, in relation to
4 the building of the embankment, yes.

5 Q. And also in relation to anything that
6 needed to be done along Greenwood Avenue?

7 A. No, you are incorrect.

8 Q. Okay. Well, that's as your
9 interpretation. The record will reflect --

10 MS. O'LAUGHLIN: Objection argumentative?

11 HEARING OFFICER HALLORAN: Sustained,
12 Mr. Brice.

13 MS. BRICE: That's it.

14 HEARING OFFICER HALLORAN: All right. You may
15 step down, Mr. Gobelman.

16 Ms. O'Laughlin, does IDOT rest their case
17 in chief?

18 MS. O'LAUGHLIN: Yes.

19 HEARING OFFICER HALLORAN: Then we'll have
20 rebuttal. I think we'll take a lunch, a 60-minute
21 lunch. We'll be back at what, 12:40-ish shall.
22 Pam, we are off the record. See you in about an
23 hour.

24 (Recess taken.)

1 HEARING OFFICER HALLORAN: We are going back on
2 the record. We're in the rebuttal phase of the
3 hearing.

4 Ms. Brice, for Johns Manville, will be
5 directing Mr. Dorgan, the expert. You may proceed.

6 DIRECT REBUTTAL EXAMINATION

7 BY MS. BRICE:

8 Q. Mr. Dorgan, could you please state your
9 name for the record again?

10 HEARING OFFICER HALLORAN: You know what, let's
11 just have Pam swear him in.

12 MS. BRICE: I'm sorry.

13 sss

14 DOUGLAS DORGAN, JR.

15 was adduced as the witness herein; after having been first
16 duly sworn, testified as follows:

17 - - - -

18 DIRECT REBUTTAL EXAMINATION

19 - - - -

20 BY MS. BRICE:

21 Q. Mr. Dorgan, good afternoon. Could you
22 please turn to -- we're going to need the Gobelman
23 binder for this, Exhibit 206, please.

24 Do you have the Gobelman binder in front

1 **45 you?**

2 A. Yes.

3 **Q. Are you there?**

4 A. Yes, I am.

5 **Q. Could you identify this document for me?**

6 A. This is the my expert rebuttal report 45
7 Douglas D. Dorgan, Jr., on damages attribute to
8 IDOT, dated October 25th, 2018.

9 **Q. And you wrote this report in response to**
10 **what?**

11 A. Mr. Gobelman's rebuttal report.

12 **Q. His initial rebuttal report?**

13 A. That's correct.

14 **Q. If you could then also turn to 208, which**
15 **I also belief is in the Gobelman binder, and if you**
16 **could identify this document for me?**

17 A. This is the expert rebuttal supplemental
18 report for Douglas G. Dorgan, Jr., on damages
19 attributable to IDOT and dated April 30th, 2019.

20 **Q. And what did you draft this document in**
21 **response to?**

22 A. This was in response to the supplemental
23 report that Mr. Gobelman prepared.

24 **Q. Okay. Did you reach your opinions in this**

1 case to a reasonable degree 45 scientific surgery?

2 A. Yes, I did.

3 Q. Is that true with respect to both these
4 reports and your testimony?

5 A. That's correct.

6 Q. If you'll go back to 206, please, to your
7 first rebuttal report. I would like to go to page
8 264, please. Let me know when you are there.

9 A. I'm there.

10 Q. You stated here under 2.1, if you go down
11 under three paragraphs, you say, "Mr. Gobelman does
12 not have a consistent methodology for attributing
13 being costs."

14 Is that true with respect to both 45 his
15 reports?

16 A. Yes.

17 Q. Can you explain what you mean by this?

18 A. He just used different forms 45
19 measurement for different gas buckets as he was
20 doing his attributions.

21 Q. Can you give us examples?

22 A. The two I provided in the report. In one
23 instance, he used linear feet for certain of utility
24 costs and the ACM soil removal cost. The

1 alternative used square footage when he was doing
2 his attributions for the northeast excavation.

3 Q. Have you seen a similar methodology in a
4 cost allocation context?

5 A. Not necessary.

6 Q. You say on the bottom 45206-4 that his
7 report fails to consider why certain cleanup
8 activities were required, and how the scope of the
9 cleanup was drive by site conditions, and were
10 visible where ACM was observed.

11 Do you see that?

12 A. I do.

13 Q. Can you explain to me what you mean by
14 this?

15 A. Here, again, it was the attribution was
16 primarily focused on a limited geography. It just
17 didn't consider fact that certain cleanup that was
18 occurring on the site was being driven by the
19 conditions that were encountered at certain
20 locations.

21 Q. And were they just being driven by boring
22 locations where IDOT found liable in some instances?

23 A. Yes, they were.

24 Q. Can you given me some examples?

1 A. Yes, the borings, for instance, that were
2 identified on the eastern side of parcel 0393.

3 **Q. Okay. And how was that driving?**

4 A. An example would be the North Shore GASK
5 line in the main corridor that had to be created.

6 **Q. Can you elaborate?**

7 A. Yes. So, the presence of the asbestos
8 that was in the borings in the North Shore GASK line
9 ON parcel 0393 drove the need for the creation of a
10 clean corridor across all of site 3.

11 HEARING OFFICER HALLORAN: Can you speak a
12 little louder?

13 MS. BRICE: Did you hear that?

14 HEARING OFFICER HALLORAN: Yes, I heard that.
15 Thank you.

16 BY MS. BRICE:

17 **Q. If you could please to turn to 206-5. And**
18 **here in the second paragraph, you say that**
19 **"Mr. Gobelman report" -- I'm sorry, "The Gobelman**
20 **report also too narrowly limits IDOT's area of**
21 **liability to the immediately around soil borings**
22 **specifically identified by the Board in the order."**

23 **What to you mean by this?**

24 A. Well, as we heard testimony earlier, Mr.

1 Gobelman's approach was to look at the specific
2 borings that IDOT was found to be responsible for,
3 and he defined his geography based upon those
4 specific locations, rather than considering all of
5 the work that occurred because of the conditions of
6 those specific locations.

7 Q. And did he consider what was underneath
8 those borings, in coming up with his calculations?

9 How much 45 an area of contamination was
10 underneath the boring?

11 A. Not necessarily.

12 Q. Did you hear him testify that he did not
13 do that?

14 A. Yes, I did.

15 Q. If you could turn it 206-9. You say under
16 here under 2.3, "Mr. Gobelman fails to consider that
17 a soil boring, typically not more than two inches in
18 diameter, is intended to be representative of a
19 after larger area."

20 Can you explain what you mean by this, and
21 how that impacted Mr. Gobelman's report?

22 A. So, the way in which USEPA required the
23 work we performed, there were individual sample
24 locations, and a sample is this just that. It is a

1 representative sample 45 a geographical area.

2 And then based upon that condition in that
3 sample, they would apply that to their entire grid,
4 in this particular case, in many instances.

5 Whereas, Mr. Gobelman arced out the area
6 represented by the sample, only to align with those
7 very specific boring locations on parceled 0393.

8 **Q. Okay. And here on 2069, you talk about**
9 **Mr. Gobelman and using inconsistent sources to**
10 **create his base map and his figures, and then that**
11 **is inappropriate.**

12 **Can you explain his opinion?**

13 A. I think Mr. Gobelman's base maps changed
14 several times, and I don't think at any one point
15 were they were accurate so that as he was making his
16 changes, he was making changes to his attributions;
17 however, I don't think those were accurate because
18 the base maps that he was using were inaccurate.

19 **Q. How does the use of inconsistent sources,**
20 **to come with a base map, render a base map improper**
21 **or inaccurate, in your mind?**

22 A. It can just lead to the inconsistencies of
23 the lack of a good base that's representative of the
24 actual site conditions.

1 Q. I'm just going to reference what we talked
2 about a lot. 207 is Mr. Gobelman's supplemental
3 report, correct?

4 A. I believe that's right.

5 Q. Okay, and on 207-13, I'll respect to you
6 is his base map, and then he has a number of figures
7 that follow that.

8 If you would like it take a look at 207,
9 this should be in your book, 207-13 and the figures
10 that follow, I just want to ask you if you think
11 these are accurate?

12 A. No, I don't.

13 Q. Okay. You have the same opinion, with
14 respect to the figures that were contained in 205,
15 that started with face map 205-22 and the figures
16 that followed?

17 A. Yes, that's correct.

18 Q. And are Mr. Gobelman's figures and maps
19 different from the USEPA approved AE Con maps?

20 A. Yes.

21 Q. Are they different from the maps submitted
22 and relied upon by the Board in the first hearing?

23 A. Yes.

24 Q. I would like you to turn to 208, please,

1 **and I'm looking at 208-9 and 208-11, and I have**
2 **boards here 45208-9 and 208-11.**

3 A. 208-9 is a property boundary layout where
4 I took the original mapping that we had performed,
5 compared that with the mapping that Mr. Gobelman
6 presented in his two rebuttal reports.

