ILLINOIS POLLUTION CONTROL BOARD
November 1st, 2020

JOHNS MANSVILLE, a Delaware Corporation,	)	
	)	
Complainant	)	
	)	PCB 14-3
v.	)	
	)	
ENFORCE - ILLINOIS DEPARTMENT OF LAND TRANSPORTATION,	)	
	)	
respondent.	)	

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 the 28th day of October, 2020, at the hour of 9:00 o'clock a.m.

PRESENT:

NIJMAN & FRANZETTI
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Appeared on behalf of the of Illinois Department of Transportation.

ALSO PRESENT:

MS. MARIE TIPSORD
MS. JENNIFFER VAN WIE

REPORTED BY:

Pamela A. Marzullo

I N D E X

E X H I B I T S

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 had calculated the north side and south side 45 site

6. We're now turning to your numerator. So, if you go to 205-11, please.

A. Okay.

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

A. Yes.

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

A. Yes.

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

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

A. Well, that's not what --

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

A. Yes.

Q. So, did you use this C-0022JM004753, which

was hearing 6699, which is also I think we established up on the screen yesterday the same at 205-46, to scale in your Site 6 soil borings?

A. Right.

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

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

A. Yes.

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

A. Yes.

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

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

MS. BRICE: Gobelman testified from this binder yesterday.

THE WITNESS: Okay, thank you.

BY MS. BRICE:

Q. The same thing from yesterday is going to

be the same thing I'm using today.

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

A. Yes, I'm there.

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

A. I believe so.

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

A. Yes.

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

A. No.

Q. Instead 45 using this document for latitudes and longitudes, you mainly measured in distances off a paper pdf off from an earlier version of this report for plotting the Site 6 soil borings; is that correct?

A. I measured it, yes.

Q. So the answer is yes?

A. Yes.

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

A. Yes.

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

A. Yes.

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

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

A. That fall within the green?

Q. Correct.

A. D3-15 and D3C.

Q. Were those built in line with the hearing?

A. Yes.

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

A. Correct. I only put in the borings that

were associated with the Polution Control Board's drawing and some of the borings that Mr. Dorgan put in his report, which he made his calculations off 45.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. I wouldn't know.

Q. You wouldn't know? So, your calculation

is based upon the division 45 a numerator and a denominator correct?

A. Yes.

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

A. If the numerator is different, yes.

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

A. If the calculations were different, yes.

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

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

A. No.

Q. Rather, you used linear footage, right?

A. Correct.

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

A. Correct.

Q. Okay. If you can go to 207-05. Going to the bottom 45 that page, and I'm just going to read

for the record the sentence, "Mr. Dorgan states the length along the south side 45 Site 6 is approximately 2,500 feet."

Do you see that?

A. Yes.

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

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

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

A. Yes.

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

A. I am now.

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

Do you see that?

A. Yes.

Q. So, he's not talking solely about the south side 45 Site 645 that measurement, is he?

A. No.

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

A. I'm sorry, what?

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

A. Right.

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

A. I have to go back.

Q. 207-5.

A. What was this again, the measurement?

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

A. Yes.

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

A. Yes.

Q. And, so, these distances would need to be accurate in order for the 3.6 attribution to be

correct; isn't that true?

A. Yes.

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

A. Yes.

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

A. Okay.

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

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

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

A. Say your question again.

Q. Sure. Let me break it down. You used 205-46 to locate the northeast excavation, correct, based on what you say here on 205-8?

A. Yes.

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

A. I measured it in, yes.

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

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

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

A. It was measured in.

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

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

A. No, not really.

Q. All right. And then you state the distance from the soil boring location 9S, to the eastern edge of the northern location, is about 140 feet. Do you see that?

A. Where are you reading from?

Q. 205.

A. 205?

Q. 205-8.

A. Would did you read out?

Q. 140 feet.

A. Yes.

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

A. I don't know.

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

A. Okay.

Q. Are you there?

A. Yes.

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

"Answer: It would be. I would assumed that it would be the final report and the work plan that depicts actually how it was laid in, how it was

supposed to be measured in."

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

HEARING OFFICER HALLORAN: Ms. Brice?

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

HEARING OFFICER HALLORAN: I agree. Overruled.

BY MS. BRICE:

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

A. Okay.

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

You added those two numbers together in the boxes?

A. Yes.

Q. Okay. The portion of the northeast excavation, that falls within 0339, is 1,889 square feet, correct?

A. It probably says that.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

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

Q. And then you said you also included B345

in your IDOT area of liability, right?

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

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

Do you remember that?

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

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

A. Are you saying that I said that?

Q. Yes.

A. I don't recall saying that.

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

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

HEARING OFFICER HALLORAN: Yes.

(Pause)

BY MS. BRICE:

Q. Okay. Let's go to your first deposition 45 page 28, line 11, please. I'm going to read it

into the record.

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

A. Correct.

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

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

Do you see that?

A. Yes.

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

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

A. Yes.

Q. But here you did not include the entire grid 45 B350 or B345 in your IDOT attribution, did

you?

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

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

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

Q. Please answer the question that I asked.

A. They required it to be excavated.

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

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

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

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

I believe that was your testimony, right?

A. Yes.

Q. Okay. This concept is not what is stated in the enforcement action memorandum, is it?

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

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

A. I don't know for sure.

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

A. It's not in here.

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

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

A. I have a copy 45 it here.

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

And on 123, USEPA says, quote, "To determine the extent 45 ACM, it appears that it was assumed that ACM was present in the entire grid, and

the sample collected within that grid contained ACM."

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

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

Do you see that, sir?

A. Yes.

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

A. I don't have 346.

Q. 346 is in the third grid.

A. Okay.

Q. 45 site soil excavation.

A. I'll take your word for it.

Q. Okay. You don't have to take my word for

it. I remember it correctly.

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

A. Yes.

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

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

A. Say that again. I lost it.

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

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

Q. Let me put it this way: The further east, the northeast excavation sits, the less amount that

falls within 0393; is that right?

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

Q. Correct.

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

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

A. Yes.

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

A. Yes.

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

A. I think so.

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

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

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

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

A. Yes.

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

A. Yes.

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

A. Correct.

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

A. Correct.

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

A. Yes.

Q. Okay. And you applied, as I understand it, the same 21.7 percent to all four categories for Site 3 dewatering, so all four 45 these categories

listed on 207-6 under "dewatering."

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

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

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

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

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

Do you recall that?

A. No, I don't.

Q. Okay. Do you dispute that?

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Correct.

Q. And your numerator here was 1S through 4.5S, which you measured off 45 your base map to be 197 linear feet; is that right?

A. Yes.

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

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

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

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

And the total was 37,738, right?

A. Correct.

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

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

A. Yes.

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

A. Okay.

Q. So, I believe the ramp is this area over

here on the left that is -- it says "ramp," and it has a cross hatched through it, and it's contained in a box, correct?

A. Yes.

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

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

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

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

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

A. Correct, outside of the borings allocated.

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

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

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

A. Yes.

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

A. Correct.

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

A. Correct.

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

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

A. What percentage is that?

Q. I said 6.5 percent.

A. Yes.

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

A. No, I do not.

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

A. No, I do not.

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

A. No, I do not. They are outside of the

boring liabilities.

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

A. Correct, because it's outside IDOT.

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

A. Correct.

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

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

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

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

A. Okay.

Q. Do you see that?

A. Yes.

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

A. Yes.

Q. Okay. And that's the entire north side

and south side 45 Site 6?

A. Yes.

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

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

A. Yes.

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

A. Yes.

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

A. No.

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

A. Correct.

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

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

A. I'm in.

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

Do you recall that?

A. Yes.

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

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

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

Did you remember seeing this?

A. Yes.

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

You agreed that it was accurate?

A. Yes.

Q. So, for general site/site 3 prep, both you and Mr. Dorgan added up your IDOT attributions for

construction services on Site 3, and divided this number by the total maps of construction services for Site 3, right?

A. Yes.

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

A. Yes, the same ones as Dorgan.

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

So, that was the denominator, right?

A. Yes.

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

A. Correct.

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

A. Yes.

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

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

Q. Okay. But you didn't treat the O&M cost

bucket differently, did you?

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

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

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

HEARING OFFICER HALLORAN: Do you have a page number?

MS. BRICE: 204-32.