7 **Q. Okay. And 208-11, Mr. Dorgan, is that a**
8 **blowup of the northeast section 45208-9?**

9 A. That's correct.

10 **Q. Okay. And what is denoted in yellow?**

11 A. The lines in yellow are basically the
12 ledge that AE Con Consultan Group agreed on?

13 **Q. Those were based upon what information?**

14 A. They were based on the information AE Con
15 had been submitting for their figures for their
16 these documents, including their final report.

17 **Q. The AutoCAD materials?**

18 A. That's correct.

19 **Q. And when you first began working on this**
20 **matter, was Ms. Dutton your cad person?**

21 A. No, she was not.

22 **Q. She took over for someone else?**

23 A. That's correct.

24 **Q. And started working on the figures from**

1 **the materials?**

2 A. That's correct.

3 **Q. Sorry, I just talked over you.**

4 **So, you said yellow is your drawings and**
5 **AE Com's drawings. What is red?**

6 A. Red would be the boundary that
7 Mr. Gobelman represented on his first report.

8 **Q. And what is blue?**

9 A. The boundary that was used in his second
10 report.

11 **Q. You have state claim coordinates on these**
12 **maps. Why are these important?**

13 A. They provide locations of the various
14 features on the site.

15 **Q. You have a couple 45 -- you have a**
16 **notation up here in the left, the excavation teste**
17 **samples, 1S to 8S, per AE Con, documented 7536.**

18 **I believe Ms. Dutton testified about this;**
19 **is that correct?**

20 A. That's correct.

21 **Q. Did you agree with Ms. Dutton's testimony**
22 **about that?**

23 A. Yes, I do.

24 **Q. For one second, I would like to turn to a**

1 document Ms. O'Laughlin referred to earlier, which
2 is a report from your first -- from one 45 your
3 expert reports from the first hearing.

4 It's exhibit 06, and I would like you to
5 go to Figure -- it's 06-25.

6 A. Which binder would that be in?

7 Q. I'm not sure, but I can hand it to you.

8 I'm not sure it's in a binder because it
9 was just brought up last month.

10 MS. BRICE: May I approach?

11 HEARING OFFICER HALLORAN: Yes, you may.

12 BY MS. BRICE:

13 Q. MR. Dorgan, I'm handing you what is
14 Exhibit 0625. What is that document?

15 A. It's a site plan that shows various
16 locations 45 the test kits and borings at the site.

17 Q. Okay. And there's a -- here is something
18 of a legend, B3-XX, and there's is a sign. It says,
19 "AOM boring location 1999."

20 What were you intending to say to that,
21 with respect to this map?

22 A. Differentiating which borings were
23 performed by ACM.

24 Q. Did you use ELM Figure 15 in the EML

1 **report to locate those borings?**

2 A. No, I did not.

3 **Q. And how did you locate those borings?**

4 A. I used those based upon the AE Con drawing
5 that was provided.

6 **Q. Thank you. If you turn back to 208-11,**
7 **please, and it's comparisons between Northern AE**
8 **Con's locations in yellow, and Mr. Gobelman's -- two**
9 **locations in red and blue.**

10 **What does this document tell you about the**
11 **location 45 Mr. Gobelman's site 6 borings in his**
12 **reports, as compared to yours?**

13 A. Well, what appears -- I think appears
14 happened, in my belief, and Mr. Gobelman's testified
15 to, when he corrected the location of the northern
16 boundary 45 site 6, he fixed all the other locations
17 to it.

18 So, I ended up moving these borings logs
19 and also moved the features including the northeast
20 excavation, which is specifically identified in this
21 208-11.

22 **Q. With respect to the site 6 boring**
23 **locations, are the blue and red dots in the same**
24 **place as your yellow dots, in all instances?**

1 A. No, they are not.

2 Q. How do they diverge, as you moved toward
3 the east?

4 A. His increasing are placed further west
5 than the locations plotted on our drawing.

6 Q. And what do these documents tell you about
7 the location of Mr. Gobelman's site 3 borings in his
8 report as compared to yours in AE Con's?

9 A. .They are also not in the same location.

10 Q. Can you please describe that for me?

11 A. So, when he changed his site 3 boundary
12 with the northern boundary, and shifted everything
13 south, that shifted his borings from his original
14 location approximately 10 feet south and also a
15 little bit east.

16 Q. Okay. So, his Site 3 borings in blue are
17 further east than your Site 3 borings in yellow,
18 correct?

19 A. Correct.

20 Q. If you could go to 204-45, please?

21 A. 204-45 is not in bider.

22 MS. BRICE: Drew, could you pull up 245 up on
23 the screen, please?

24 BY MS. BRICE:

1 **Q. 205-45. I'm sorry, I misspoke. I**
2 **apologize.**

3 **Mr. Dorgan, do you recognize this**
4 **document?**

5 A. Yes, I do.

6 **Q. And is this the document Mr. Gobelman used**
7 **to locate the Site 3 borings?**

8 A. I believe it is, yes.

9 **Q. Would you use this document as a source**
10 **for a base map?**

11 A. No, I would not.

12 **Q. Why not?**

13 A. It's referenced in this document as draft.

14 **Q. Okay. Anything else?**

15 A. It's not the final figure that was
16 developed. There are later versions of this that
17 further clarify the precise locations with various
18 site features.

19 **Q. Okay. Can you explain to me what you**
20 **mean? What do you think is wrong with this map?**

21 A. In my opinion, what we're seeing here is
22 the northern boundary 45 site 3.

23 It's basically lining up with Greenwood
24 Avenue, the actual pavement, edge of pavement.

1 And as we've seen in the later documents,
2 that actual boundary has been shifted south, there's
3 a reference on this -- it's very difficult to see.

4 **Q. Can you pull that up, up to the top?**

5 **There you go.**

6 A. So, there's is a reference for an FIP,
7 which would stand for a found iron pipe. It's like
8 3 boundary after the corrections appear to line up
9 closely with that particular linear feature.

10 **Q. And what does found irone pipe signify to**
11 **you?**

12 A. Usually that's a survey marker that's been
13 put in ground to designate some sort 45 boundary.

14 **Q. Mr. Gobelman's plan used a hand scaling on**
15 **this map to determine the location of site 3**
16 **borings. What is your reaction to that?**

17 **MS. O'LAUGHLIN: Objection, mischaracterizes**
18 **Mr. Gobelman's testimony.**

19 HEARING OFFER HALLORAN: Sustained. It's not
20 what I remember. You want to rephrase it?

21 BY MS. BRICE:

22 **Q. Mr. Gobelman claimed he did scaling off 45**
23 **this map to determine the location of the Site 3**
24 **borings.**

1 **What is your reaction it that?**

2 A. It's a method that can be used, but I
3 would prefer to use something that would provide
4 more accurate measurements with the CAD drawings.

5 **Q. In your opinion, 205-45 accurately**
6 **represent the locations of the Site 3 borings?**

7 A. I don't believe so.

8 **Q. Okay. Let's turn to 208-4, please. Here**
9 **you say, "In addition to incorrectly representing**
10 **the locations of the boring on test pits, the**
11 **supplemental report changes the location dimensions**
12 **in the northeast excavation, as well the North Shore**
13 **gas line in the City of Waukegan water line."**

14 I can take you back her to 208-9, if you
15 would. What does this map tell you about the
16 location -- where Mr. Gobelman placed the location
17 of the Waukegan water line?

18 A. He shifted it from the disperse one, the
19 red line, has it further north and then shifts it to
20 the south, so that it's running roughly with the
21 parcel 0393 boundary.

22 **Q. And is that a correct methodology with**
23 **respect to a utility to move it on a map?**

24 A. Again, I think what happened here was this

1 move is a boundary for Site 3. He just shifted
2 everything with it, so it dropped that location 45
3 the Waukegan water line.

4 **Q. Right, but was this supposed to drop that**
5 **location or was the fixed in space?**

6 A. No, the location shown in yellow is where
7 it was actually located.

8 **Q. And what about the northeast excavation,**
9 **what is your opinion about where Mr. Gobelman placed**
10 **the northeast excavation on his maps, in your**
11 **opinion?**

12 A. Similar to the Waukegan water line, it
13 shifted, as it went from the first report to the
14 second report. It also moved a little bit to the
15 east.

16 HEARING OFFICER HALLORAN: You are fading off
17 again, Mr. Gobelman.

18 THE WITNESS: I'm sorry, it shifted again to
19 the south and to the east, as a result of the
20 change.

21 BY MS. BRICE:

22 **Q. Well, isn't it larger than it was in the**
23 **first report? You can look at the red versus the**
24 **blue.**

1 A. I don't think it's larger in total area,
2 but the area that is currently -- that's on site 3
3 is larger.

4 **Q. If you could go back to 206. I would like**
5 **to go to page 10.**

6 **You say that you're talking about here**
7 **parcel to 0393 correct?**

8 A. That's correct.

9 **Q. You say, "Mr. Gobelman broadly focuses on**
10 **soil locations within parcel 0393 versus the entire**
11 **parcel."**

12 **Why do you say that?**

13 A. Again, because as I mentioned earlier,
14 sample locations 45 representative of a grid area.
15 And my opinion is that the red area, that work had
16 to be done, because of the results of the boring
17 from that sample.