BY MS. BRICE:

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

A. Yes.

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

A. Correct.

Q. Let's go back to 207-8. We're going to

talk about general Site 6 prep work.

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

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

Q. And this gave you 5.5 percent?

A. For Site 6.

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

A. Yes.

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

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

Q. The point I'm just trying to get across is

that all 45 these tasks are in Site 3 prep, Site 6, Site 3 and 6 prep, compensate in Site 3 oversight and Site 6 oversight and legal, all depend upon the allocations for the attributions that you made to various task methods that we just west through?

A. Yes, I did that.

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

A. Health and safety, is that your question?

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

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

A. Yes, I used the same methodology.

Q. I'm just trying to cut through the chase here. Exhibit 245 has listed for each one of those columns, right, underneath each column, there are

Xes; and those Xes denote which structured task buckets were used to form your calculations, with respect to these oversights for services task buckets; is that right?

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

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

A. I don't understand your question.

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

A. I don't know.

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

MS. O'LAUGHLIN: No. Sorry.

THE WITNESS: 229B 140?

BY MS. BRICE:

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

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

Do you see that?

A. Yes.

Q. Did you dispute saying that?

A. No.

MS. BRICE: Okay. No further questions.

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

MS. O'LAUGHLIN: Yes.

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

(A Recess was taken.)

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

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

REDIRECT EXAMINATION

BY MS. O'LAUGHLIN:

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

A. Yes.

Q. Okay. Can you turn to Exhibit 57?

A. In what book?

Q. It's Exhibit 57. It would begin in 06. It's not listed. It should be. I direct you to 57.

And what is this document?

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

Q. What does this report seek to accomplish?

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

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

A. Correct.

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

A. Yes.

Q. If you could read that, please?

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

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

Q. If you could turn to 57-536.

A. Yes.

Q. 536.

A. I'm there.

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

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

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

A. Yes.

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

A. Correct.

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

A. I did.

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

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

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

A. Yes, I believe so.

Q. So, this is basically a soil boring

report; is that a fair description?

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

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

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

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

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

Q. If you could turn to Exhibit 203.

A. Okay. What page?

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

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

A. "In 1998, ELM investigated Site 3, Exhibit 57 ELM report. ELM visually inspected the site surface and found 74 suspicious ACM fragments."

Q. This was all suspected?

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

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

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

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

A. I would assume so.

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

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

A. Yes.

Q. Do you recall this document?

A. Vaguely, yes.

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

A. Yes.

Q. And what is the first line?

A. "ELM boring location 1999."

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

A. Yes.

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

A. Yes.

MS. BRICE: Objection.

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

BY MS. O'LAUGHLIN:

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

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

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

A. Correct.

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

A. Yes.

Q. The first line of the legend states what?

A. "ELM boring location 1999."

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

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

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

MS. BRICE: No problem.

HEARING OFFICER HALLORAN: Okay, thank you. Overruled.

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

BY MS. O'LAUGHLIN:

Q. Thank you. And that's the same report that you used in creating your base map for creating the second round?

A. Yes.

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

Do you recall that?

A. I'm not sure which demonstrative.

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

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

HEARING OFFICER HALLORAN: Sure, off the record.

(Discussion off the record.)

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

BY MS. O'LAUGHLIN:

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

A. Yes.

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

A. It's letting out Site 6 stationing for Greenwood Avenue and a cross-section of the -- in essence, the geology that was expanding the IDOT

plans associated with the embankment work to be done on Greenwood Avenue.

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

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

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

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

A. Yes.

Q. In the direct testimony, as you did in your first round 45 hearing, you stated that the as-built plans indicated the road would begin at approximately 7 plus 60?

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

Q. Okay.

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

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

A. No subsurface excavation in the Greenwood Avenue.

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

A. 21? Okay.

Q. What is shown on this page?

A. The pictures in the binders are upside down.

Q. 21A-72.

A. 72?

Q. Yes, 72.

MS. BRICE: We don't have that.

BY MS. O'LAUGHLIN:

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

A. Yes.

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

A. Yes.

Q. So, what does this page show?

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

The cross-sections --

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

A. 21A26.

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

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

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

A. 72. This provides the contractor exactly

what he needs to remove. As I stated earlier, construction for the embankment does not start until 7 plus 60, and you can see at the bottom, there's a circle on the right that says "7 plus 60." That is the beginning 45 excavation.