18 And, by contrast, Mr. Gobelman just looked
19 very narrowly at 0393 and did not consider the
20 entire 5550 foot grid area.

21 **Q. With respect to 0393, do you believe the**
22 **Board, based upon your interpretation, found that**
23 **all 450393 was within IDOT's liability?**

24 A. That was my interpretation.

1 Q. Okay. And what led you to come to this
2 conclusion.

3 A. I believe the order recognized that IDOT
4 was in control 45 all 45 parcel 0393.

5 Q. And how did that impact their decision?

6 A. I'm sorry, I'm not sure I understand.

7 Q. Sure. So, by controlling it -- I think
8 the order says that, and I could go back to it, but
9 "Continuing to control the portion of parcel 0393
10 following within Site 3, continues to allow ACM
11 placed in that soil."

12 What does that mean to you?

13 A. That means that they remain responsible
14 for it.

15 Q. Okay. How did Mr. Gobelman's failure to
16 include 0393 as part 45 IDOT's Site 3 area of
17 liability impact his attributions?

18 A. It limited it for certain gas buckets.

19 Q. On 206-12, you discussed Mr. Gobelman
20 failed to rebut your points concerning IDOT area 45
21 liability for Site 6. Do you see that?

22 A. That's under 2.5?

23 Q. It's 206-12. Can you elaborate on your
24 view as to his failings as to the Greenwood Avenue

1 **construction considerations?**

2 A. Yes. So, in the way that I looked at it,
3 I considered the conditions that were specifically
4 identified in the IDOT borings; and then what that
5 role IS, in terms of the rest of the work on Site 6,
6 and also consider the plans that we've looked
7 previously, regarding the Greenwood Avenue
8 construction project.

9 Q. Can you briefly describe what was going on
10 at the intersection 45 D4 road A and Greenwood
11 Avenue, with respect to the IDOT work in and around
12 that 270?

13 MS. O'LAUGHLIN: Ms. Brice, what figure are you
14 looking at?

15 MS. BRICE: 204-40.

16 THE WITNESS: So, the Greenwood Avenue was
17 being reconstructed and an embankment was being
18 built.

19 Detour Road A was coming into Greenwood
20 Avenue. It provides bypass for traffic during
21 construction.

22 BY MS. BRICE:

23 Q. And is that area that you're pointing to
24 here?

1 A. That's correct.

2 Q. This is Greenwood Avenue here labeled, and
3 then the detour is gray, in and around 5S, 6S, 7S;
4 is that right?

5 A. That's right. And there's an area where
6 Detour Road A crossed into the Greenwood Avenue
7 right-45-way.

8 Q. Okay. So, what plans do you need to look
9 at, in order to understand what's going on at this
10 on interaction between Detour Road A and Greenwood
11 Avenue?

12 A. It's the Greenwood Avenue cross-sections.

13 Q. And did the Board, in your opinion, or
14 from your recollection, look at 21A-26, when it made
15 its decision, with respect to Detour Road A in the
16 opinion?

17 A. I believe that's the correct reference,
18 and it's the Greenwood Avenue is what was considered
19 by the Board.

20 Q. Right. But did the Board look at 21A-26,
21 when it was rendering its decision on the East Shore
22 Road A, or did it look at 21A-23, which is the
23 Detour Road A cross-section?

24 If you don't know, that's fine.

1 A. I don't believe they ended up considering
2 the detour Road A cross-section.

3 MS. O'LAUGHLIN: Objection, it's speculative.

4 HEARING OFFICER HALLORAN: I'll allow it.

5 MS. O'LAUGHLIN: The record will reflect what
6 the Board Order says.

7 BY MS. BRICE:

8 **Q. Why is it important to consider, with**
9 **respect to this area wherein Detour Road A and**
10 **Greenwood Avenue be assessed, why is it important to**
11 **look at 21A and 26, which is the cross-section for**
12 **that area?**

13 A. It shows if the work completed by IDOT, as
14 far as that construction effort.

15 **Q. Okay. We've looked at quite a bit and**
16 **21A26 and 21A-26A, and this figure of yours, which**
17 **you drew on, which is 204-41A, correct?**

18 A. That's correct.

19 **Q. Okay. And down here we have on the bottom**
20 **is what is shown, including 21A-26, as to what is**
21 **occurring on the Greenwood Avenue cross-section; is**
22 **that correct?**

23 A. Correct.

24 **Q. Okay. Mr. Gobelman said something about**

1 **this being inferred.**

2 **What is your reaction to that?**

3 **MS. O'LAUGHLIN: Objection, vague.**

4 HEARING OFFER HALLORAN: Rephrase, please.

5 BY MS. BRICE:

6 **Q. Mr. Gobelman talked about the point 45**
7 **this document 21A, 26B inferred.**

8 **Do you know what he means by that?**

9 **MS. O'LAUGHLIN: Objection.**

10 HEARING OFFICER HALLORAN: I'll allow it.

11 THE WITNESS: I believe I do not. I assumed
12 that he's speaking to the cross-section conditions
13 that are reflected in gas 7S where there's no 8S as
14 a boring location.

15 So, once it passes 7S, it becomes
16 inferred, unless you could have the additional
17 boring log.

18 BY MS. BRICE:

19 **Q. Okay. Is it inferred at to 7S?**

20 A. No.

21 **Q. And in order to create your figure here,**
22 **204-41A, you used 21 and 26 that we talked about,**
23 **which are as-built plans; is that right?**

24 A. That's correct.

1 **Q. Can you explain to us the difference**
2 **between as-built plans and proposed plans?**

3 A. The proposed shows what's intended, as far
4 as the construction project and what the initial
5 design is intended to be. The as-built plans reflect
6 what's actually built in the field.

7 **Q. Okay. So, if you have as-built plan, and**
8 **something has changed, what is shown on those**
9 **as-built plans?**

10 A. Typically, it would be the difference from
11 the original design plans.

12 **Q. Okay. So, it would be marked on there?**

13 A. In this particular case, yes.

14 **Q. Okay. I'm going to hand you a document**
15 **from the first hearing that was admitted. This is**
16 **21-B, 21B-30.**

17 **MS. O'LAUGHLIN: Objection, to the extent this**
18 **goes beyond Mr. Dorgan's rebuttal report and**
19 **supplemental rebuttal report.**

20 MS. BRICE: I believe Mrs. O'Laughlin opened
21 the door on this, asking about post plans, and
22 talking about post plans and for information only,
23 and again the final plan, the as-built plans.

24 So, we're just using this to try and show

1 that there was no change between the proposed plan
2 and as-built plans.

3 HEARING OFFICER HALLORAN: I vaguely remember
4 Ms. Brice's position on this. Regardless, I'll
5 allow latitude, but overruled. You may proceed.

6 BY MS. BRICE:

7 Q. Mr. Dorgan, what is this document?

8 A. 21B-1 appears to be the final sheet on the
9 plans.

10 Q. And what does it say up at the top
11 document?

12 A. It says, "State of Illinois Department of
13 Public 45 and Buildings, division of highways, plans
14 for proposed federal aid highway.

15 Q. Okay. If you could turn to page 21B-30.
16 And to save time, do you have a document 21A and 26
17 in front of you?

18 MS. BRICE: Or, Drew, can you pull it up on the
19 screen, just the regular 21A-26, please, and blow it
20 up, please.

21 BY MS. BRICE:

22 Q. Okay. Mr. Dorgan, in your opinion, how
23 does 21b-30 relate to 21A, 26, from the as-built
24 plans?

1 A. They appear to be the same.

2 Q. Are they depicted in the same area?

3 A. Yes.

4 Q. Has this area to the far left, on the top
5 figure that has a peat marked unsuitable material,
6 is that different at all on the proposed plans and
7 the as-built plans?

8 A. No, it's not.

9 Q. So, what does that mean had to happen at
10 that location, which I think is depicted over here
11 on 204-41A, correct?

12 A. That's correct.

13 Q. What had to happen then?

14 A. In my opinion, these materials had to be
15 removed.

16 Q. Why did it have to be remove?

17 A. It says it's unsuitable material to be
18 removed.

19 Q. Okay. What did they have to do here in
20 State 7S? What did they have to do at this 7S
21 location, based on that document?

22 A. They would have had to excavate down to
23 the bottom of the black peat and replace it with
24 suitable build material.