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

Q. Such as this at 7.60, not 7.0?

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

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

A. Yes.

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

A. There is no surface excavation requirement to the east 457 plus 60.

Q. And this is for the Greenwood Avenue construction?

A. Correct.

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

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

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

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

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

A. I have not found that they did.

Q. They approve the report, or don't approve the report wit comments, et cetera, but they don't specifically verify the accuracy of a map, in your

experience?

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

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

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

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

A. They don't spell it out.

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

A. Yes.

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

A. Correct.

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

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

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

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

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

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

MS. BRICE: Okay. Thank you.

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

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

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.

HEARING OFFICER HALLORAN: Okay, 16.

BY MS. O'LAUGHLIN:

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

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

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

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

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

MS. O'LAUGHLIN:

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

THE WITNESS: Yes, could you rephrase that, Ms.

O'Laughlin?

MS. O'LAUGHLIN: Yes. I agree.

BY MS. O'LAUGHLIN:

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

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

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

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

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

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

MS. O'LAUGHLIN: Yes.

HEARING OFFICER HALLORAN: I don't see that

happen. I'm looking at the book she gave me. It jumps from 32 to 42. No, 33 to 43.

(Discussion off the record.)

BY MS. O'LAUGHLIN:

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

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

Q. Is it a reliable plan?

A. I would take it as a reliable plan.

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

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

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

A. Yes.

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

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

Just tell me first if before -- it's

Figure 8. I'm just asking if you if this is the right figure.

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

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

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

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

A. Yes.

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

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

Q. Okay. Johns Manville asked you about the concept for a remediation plan, for a remediation project, that you have to remediate to the next

clean boring. Do you recall that?

MS. BRICE: Objection, mischaracterizes his testimony.

HEARING OFFICER HALLORAN: Can you rephrase that, please?

BY MS. O'LAUGHLIN:

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

A. Okay.

Q. And what is the document in 120?

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

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

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

HEARING OFFICER HALLORAN: Ms. O'Laughlin, I'm

not sure I have your exhibit book here, Exhibit 120. I don't see -- I got 120-3 you said 1, 2, 3?

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

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

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

HEARING OFFICER HALLORAN: Okay.

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

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

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

HEARING OFFICER HALLORAN: Thank you. You may proceed.

BY MS. O'LAUGHLIN:

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

A. Yes.

Q. Explain the concept of you have to mediate until you find a playing forum?

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

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

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

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

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

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

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

Q. So much has been made you spent a lot 45 time in this hearing discussing your math, a lot 45

witnesses, a lot 45 effort regarding your base map.

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

A. Okay.

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

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

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

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

A. Correct.

Q. And yours is the dotted line?

A. The black dotted line, yes.

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

HEARING OFFICER HALLORAN: Can you rephrase that?

MS. O'LAUGHLIN: Sure.

HEARING OFFICER HALLORAN: Thank you.

BY MS. O'LAUGHLIN:

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

Is that a fair summary?

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

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

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

HEARING OFFICER HALLORAN: What kind 45 opinion?

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

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

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

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

BY MS. O'LAUGHLIN:

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

A. Correct.

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

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

Q. And the Administrative Order on Consent is what Johns Mansville and Commonwealth Edison; is

that correct?

A. I believe so.

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

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

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

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

THE WITNESS: Can you repeat the question, please?

BY MS. O'LAUGHLIN:

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

A. I believe they did.

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

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

(Recess taken.)

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

MS. O'LAUGHLIN: We have nothing further at

this time.

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

MS. BRICE: I can go.

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

(Recess taken.)

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

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

RECROSS EXAMINATION

BY MS. BRICE:

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

A. Yes.

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

A. Yes.

Q. Okay. But the order did not mention 57-565, which is also 205-45, which is the map you used to locate your Site 3 borings, does it?

A. I would have to go back and look.

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

A. Yes.

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

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

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

Do you recall that?

A. Yes.

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

Do you remember this?

A. Yes.

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

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

A. Yes, that was discussed in the first hearing there was a sequence events that had occur

before the embankment could be built.