1 **Q. So, excavate down to 582-and-a-halfish?**

2 A. If I may?

3 **Q. Yes.**

4 A. So, the building at station 7 is not the
5 same facility.

6 **Q. Oh, I'm sorry. I'm now looking at sample
7 7.**

8 A. Yes, but the cross-section is referring to
9 station 7.

10 **Q. I'm sorry, I'm confused. Can you explain?**

11 A. Yes, the stationing is referenced across
12 the bottom.

13 **Q. I want you to talk about what's going on
14 at sample 7.**

15 A. At sample 7?

16 **Q. Yes.**

17 A. It would be the depth down to the bottom
18 of -- the bottom of the unsuitable fill.

19 **Q. And what level was that?**

20 A. Roughly 583 and three-quarters.

21 **Q. Okay. And then what would have to have
22 happened?**

23 A. It would have been back filled up to the
24 proposed grade.

1 Q. And what is the proposed grade?

2 A. 589 roughly, 588 and three-quarters.

3 Q. In the boring logs that you looked at --
4 you've looked at boring logs for sample 7?

5 A. Yes, I have.

6 Q. I'm sorry, I'm now looking at sample 7
7 right here.

8 A. Yes, but the cross-section is referring to
9 station 7.

10 Q. I'm sorry, I'm confused. Can you explain?

11 A. Yes, stationing is referenced across the
12 bottom.

13 Q. I want you to talk about what's going on
14 in sample 7?

15 A. In sample 7, it would be the depth down to
16 the bottom of the unsuitable fill.

17 Q. And what level was that?

18 A. Roughly, 583 and three quarters.

19 Q. And then what would have had to have
20 happened?

21 A. It would have been backfilled up to the
22 proposed grade.

23 Q. Okay. And what is the proposed grade?

24 A. 589, 588 and three-quarters.

1 Q. Okay. In the boring logs you've looked
2 at -- you've at boring logs for 7S?

3 A. Yes, I have.

4 Q. Okay. Is there any mention 45 black
5 cindery fill or peat in those boring logs?

6 A. No, there is not.

7 Q. And those 7S boring logs were taken after
8 1999, correct?

9 A. That's right.

10 Q. So many years after this work was done?

11 A. That's correct.

12 Q. What this is showing here is around 1970;
13 is that correct? What was happening here?

14 A. That's my understanding.

15 Q. By here, I mean here sort of what's being
16 shown in 21A-25.

17 And in your experience, are geotechnical
18 boring logs usually taken in close time in proximity
19 to the project?

20 A. Generally, they are shortly before the
21 project design is done.

22 Q. And in your opinion, do geotechnical
23 boring logs typically note debris, if there is
24 debris found them?

1 A. They oftentimes do.

2 **Q. Okay. How often?**

3 A. And I would say 100 percent of the time,
4 but most of the time they do.

5 **Q. To your recollection, what, if anything,**
6 **was the most important aspect 45 Mr. Peterson's**
7 **observations from the photographs?**

8 A. Just the consistency of the layer that was
9 observed with the asbestos in it across from 1S to
10 9S.

11 **Q. Can you elaborate on that? Is that**
12 **something you would expect to find?**

13 A. The appearance from the photographs, and
14 as it was described by Mr. Peterson, is you see a
15 consistency, without any break point. So, what
16 appeared to be a material that was that all placed
17 at the same time.

18 **Q. If the base map Mr. Gobelman is using is**
19 **inaccurate correct, what does that mean for the work**
20 **required by USEPA?**

21 A. It would have been done in the wrong
22 location.

23 **Q. I'm going to turn now to some of the**
24 **attribution issues. I would like to talk about the**

1 northeast excavation on site 3.

2 And we've gone through before a lot of
3 these three calculations, so I'm not to go through
4 everything again.

5 If you could to 207-18, please. Tell me
6 when you are there?

7 A. I'm there.

8 Q. Mr. Gobelman do you used this map to reach
9 his attributions.

10 You heard him testify about that, correct?

11 A. That's right.

12 Q. And what is it that you disagree with Mr.
13 Gobelman about with respect to his attributions on
14 the northeast excavation?

15 A. That he is confining the attribution east
16 at lease onto only part of the northeast excavation
17 that's is had parcel 0393.

18 Q. I would like to turn to Exhibit 64-3.
19 Take a couple pages back, and tell me what this
20 document is?

21 A. These are USEPA -- this is the USEPA
22 response to the area evaluation cost analysis that
23 had been submitted by John Kindle.

24 Q. Turn to page 64-4, please.

1 **And what is it saying about the comment**
2 **underground electrifying, at the top, the very top?**

3 A. Yes, it references undergraduate electric
4 lines runs along 1S, 2S, 3S and 4S.

5 **Q. And what about the comment fiber optics?**

6 A. Where it runs from 1S, 2S, 3S and 4S as
7 well.

8 **Q. Okay. And on your Dorgan Figure 1,**
9 **204-38, does a comment fiber optic line run through**
10 **the third grid the furthest to the east grid, that**
11 **has B3, 4 and 6 in it as well?**

12 A. I guess it does.

13 **Q. Mr. Gobelman's northeast excavation**
14 **attributions are based upon square footage, right?**

15 A. That's correct.

16 **Q. Okay. You heard me talk about his**
17 **numerator, which is 1,889 square feet.**

18 **Do you recall that?**

19 A. I recall discussing it, the specific
20 number, perhaps not.

21 **Q. Let's turn back to 207-18.**

22 A. I'm there.

23 **Q. Okay. Do you see that number on this**
24 **page?**

1 A. Can you repeat the number, please?

2 Q. Okay. Do you believe Mr. Gorgan has
3 placed the NRP's observations in the correct place?

4 A. No.

5 Q. Okay. If it's been placed further to the
6 easted, how does that impact his allocation?

7 A. Under his allocation method, it would
8 limit it, lower it.

9 Q. And what is your overall opinion about his
10 attributions?

11 A. Again, that he misconstrues the
12 requirement relative to the borings that drove the
13 cleanup of the various grids for northeast
14 excavation.

15 Q. Let's go to 208-9, and I believe you
16 testified you believe the Washington water line is
17 in the big pond location; is that correct?

18 A. On Mr. Gobelman's figures, yes.

19 Q. If it were in the right location, and I
20 think this is consistent with your opinion, a 100
21 percent of it would be given to IDOT, correct?

22 A. Yes.

23 Q. At the time of the first hearing, were
24 there any borings contaminated along the Waukegan

1 waterline within 0393?

2 A. No.

3 Q. After the exact location of the Waukegan
4 water line was collected, so after the first
5 hearing, are there any borings contaminated along
6 long the Waukegan water lines in 0393?

7 A. I recall that's there, I believe, one.

8 Q. If you could turn to 206-12, please, and I
9 would like it talk about AT&T.

10 You take issue with Mr. Gobelman's
11 approach to the AT&T lines. And as we discussed,
12 and he discussed, he divided 129 by 1060, to get to
13 18.9 percent.

14 If we stick with his method alone, what is
15 your opinion on his numerator, 199 feet, that he
16 believes fell within 0393? I believe that is going
17 to be on his figure 207-18. Give me one second,
18 I'll get there.

19 A. 207-16?

20 Q. Yes, 207-16. Thank you very much.

21 A. Sorry, repeat your question.

22 Q. So, Mr. Gobelman basically calculated the
23 linear feet of what he felt fell within 0393, or
24 what he felt fell within next to the boring

1 locations on Site 3, correct, Site -- AT&T site 3
2 attribution?

3 A. That's correct.

4 Q. Okay. And he went to B3-26 because that
5 was the next cleanest boring, I believe he testified
6 to?

7 A. I believe that's correct.

8 Q. Is his B3-26 in the same locate as your
9 B3-26?

10 A. No, it's not.

11 Q. I would like to turn to the AT&T lines
12 site 6.

13 Mr. Gobelman's attributions made him
14 believe that the AT&T lines ran the entire lenth of
15 the north side and south side of site 6.

16 Do you recall?

17 A. Yes, I do.

18 Q. And did Dr. Ebihara and Mr. Peterson
19 testified about that?

20 A. Yes, they did.

21 Q. And what did they say?

22 A. They said that the lines for a segment of
23 Site 6 in our ground when on poles for the rest 45
24 line on Site 6.

1 Q. Was any work done with respect to the
2 poles?

3 A. No.

4 Q. What's your impression for Mr. Gobelman
5 using that his denominator for, I believe, three of
6 his cost categories?

7 A. It's an over estimating.

8 Q. How would that impact his attributions?

9 A. They would lower them.

10 Q. What would lower them?

11 A. The denominator would be larger and would
12 lower the attribution.

13 Q. So, if he had gotten it right, the
14 attribution would be more?

15 A. It would be larger, yes.

16 Q. And did you make any assumption about the
17 length 45 the lines reaching your AT&T site 6
18 attribution?

19 A. No.

20 Q. Do you have any opinion about his
21 enumerator here on Site 6, which I believe, if we go
22 to 205 or 206 -- let's look at 207, 207 of 4, and
23 he's talking about it's 90 feet. He comes up with
24 90 feet he says is what area?

1 **If you turn the page, I think he describes**
2 **it.**

3 A. I'm sorry, I am looking a look for the
4 90 feet. Here it is. On Site 6?

5 **Q. Uh-huh.**

6 A. Yes. So, he defined that as the location
7 where the line came out 45 Site 3 and traversed from
8 roughly 4S -- between 4S and 5S of his area 45
9 liability.

10 **Q. Okay. Are his 4S and 5S in the same place**
11 **as your 4S and 5S?**

12 A. No, they are not.

13 **Q. You say on 206-13 -- let's go there.**
14 **We're talking about AT&T's soil sample.**

15 **You say that -- turn to 206-14 on the next**
16 **page. You say that he made an incorrect assumption.**
17 **What assumption was this?**

18 A. That clean borders were created along the
19 entire length 45 site 6 on both the north and south
20 sides of Greenwood.

21 **Q. How do you know that's not true?**

22 A. That is not what the record reflects.

23 **Q. Did you make the same assumption when**
24 **doing your calculations for the north side and south**

1 side 45 Site 6?

2 A. I did not.

3 Q. He says on 205 -- and he talks about this
4 more on 205 than he dos in his other report.

5 If could to go to 205-11, he said here
6 that the numerator he used to calculates the
7 percentage is 197 linear feet, which is the distance
8 from the western edge of site 6 to the 4.5S.

9 Do you see that?

10 A. Yes, I do.

11 Q. If you go back to 208-11, if you were
12 measuring using your borings in yellow, from the
13 western edge 45 Site 6 to 4.5S, would you come up
14 with the same calculation?

15 A. No.

16 Q. And why is that?

17 A. My length would be slightly longer based
18 upon on the location -- the actual location 454S.

19 Q. Let's talk a little bit about the North
20 Shore gas line.

21 On 206-11, you don't need to turn to it.
22 You disagree with his opinion regarding the cost FOR
23 the North Shore line on site 3.

24 Can you just explain the nature 45 your

1 **disagreement?**

2 A. I'm considering all of the North Shore gas
3 line work to be attributable for the IDOT main
4 corridor was needed because of the borings that are
5 specially referenced on parcel 0393 in the Board
6 Order.

7 By contrast, Mr. Gobelman calculated an
8 area of the corridor that falls within parcel 0393.

9 **Q. As to the North Shore gas line on Site 6**
10 **attribution, you make the point that at the time of**
11 **the EAM, there was no ACM east of 458S.**

12 **Why is that relevant?**

13 A. Because the EPA was making the
14 determination of what they were requiring based upon
15 the sample results from 1S to 8S and extending it to
16 the whole length of the border.

17 So, at the time that the enforcement
18 memorandum was written, they knew that there was
19 asbestos present from 1S to 8S, but they still
20 required a clean corridor to extend past 8S for the
21 utility lines.

22 So, it was the presence 45 ACM from 1S to
23 8S that required the entire clean corridor.

24 **Q. I believe you testified earlier your**

1 opinion on that wouldn't change, it was from 1S to
2 4S, correct?

3 A. That's is correct.

4 Q. On 205-12, Mr. Gobelman says, "It was the
5 length of the North Shore gas line along line the
6 south side of Site 6 is 2,005 linear feet," and he
7 attributes that to you.

8 Is that what you said?

9 A. I don't believe so.

10 Q. That did you say? I think it's 204-24.

11 A. My calculation was predicated on the
12 entire length 45 the North Shore gas line, which ran
13 both on the south and the north side of site 6 at
14 different locations.

15 Q. And, so, he used this 2,005 linear feet as
16 his denominator, correct?

17 A. That's correct.

18 Q. Okay. How did that impact his
19 attribution?

20 A. Increasing the larger denominator with the
21 smaller numerator led to a smaller attribution.

22 Q. In his supplemental report, Mr. Gobelman
23 says the North Shore GASK lines run through 72 feet
24 of the IDOT area liability on Site 6.

1 **Can you take a look at 207-17. Okay?**

2 A. Yes.

3 **Q. Can you describe for me where that**
4 **972 feet was located?**

5 A. I believe that is the calculation that he
6 did to measure from where the North Shore gas line
7 entered Site 6 to sample location on 6S.

8 **Q. 6S?**

9 A. Yes.

10 **Q. Let's go back and look at that. I am not**
11 **sure if that's correct. Let's go to 207 --**

12 A. Excuse me, I see what he did. Would you
13 like me to clarify that?

14 **Q. Please.**

15 A. So, on Exhibit 17, he has two
16 measurements, which I believe he then adds.

17 Then the first measurement is enter Site 6
18 running to roughly just west 454S. Then a second
19 measurement that measures from that location to
20 halfway between 4S and 5S.

21 **Q. Okay. And is that the 72 feet?**

22 A. That looks like it would add up to
23 72 feet.

24 **Q. And his measurement here -- if you go to**

1 the next clean boring exhibit.

2 A. I already know he did not.

3 Q. Let's talk about dewatering for a moment.

4 You said that his dewatering attributions were
5 incorrect, that they predicated upon other incorrect
6 attributions on a plot map.

7 Can you explain that, please?

8 A. 206-14 regarding dewatering?

9 Q. Yes, dewatering in Site 3.

10 A. I believe he used the same understanding
11 of the entire length of both the north and south
12 sides 45 Site 6 to calculate his total area 45 work.

13 Q. Let's look at this again. I'm talking
14 about Site 3 not Site 6.

15 206-14, Site 3 dewatering, he said he used
16 Nicor North Shore Gas, northeast excavation, the
17 Waukegan water line, and he used a method similar to
18 you.

19 A. I'm sorry, Ms. Brice, I don't know that
20 I'm in the right location. 206-14?

21 Q. Yes. Maybe I'm in the wrong location,
22 then, but I was talking about -- you know what, it
23 must be back in the 205. Hold on, give me a second.

24 Let's go back to 205. I apologize. I was

1 not as organized as I was earlier. It's been a long
2 day.

3 Let's go to 205, 205-14, not 206-14. My
4 bad. I was off by a number. He used these
5 dewatering calculations involving Nicor and North
6 Shore Gas, City of Waukegan line in the northern 6
7 excavation, correct?

8 A. That's correct.

9 Q. And he attributed nothing to the Nicor Gas
10 line and City of Waukegan line; is that correct?

11 A. That's correct.

12 Q. But you would have attributed something to
13 the City of Waukegan water line, right?

14 A. That is correct.

15 Q. And in your report -- go to 205-15. How
16 did Mr. Gobelman arrive at his attribution on
17 dewatering on Site 6?

18 A. He would have the final work plan at the
19 length of the work on the south side 45 Site 6, the
20 419 linear feet.

21 Q. And then what did he do?

22 A. He then considered how much of the length
23 was in what he considered to be IDOT's area 45
24 liability, which I believe was 197 linear feet.

1 Q. Okay. And we talked about that same
2 measurement of 179 linear feet, which is from the
3 western edge 45 Site 6 to 4.5s.

4 Would your opinion be the same with
5 respect to site 6 dewatering as it was with respect
6 to that measurement we discussed earlier?

7 A. Yes.

8 Q. What is your opinion about this 419 feet?
9 Did you believe it to be accurate? He's measuring
10 from 1S to 9S.

11 A. It's difference in the approach where he's
12 trying to take a measurement that was done
13 collectively between the north and south side 45
14 Site 6. I don't think it's an appropriate way to
15 try to attribute the dewatering processes.

16 Q. Okay. And his 1S to 9S would be different
17 from your 1S to 9S, because Site 6 borings are in
18 different locations?

19 A. That is correct.

20 Q. Okay. Mr. Gorgan, can you turn to 205-28,
21 please? Let me know when you are there.

22 A. I'm there.

23 Q. Did you hear Mr. Gobelman testify that he
24 believed the ramp to be that area that is denoted as

1 **a ramp in a cross-hatched area with a box around it?**

2 A. Yes.

3 **Q. Is that the ramp?**

4 A. No, that's not the context of how it was
5 used in my report.

6 **Q. Okay. Where is the ramp?**

7 A. The ramp is along the Greenwood Avenue.

8 **Q. How far east does it go?**

9 A. I believe nearly the length of 0393.

10 **Q. What work was done in the embankment? In**
11 **the ramp. I'm sorry, pardon me.**

12 A. As I testified earlier, it was the work
13 they undertook to sample the ramp area, in order to
14 avoid having to put a cap on the slope of the
15 embankment.

16 **Q. Okay. And did they take soil borings?**

17 A. Yes, they did.

18 **Q. Did they find asbestos-containing material**
19 **to within 0393?**

20 A. Yes, they did.

21 **Q. On 205-29, Mr. Gobelman has been using an**
22 **area approach for Site 3 filling and capping.**

23 **Your method looked at the gas buckets**
24 **driving the remedy; is that right?**

1 A. Okay. Could you just restate that,
2 please?

3 **Q. Sure. He uses an approach for Site 3**
4 **filling and capping that lives in an area, and your**
5 **approach looked at what task buckets were driving**
6 **the remedy for cap in Site 3; is that right?**

7 A. Generally, yes.

8 **Q. Okay. What do you believe is wrong with**
9 **his method?**

10 A. Similar to the other instances where he is
11 narrowing and defining IDOT's responsibility as
12 being only the work for filling the capping that was
13 done within Site 3. -- or, excuse me, parcel 0393.
14 I'm sorry.