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

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

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

Q. Right. Which is 21A, correct?

A. Correct.

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

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

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

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

A. Yes.

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

A. It starts at 7 plus 60.

Q. Yes. And then goes west?

A. Correct.

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

Do you see that? Those are Greenwood Avenue stations?

A. Correct.

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

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

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

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

We have rehashed this argument throughout the first round 45 hearing, and this is a very

specific area, so I object on the basis that it's irrelevant to this second round 45 hearings.

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

THE WITNESS: Can you repeat that one, please?

BY MS. BRICE:

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

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

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

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

Q. It's a permission only document that is an

as-built plan? This is what happened -- this is depicting what was done; is that not the case?

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

Q. It was not depicted what was done?

A. No.

Q. But it is an as-built plan?

A. Yes.

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

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

MS. BRICE: He answered the question.

HEARING OFFICER HALLORAN: Do you want to rephrase that?

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

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

BY MS. BRICE:

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

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

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

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

Q. Okay. Were you involved in Greenwood Avenue project?

MS. O'LAUGHLIN: Objection, relevance.

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

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

BY MS. BRICE:

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

A. No.

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

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

Q. No, I'm talking about you do not know about this document, because you were not involved in this project; isn't that correct?

A. In 1970, no, I was not.

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

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

BY MS. BRICE:

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

A. Yes.

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

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

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

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

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

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

Q. It's generally around the same time as the

Atwell drawings are put together, or as the proposed drawings are put together?

A. No.

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

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

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

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

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

Q. Did they say when they were taken, generally?

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

Q. Do you recall when they were?

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

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

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

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

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

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

BY MS. BRICE:

Q. Were brace used for other miscellaneous debris?

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

Q. Okay. But how do you see geotechnical soil borings that talk about debris or other things being found within the soil boring that is being detected, that's being analyzed?

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

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

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

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

A. There's nothing depicted.

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

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

A. There were questions regarding the review the maps.

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

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

Do you see that?

A. Yes.

Q. Thank you.

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

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

BY MS. BRICE:

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

A. Okay.

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

A. Yes.

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

A. Correct.

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

A. Correct.

MS. BRICE: No further questions.

HEARING OFFICER HALLORAN: Ms. O'Laughlin?

FURTHER REDIRECT EXAMINATION

BY MS. O'LAUGHLIN:

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

A. No.

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

A. That's correct.

Q. And that argued IDOT should be responsible for ACM contamination throughout site 3 because of

the building of detour road A?

A. Correct.

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

A. In my opinion, they did not.

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

A. They did not include those borings.

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

FURTHER RECROSS EXAMINATION

BY MS. BRICE:

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

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

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

A. Say that again?

Q. 21A-26 is the document that was used to generate this figure go to show the cross-section 45

Greenwood Avenue, correct?

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

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

A. No, you are incorrect.

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

MS. O'LAUGHLIN: Objection argumentative?

HEARING OFFICER HALLORAN: Sustained, Mr. Brice.

MS. BRICE: That's it.

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

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

MS. O'LAUGHLIN: Yes.

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

(Recess taken.)

HEARING OFFICER HALLORAN: We are going back on

the record. We're in the rebuttal phase of the hearing.

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

DIRECT REBUTTAL EXAMINATION

BY MS. BRICE:

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

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

MS. BRICE: I'm sorry.

sss

DOUGLAS DORGAN, JR.

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

- - - -

DIRECT REBUTTAL EXAMINATION

- - - -

BY MS. BRICE:

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

Do you have the Gobelman binder in front 45 you?

A. Yes.

Q. Are you there?

A. Yes, I am.

Q. Could you identify this document for me?

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

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

A. Mr. Gobelman's rebuttal report.

Q. His initial rebuttal report?

A. That's correct.

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

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

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

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

Q. Okay. Did you reach your opinions in this case to a reasonable degree 45 scientific surgery?

A. Yes, I did.

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

A. That's correct.

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

A. I'm there.

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

Is that true with respect to both 45 his reports?

A. Yes.

Q. Can you explain what you mean by this?

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

Q. Can you give us examples?

A. The two I provided in the report. In one instance, he used linear feet for certain of utility costs and the ACM soil removal cost. The alternative used square footage when he was doing

his attributions for the northeast excavation.