15 **Q. Right. And what did you do?**

16 A. I attributed it based upon what the driver
17 was out of the Bush National Marine.

18 **Q. Okay. And he measured this .208 acres**
19 **based upon where he places soil borings on Site 3,**
20 **correct?**

21 A. Yes, that's correct.

22 **Q. And do you believe his placement of the**
23 **soil borings to be accurate?**

24 A. No.

1 Q. Would this affect his attribution?

2 A. Yes.

3 Q. Okay. 2015-16, please, filling and
4 capping form site 6. Again, we have this 5,470
5 linear foot number that he uses as a denominator.

6 Again, what is your opinion on that?

7 A. That's overstated.

8 Q. And why is that?

9 A. Because filling the capping wasn't done on
10 the entire length of the north and south 45 Site 6.

11 Q. Again, we're seeing this 197 linear feet
12 that you've testified about.

13 Would your opinion be the same here, with
14 respect to that measurement?

15 A. Yes.

16 Q. Did your attribution for filling on Site 3
17 relay on measuring distances?

18 A. No.

19 Q. I didn't go through the Site 3 and 6 task
20 buckets for all of these; but just for clarity, to
21 the extent there was something wrong with the
22 attribution in either the Site 3 task bucket or Site
23 6 task bucket, when you come together and create a
24 combined the Site 3 task bucket, how would that

1 affect the attributions?

2 A. They would trickle down to the rest 45
3 them.

4 Q. Similar question: Turning here to
5 demonstrative Exhibit 245, "Task buckets used to
6 influence by those experts to determine oversight in
7 support services tas bucket attribution."

8 Do you see that?

9 A. Yes, I do.

10 Q. Okay. We know, Mr. Gobelman, you used the
11 same metrology we've established.

12 You say that Gobelman has calculated
13 IDOT's share of the construction-related costs.
14 Because he miscalculated IDOT's share 45
15 construction-related costs, all 45 his calculations
16 for the site-wide cost categories are incorrect,
17 unreasonable and unreliable. That's from your
18 report of the 206-15.

19 Can you explain that opinion with
20 reference to this demonstrative?

21 A. I saw the top of the demonstrative shows
22 which elements of the work were performed and
23 factored into each of the individual categories.

24 And then the table below it provides the

1 comparison between the attribution calculations that
2 Mr. Dorgan made and the calculations that I had
3 made.

4 It simply demonstrates how if there's a
5 difference in any one of the individual construction
6 attribution elements, it will end up being reflected
7 as a change in all of the general site attributions
8 that were made.

9 Q. Okay. So, it's all connected?

10 A. Yes.

11 Q. Is that a good way to put it? Okay. And
12 that's true, with respect to all 45 these oversight
13 support services task buckets, type 3 prep, Site 6
14 prep, site 3-6 prep, health and safety Site 3
15 oversight, oversight and legal; is that correct?

16 A. That's correct.

17 Q. Okay. A couple 45 last questions. In
18 your attributions, if your numerator is smaller, how
19 does that affect your attribution, with respect to
20 calculations that you and Mr. Gobelman did?

21 A. It would make them smaller.

22 Q. Okay. And if your denominator is larger,
23 how does it impact them?

24 A. It would also make them smaller.

1 HEARING OFFICER HALLORAN: Ms. O'Laughlin, do
2 you need a few moments?

3 MS. O'LAUGHLIN: We can take a break.

4 HEARING OFFICER HALLORAN: What are you
5 thinking, 15 minutes, no longer. Thank you.

6 Pam, we're leaving for 15. Off the
7 record. Thank you.

8 (Recess taken.)

9 HEARING OFFICER HALLORAN: We're going back on
10 the record. We have Ms. O'Laughlin crossing JM's
11 rebuttal expert, Mr. Dorgan. You may proceed.

12 CROSS REBUTTAL EXAMINATION

13 BY MS. O'LAUGHLIN:

14 Q. Good afternoon, Mr. Dorgan.

15 A. Good afternoon.

16 Q. You testified that you had relied on AEM
17 to provide you a cad file in the production 45 your
18 map?

19 A. That's correct.

20 Q. Okay. And did you produce that CAD file
21 to IDOT?

22 A. I believe we produced the Cad file to you
23 on my depositions.

24 Q. And would that deposition have occurred on

1 **June 12th, 2019?**

2 A. Sounds about right.

3 **Q. That's what my notes reflect. During that**
4 **deposition, it came out that a CAD file was never**
5 **produced to IDOT?**

6 MS. BRICE: Objection. That misrepresents the
7 record.

8 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

9 MS. O'LAUGHLIN: That's correspondence between
10 the parties.

11 HEARING OFFICER HALLORAN: I didn't hear what
12 Ms. Brice was saying. It misrepresents evidence?

13 MS. BRICE: It misrepresents correspondence
14 between the parties. I have an email where we
15 discussed it.

16 We had produced it bridget format, and we
17 showed we produced some 45 those earlier 67
18 documents and showed them to the witnesses.

19 MS. O'LAUGHLIN: Okay, it's a speaking
20 objection where she's putting in her argument.

21 HEARING OFFICER HALLORAN: I'm trying to figure
22 out what you're trying to get at, what question,
23 because --

24 MS. O'LAUGHLIN: Can I ask the question?

1 HEARING OFFICER HALLORAN: Go ahead, and then
2 Ms. Brice can made an objection. I'm not sure what
3 you were asking.

4 BY MS. O'LAUGHLIN:

5 Q. What is a is CAD file?

6 A. A CAD file is a digital format of a
7 document that's created in side the AutoCAD
8 software.

9 Q. And you relied on that CAD file in the
10 production of your maps that you produced in your
11 expert report in this second round 45 hearings?

12 A. That's correct.

13 Q. As we were discussing --

14 MS. BRICE: Objection.

15 BY MS. O'LAUGHLIN:

16 Q. It was discovered during your June 2019
17 deposition that Johns Mansville had not produced
18 this CAD electronic file to IDOT; is that right?

19 HEARING OFFER HALLORAN: Ms. Brice?

20 MS. BRICE: That's okay. As long as she is
21 having it identified by the electronic aspect of the
22 file, I'm okay with the question.

23 HEARING OFFICER HALLORAN: Thank you.

24 BY MS. O'LAUGHLIN:

1 Q. So, the electronic file, we discovered
2 during you June 201 deposition, had not been
3 produced to IDOT; is that your recollection?

4 A. I believe at the deposition we had
5 discussion as to whether it had; and if it had not,
6 that we would. I believe we subsequently did.

7 Q. You subsequently produced that electronic
8 file to IDOT after your June 2019 deposition?

9 A. That's correct.

10 Q. Okay. And your expert report is dated
11 June 13, 2018; is that correct?

12 A. That's correct.

13 Q. And your expert rebuttal report is
14 October 25th, 2018, and your expert rebuttal
15 supplemental is dated April 30th, 2019; is that
16 correct?

17 A. Those sound like the correct dates.

18 Q. And all those dates tells occur before
19 June 2019?

20 A. That's that correct.

21 Q. You spent some time going over -- turning
22 to Exhibit 208-11 and 208-9 --

23 A. Yes.

24 Q. You identified those?

1 A. Yes, I believe we discussed those
2 previously.

3 Q. And you spent some time going over the
4 differences of both of these between the AE Con
5 property line and features, the Gobelman property
6 line features, the first property and the property
7 line -- Gobelman's property line features
8 supplemental report.

9 And they are demonstrated with different
10 colors. You talked about this on your direct
11 testimony.

12 A. Yes, I did.

13 Q. Have you ever -- so, looking at this
14 208-11, so Mr. Gobelman's supplemental report is in
15 blue, and AE Con's property line is in yellow.

16 HEARING OFFICER HALLORAN: Ms. O'Laughlin, you
17 might want to point your head towards the direction
18 of the speaker.

19 MS. O'LAUGHLIN: Thank you.

20 BY MS. O'LAUGHLIN:

21 Q. Now, this exhibit -- so, the blue is
22 Gobelman's supplemental, which is the one he's
23 adopted; and in blue, are lines east of the yellow
24 borings, for instance B350. Yellow is west of B350.