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

A. Not necessary.

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

Do you see that?

A. I do.

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

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

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

A. Yes, they were.

Q. Can you given me some examples?

A. Yes, the borings, for instance, that were

identified on the eastern side of parcel 0393.

Q. Okay. And how was that driving?

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

Q. Can you elaborate?

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

HEARING OFFICER HALLORAN: Can you speak a little louder?

MS. BRICE: Did you hear that?

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

BY MS. BRICE:

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

What to you mean by this?

A. Well, as we heard testimony earlier, Mr. Gobelman's approach was to look at the specific

borings that IDOT was found to be responsible for, and he defined his geography based upon those specific locations, rather than considering all of the work that occurred because of the conditions of those specific locations.

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

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

A. Not necessarily.

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

A. Yes, I did.

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

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

A. So, the way in which USEPA required the work we performed, there were individual sample locations, and a sample is this just that. It is a representative sample 45 a geographical area.

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

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

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

Can you explain his opinion?

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

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

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

Q. I'm just going to reference what we talked

about a lot. 207 is Mr. Gobelman's supplemental report, correct?

A. I believe that's right.

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

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

A. No, I don't.

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

A. Yes, that's correct.

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

A. Yes.

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

A. Yes.

Q. I would like you to turn to 208, please, and I'm looking at 208-9 and 208-11, and I have

boards here 45208-9 and 208-11.

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

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

A. That's correct.

Q. Okay. And what is denoted in yellow?

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

Q. Those were based upon what information?

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

Q. The AutoCAD materials?

A. That's correct.

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

A. No, she was not.

Q. She took over for someone else?

A. That's correct.

Q. And started working on the figures from the materials?

A. That's correct.

Q. Sorry, I just talked over you.

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

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

Q. And what is blue?

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

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

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

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

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

A. That's correct.

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

A. Yes, I do.

Q. For one second, I would like to turn to a document Ms. O'Laughlin referred to earlier, which

is a report from your first -- from one 45 your expert reports from the first hearing.

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

A. Which binder would that be in?

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

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

MS. BRICE: May I approach?

HEARING OFFICER HALLORAN: Yes, you may.

BY MS. BRICE:

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

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

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

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

A. Differentiating which borings were performed by ACM.

Q. Did you use ELM Figure 15 in the EML report to locate those borings?

A. No, I did not.

Q. And how did you locate those borings?

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

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

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

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

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

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

A. No, they are not.

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

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

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

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

Q. Can you please describe that for me?

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

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

A. Correct.

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

A. 204-45 is not in bider.

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

BY MS. BRICE:

Q. 205-45. I'm sorry, I misspoke. I

apologize.

Mr. Dorgan, do you recognize this document?

A. Yes, I do.

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

A. I believe it is, yes.

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

A. No, I would not.

Q. Why not?

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

Q. Okay. Anything else?

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

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

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

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

And as we've seen in the later documents,

that actual boundary has been shifted south, there's a reference on this -- it's very difficult to see.

Q. Can you pull that up, up to the top? There you go.

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

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

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

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

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

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

BY MS. BRICE:

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

What is your reaction it that?

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

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

A. I don't believe so.

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

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

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

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

A. Again, I think what happened here was this move is a boundary for Site 3. He just shifted

everything with it, so it dropped that location 45 the Waukegan water line.

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

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

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

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

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

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

BY MS. BRICE:

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

A. I don't think it's larger in total area,

but the area that is currently -- that's on site 3 is larger.

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

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

A. That's correct.

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

Why do you say that?

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

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

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

A. That was my interpretation.

Q. Okay. And what led you to come to this

conclusion.

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

Q. And how did that impact their decision?

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

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

What does that mean to you?

A. That means that they remain responsible for it.

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

A. It limited it for certain gas buckets.

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

A. That's under 2.5?

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

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

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

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

MS. BRICE: 204-40.

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

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

BY MS. BRICE:

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

A. That's correct.

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

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

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

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

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

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

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

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

A. I don't believe they ended up considering

the detour Road A cross-section.

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

HEARING OFFICER HALLORAN: I'll allow it.