1 Is that an accurate description 45 this
2 **figure?**

3 A. Yes.

4 Q. And when some 45 these match up -- excuse
5 **me, strike that.**

6 On this Figure B345 called just "Gobelman
7 **Supplemental Report"** falls just outside 0393; is
8 **that correct, based on this figure?**

9 A. Yes, it is.

10 Q. You heard Mr. Gobelman testified he
11 **included 345 in IDOT'S in the allocation?**

12 A. Yes, I did.

13 Q. Have you ever gone through the exercise 45
14 **calculating the difference the Gobelman's damages**
15 **that he had used AE Con's facts as opposed to his**
16 **supplement base map?**

17 A. No.

18 Q. You do not have a bibliography. I'm
19 **pretty sure it's not in your rebuttal report or**
20 **rebuttal supplement report.**

21 If you have those before you, you can look
22 **at them be, Exhibit 204, Exhibit 206 and 208.**

23 A. Is this out on the table?

24 Q. Do you include a bibliography in any of

1 **your reports?**

2 A. I did not.

3 **Q. Turning to page 206-13, which would be**
4 **your rebuttal report?**

5 A. Yes.

6 **Q. Starting in the middle of the page of**
7 **Section 2.5.21 AT&T, the last sentence of the first**
8 **paragraph, can you read that?**

9 A. "As a result, Mr. Gobelman" --

10 **Q. The last sentences of the first paragraph**
11 **45 -- it begins with "Based on the record." 2.5.21**
12 **first paragraph last sentence.**

13 A. The second to last sentences, just to
14 clarify, but I can read it, if you like.

15 **Q. You are right. Yes, the last two**
16 **sentences?**

17 A. "Based on the record, AT&T lines do not
18 run entire length of north and south corridor in
19 Site 6. As a result, Mr. Gobelman's calculations
20 are incorrect."

21 **Q. Where in the record is that information?**

22 A. I believe it's in the final report that
23 was referred AE Con.

24 **Q. But you do not agree with that?**

1 A. No, I do not.

2 Q. If you can go to 206-14, and if you could
3 read the first full sentence on this page?

4 A. These assumptions are inaccurate, based
5 upon the record.

6 Q. And in this section, you're discussing
7 utility ACM's soil excavation; is that correct?

8 A. That's correct.

9 Q. Where in the record are you referring to?

10 A. I do have a citation to Mr. Gobelman's
11 deposition as a footnote at the bottom of the page
12 is how I did my citations and references for this
13 report; and then, of course, the final report on
14 that would have prepared by me.

15 Q. Okay. So, the final report is
16 approximately how large of a document?

17 A. Double large.

18 Q. Double binders large?

19 A. Several binders large.

20 Q. And, again, you can't find in the record
21 45 this entire case, you did not find -- for the
22 record, for this entire case, the citation; isn't
23 that true?

24 A. That's true.

1 Q. Also turning to Figure 1 of your 204, your
2 first report, in this background is 204-38.

3 A. Yes, I'm there.

4 Q. Where is the ramp work? Where does the
5 ramp work displayed on this in Figure 1?

6 A. The ramp is not specifically to be
7 labeled, but it's represented by the green
8 embankment that the present on Site 3.

9 Q. And how did that 240 -- is it 38 or 39?

10 A. I just looked it up. It's 38.

11 Q. Similarly, how about on 204-39?

12 A. Same answer.

13 Q. Where in the record is the ramp work
14 results?

15 A. The ramp work is discussed in the AE Con
16 final report, and it was discussed in the
17 documentation Dr. Ebihara provided regarding the
18 cost tabulation for the site.

19 Q. Okay. So, you relied upon Ebihara's
20 calculations.

21 Did you review the (inaudible)?

22 A. No.

23 Q. You relied on Mr. Peterson's supplemental
24 additional photographs?

1 A. Yes.

2 Q. IDOT supported your theory, correct?

3 A. In the photographs of the work that was
4 completed was relevant to my review.

5 Q. The work required by USEPA, the ones that
6 are pertinent to this section of Site 3 and Site 6,
7 those are not related to this proceeding.

8 USEPA required a clean corridors that fall
9 in Site 3 and Site 6; isn't that true?

10 A. Yes, that's true.

11 Q. USEPA required clean corridors throughout
12 sites 3 and 6; isn't that correct?

13 A. Yes, 8 meters on Site 3 and Site 6.

14 Q. They did not require clean corridors, only
15 in those areas where the borings -- in your expanded
16 area, where IDOT was liable.

17 They did not require clean corridors, only
18 in IDOT areas of liability; isn't that true?

19 MS. BRICE: Objection, vague.

20 HEARING OFFER HALLORAN: I kind 45 lost it,
21 too, Ms. O'Laughlin. Can you rephrase that, please?

22 MS. O'LAUGHLIN: Yes.

23 BY MS. O'LAUGHLIN:

24 Q. You have your IDOT theory of liability,

1 which includes 1S through 8S and all of 0393; is
2 that accurate?

3 A. For certain elements of the work.

4 Q. Okay. And USEPA required a clean corridor
5 for utilities that go beyond those areas I just
6 mentioned; isn't that true?

7 A. In some instances, yes.

8 Q. And the site is defined by Site 3, not by
9 figuring that, quote-unquote, IDOT area applied that
10 fee?

11 A. I'm sorry, I'm not sure I understand.

12 Q. I apologize. USEPA -- how was Site 3
13 defined?

14 A. I'm not exactly sure when Site 3 got
15 defined, but it was years ago during earlier phases
16 of this report.

17 Q. But the clean corridor requirement is
18 driven by all 45 Site 3; isn't that true, Mr.
19 Dorgan?

20 MS. BRICE: Objection, mischaracterizes his
21 testimony.

22 HEARING OFFICER HALLORAN: He can answer, if
23 he's able. Mr. Dorgan?

24 THE WITNESS: I believe I testified previously

1 that clean corridors were required for certain
2 utilities that are present on Site 3 --

3 BY MS. O'LAUGHLIN:

4 Q. And, similarly, that USEPA remedy for
5 Site 6 is for a larger area of Site 6 than 1S to 8S?

6 A. That's correct.

7 Q. And the clear corridors are required
8 because USEPA wanted to minimize the potential for
9 exposure ACM material to workers that may be working
10 at a particular utility; is that correct?

11 A. That was one of the criteria, yes.

12 Q. Okay. I'll hand you what was disseminated
13 as 21A-30.

14 Do you remember testifying about these,
15 Mr. Dorgan?

16 A. Yes, I do .

17 Q. If you can turn to 21B-30, and go to the
18 bottom right of the page. You see there's a box,
19 and in that box it beings "for"; do you see that?

20 A. Yes.

21 Q. What is in the box?

22 A. It says, "For your information only."

23 Q. Thank you. Exhibit 204-40. what is that
24 again, for the record?

1 A. This is a plan and profile for Detour
2 Road 8.

3 **Q. Okay. And you see at the bottom part 45**
4 **this. What does the bottom part of this figure --**
5 **what does this depict?**

6 A. It's a profile for the length of the
7 detour road.

8 **Q. And this information also shows how much**
9 **fill is needed; isn't that true?**

10 A. That's correct.

11 **Q. This is the amount of fill needed for**
12 **Detour Road A?**

13 A. That's correct.

14 **Q. And you can see the amount of fill needed**
15 **for Detour Road A; is that true?**

16 A. To be accurate, what that figure is
17 showing is the existing ground surface, relative to
18 the proposed grade of the road.

19 So, the difference between the two would
20 be worth building.

21 **Q. And it's 7.0. Where is 7.0?**

22 A. 7.0 would at the very western end of
23 detour road A.

24 **Q. Okay. And how much fill would be required**

1 **there? It looks to me -- how much fill is needed at**
2 **station 7 for Detour Road A?**

3 MS. BRICE: I would like object. She's asking
4 for quantified fill amounts, based upon the figure.

5 HEARING OFFICER HALLORAN: I couldn't hear you,
6 Ms. Brice. Your voice was lowered.

7 MS. BRICE: I'm sorry. I was just objecting to
8 the extent this goes beyond the testimony, to the
9 extent she's asking him to quantify fill amounts on
10 this figure.

11 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

12 MS. O'LAUGHLIN: This goes directly to their
13 argument about fill. It's a document he testified
14 about on direct examination.

15 HEARING OFFICER HALLORAN: Overruled. You may
16 comment. Mr. Dorgan, answer the question, please.

17 THE WITNESS: I can't quantify fill volumes
18 because that's not what this document does.

19 It shows approximate three-and-a-half feet
20 of fill would have been needed at this location.

21 BY MS. O'LAUGHLIN:

22 **Q. And how about at 8, approximately?**

23 **A. About roughly five feet.**

24 **Q. And how about 6 plus 50, how much fill**

1 **would be needed? It's not on the log?**

2 A. No.

3 (A recess was had.)

4 HEARING OFFICER HALLORAN: We're back on the
5 record. Ms. O'Laughlin is continuing her cross.

6 BY MS. O'LAUGHLIN:

7 Q. I just have one question. Going back to
8 **Exhibit 204-40, does this figure show that any**
9 **unsuitable fill was needed to be removed?**

10 A. No.

11 MS. O'LAUGHLIN: I have no further questions.
12 Thank you, Mr. Dorgan.

13 HEARING OFFICER HALLORAN: You were cutting
14 out. There was an objection coming up from
15 Ms. Brice, so can you recreate this?

16 MS. BRICE: Can we just start at after the
17 break?

18 HEARING OFFER HALLORAN: We're going to mute
19 you.

20 BY MS. O'LAUGHLIN:

21 Q. **Mr. Dorgan, Exhibit 206-40, does this**
22 **document -- does this Exhibit show that unsuitable**
23 **material needs to be removed?**

24 A. No.

1 MS. O'LAUGHLIN: No further questions.

2 MS. BRICE: Susan coming back for redirect.

3 Okay?

4 REDIRECT REBUTTAL EXAMINATION

5 BY MS. BRICE:

6 Q. I'm going to ask Mr. Dorgan a couple of
7 questions about this Exhibit 204-40 and 204-41A, and
8 my questions were: Mr. Dorgan, on these two figures
9 up at top where we have site 6, are we generally
10 depicting the same area around 4S, 5S and 6S?

11 A. Yes.

12 Q. Okay. On 204-41A under 7S, did you have
13 to remove unsuitable material in order to build up
14 that area?

15 A. Yes.

16 Q. How about under 6S, did you have to remove
17 unsuitable material in order build back up that
18 area?

19 A. Yes.

20 Q. And I believe you said about somebody
21 about intersectionality.

22 Can you please elaborate what you're
23 talking about, because there's been a lot of
24 confusion about how these to figures relate to each

1 other.

2 If you could foundation please explain
3 that, I think it would be helpful for everyone?

4 A. Figure 204-40 is a plan of profile for
5 Detour Road A. 204-41A is the plan profile for
6 Greenwood Avenue, and the two of them intersect at
7 the boundary of Site 3 and Site 6, where Detour
8 Road A transitions into Greenwood Avenue's
9 right-of-way to match up with Greenwood Avenue.

10 Q. Okay. And, so, how do they relate to each
11 other, the two exhibits?

12 Are they both showing that intersection,
13 but one is the looking at the cross-section 45
14 Detour Road A, and that is 204-40, and the other is
15 looking at the cross-section the same way at as
16 204-41A, the intersectionality at Site 6 Greenwood
17 Avenue.

18 A. That's correct.

19 Q. Ms. O'Laughlin asked you about whether or
20 not you had a bibliography.

21 I believe in each of your reports, you
22 have a whole section and discussion about
23 information you considered; isn't that correct?

24 A. That's correct.

1 Q. And you also have footnotes that refer to
2 specific documents that you reviewed that supported
3 various statements you were making and opinions you
4 were drawing?

5 A. That's correct, yes.

6 Q. And Dr. Ebihara and Mr. Peterson testified
7 about the lack of work relating to soil removal and
8 soil filling on the north and south side of Site 6,
9 that that was not done for the entire stretch of the
10 north side and south side of Site 6?

11 A. Yes, they did.

12 Q. With respect attributions clean corridors,
13 I believe we talked about this in your initial
14 testimony.

15 Were clean corridors required when there
16 was ACM found somewhere along the line?

17 A. Yes.

18 MS. BRICE: No further questions.

19 HEARING OFFICER HALLORAN: Thank you, Ms.
20 Brice. Ms. O'Laughlin?

21 RECROSS REBUTTAL EXAMINATION

22 BY MS. O'LAUGHLIN:

23 Q. So, Mr. Dorgan, you testified about
24 204-41A and the removal of unsuitable material.

1 **This document is now called the as-built**
2 **plan; is that correct?**

3 A. That's correct.

4 **Q. The note said it was adopted from IDOT**
5 **plans; is that correct, on the top left?**

6 A. That's correct.

7 **Q. And it was drawn by RND/JDT?**

8 A. That's correct.

9 **Q. And who would that be?**

10 A. I'm assuming RHD is Ryan Dutton. RJT
11 would be James Trease.

12 **Q. Atwel Florez (phonetic) were legal**
13 **consultants; is that true?**

14 A. That's correct?

15 **Q. And approved by DDG, which would be**
16 **yourself?**

17 A. That's correct.

18 **Q. I have no further questions.**

19 HEARING OFFER HALLORAN: Thank you, Ms. Brice.
20 Ms. O'Laughlin?

21 FURTHER REDIRECT REBUTTAL EXAMINATION
22 BY MS. BRICE:

23 **Q. One questions. We're going to the same**
24 **figure as Mr. Dorgan.**

1 Understandably, this Figure 4 is something
2 you created, but at the bottom part 45 Figure 4 is
3 what? What is it based on?

4 A. The representation of the as-built
5 drawing.

6 Q. And is that 21A-26?

7 A. I believe that's correct.

8 Q. And did you make any bottom notations on
9 221A and 226, as Ms. Ryan testified she worked on
10 this?

11 There were a lot of things done, with
12 respect to how they were represented here on your
13 figure?

14 A. I believe so.

15 Q. And 221A and 226 was form the as-built
16 drawing; is that correct?

17 A. That's correct.

18 MS. O'LAUGHLIN: That's all I have.

19 FURTHER RECROSS REBUTTAL

20 BY MS. BRICE:

21 Q. This portion is for 221A and 226; am I
22 understanding that correctly?

23 A. That's correct.

24 Q. But what is missing is the

1 for-information-only box; is that true?

2 A. There is no-information-only box on that.

3 Q. And the full document 221A and 226 that
4 for information only; is that correct?

5 A. I believe that's correct.

6 Q. This is represented here on your figure
7 correct of the worked on represented on you figure?

8 A. I believe so.

9 Q. 2845646 was as-built drawings; is that
10 correct?

11 A. That's correct.

12 Q. This portion is A21-26, is my
13 understanding that's correct?

14 A. That's correct.

15 Q. What is missing is the information only
16 box; is that true?

17 A. There is no for-information-only-box.

18 Q. And the full document 21A-26, that's for
19 information only; is that correct?

20 A. That's correct.

21 Q. In your opinion, if somebody that didn't
22 work on the project in 1970, and they know what bore
23 information only is on the document, then they
24 should know that.

1 MS. BRICE: Objection, speculative.

2 HEARING OFFICER HALLORAN: I'll allow him to
3 answer, if he's able. I'm sorry, Ms. O'Laughlin.

4 THE WITNESS: I'm not entirely sure what is the
5 relevancy is.

6 MS. O'LAUGHLIN: I'm done.

7 HEARING OFFICER HALLORAN: JM, have you
8 finished your case? We still have to talk about the
9 exhibits.

10 MS. BRICE: Other than the exhibits, yes.

11 HEARING OFFICER HALLORAN: I think there was a
12 couple more proffers. I think Ms. Gale can address
13 that.

14 Also, like yesterday, she's going to read
15 them into the record.

16 MS. GALE: Thank you. We move to admit -- what
17 I'm am going to say is I'm going to say the new
18 exhibits we talked about I'll move to admit, and
19 then I will list all of the exhibits collectively,
20 so that way it's a full package.

21 The new exhibits I move to admit, we will
22 proffer, just to make sure: 64, USEPA
23 correspondence dated February 1st, 2012;
24 Exhibit 217, Gobelman figures; Exhibit 229E-335

1 through 339, and that's it.

2 So, now, my understanding we're just taking a
3 minute to check.

4 MS. BRICE: Those are the exhibits subject to
5 the objections, our standing objections. So, I am
6 now going to read them collectively.

7 I'm just going to read the numbers that
8 were on the joint exhibit list filed with the Board
9 on September 1st, 2020; and the new ones that are
10 not on the list, I'll read the description as well.
11 Okay?

12 Exhibit 21A, 21B, 64, 65, 67, 79, 84, 120,
13 202, 203, 204, 206, 208, 209, 213, 214, 217, 221,
14 225, 227, 229E-335 through 339, and 229E-374 and
15 375, 229F-377 and 365. And then we have
16 Exhibit 21A-26A, which is a blow-up and an agreed
17 modification of 21A-26.

18 We then have Exhibit 204-41A, which is a
19 demonstrative blowup of 204-41, which is
20 Mr. Dorgan's hand drawing, which he testified to
21 during his direct testimony.

22 Then we have Exhibit 245, which is another
23 demonstrative drawing. Exhibit 245, which is
24 entitled "Task Bucket used as inputs by both experts

1 to be used to determine oversights and support
2 services task bucket attributions." That's it.

3 HEARING OFFICER HALLORAN: Thank you. I think
4 they are agreed to by IDOT. Thank you.

5 (Which were all the proceedings
6 had.)

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STATE OF FLORIDA
COUNTY OF PINELLAS)

I, Pamela A. Marzullo, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I relative or employee of any of the parties' attorney or counsel connect4d with the action, nor am I financially interested in the action's.

Dated this 4th day of November 2020.

PAMELA A. MARZULLO
Notary Public
GG 156897
My Commission expires 10/31/2022

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