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

BY MS. BRICE:

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

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

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

A. That's correct.

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

A. Correct.

Q. Okay. Mr. Gobelman said something about this being inferred.

What is your reaction to that?

MS. O'LAUGHLIN: Objection, vague.

HEARING OFFER HALLORAN: Rephrase, please.

BY MS. BRICE:

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

Do you know what he means by that?

MS. O'LAUGHLIN: Objection.

HEARING OFFICER HALLORAN: I'll allow it.

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

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

BY MS. BRICE:

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

A. No.

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

A. That's correct.

Q. Can you explain to us the difference

between as-build plans and proposed plans?

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

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

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

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

A. In this particular case, yes.

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

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

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

So, we're just using this to try and show that there was no change between the proposed plan

and as-built plans.

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

BY MS. BRICE:

Q. Mr. Dorgan, what is this document?

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

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

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

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

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

BY MS. BRICE:

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

A. They appear to be the same.

Q. Are they depicted in the same area?

A. Yes.

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

A. No, it's not.

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

A. That's correct.

Q. What had to happen then?

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

Q. Why did it have to be remove?

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

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

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

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

A. If I may?

Q. Yes.

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

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

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

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

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

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

A. At sample 7?

Q. Yes.

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

Q. And what level was that?

A. Roughly 583 and three-quarters.

Q. Okay. And then what would have to have happened?

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

Q. And what is the proposed grade?

A. 589 roughly, 588 and three-quarters.

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

A. Yes, I have.

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

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

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

A. Yes, stationing is referenced across the bottom.

Q. I want you to talk about what's going on in sample 7?

A. In sample 7, it would be the depth down to the bottom of the unsuitable fill.

Q. And what level was that?

A. Roughly, 583 and three quarters.

Q. And then what would have had to have happened?

A. It would have been backfilled up to the proposed grade.

Q. Okay. And what is the proposed grade?

A. 589, 588 and three-quarters.

Q. Okay. In the boring logs you've looked

at -- you've at boring logs for 7S?

A. Yes, I have.

Q. Okay. Is there any mention 45 black cindery fill or peat in those boring logs?

A. No, there is not.

Q. And those 7S boring logs were taken after 1999, correct?

A. That's right.

Q. So many years after this work was done?

A. That's correct.

Q. What this is showing here is around 1970; is that correct? What was happening here?

A. That's my understanding.

Q. By here, I mean here sort of what's being shown in 21A-25.

And in your experience, are geotechnical boring logs usually taken in close time in proximity to the project?

A. Generally, they are shortly before the project design is done.

Q. And in your opinion, do geotechnical boring logs typically note debris, if there is debris found them?

A. They oftentimes do.

Q. Okay. How often?

A. And I would say 100 percent of the time, but most of the time they do.

Q. To your recollection, what, if anything, was the most important aspect 45 Mr. Peterson's observations from the photographs?

A. Just the consistency of the layer that was observed with the asbestos in it across from 1S to 9S.

Q. Can you elaborate on that? Is that something you would expect to find?

A. The appearance from the photographs, and as it was described my Mr. Peterson, is you see a consistency, without any break point. So, what appeared to be a material that was that all placed at the same time.

Q. If the base map Mr. Gobelman is using is inaccurate correct, what does that mean for the work required by USEPA?

A. It would have been done in the wrong location.

Q. I'm going to turn now to some of the attribution issues. I would like to talk about the northeast excavation on site 3.

And we've gone though before a lot of these threes calculations, so I'm not to go through everything again.

If you could to 207-18, please. Tell me when you are there?

A. I'm there.

Q. Mr. Gobelman do you used this map to reach his attributions.

You heard him testify about that, correct?

A. That's right.

Q. And what is it that you disagree with Mr. Gobelman about with respect to his attributions on the northeast excavation?

A. That he is confining the attribution east at lease onto only part of the northeast excavation that's is had parcel 0393.

Q. I would like to turn to Exhibit 64-3. Take a couple pages back, and tell me what this document is?

A. These are USEPA -- this is the USEPA response to the area evaluation cost analysis that had been submitted by John Kindle.

Q. Turn to page 64-4, please.

And what is it saying about the comment

underground electrifying, at the top, the very top?

A. Yes, it references undergraduate electric lines runs along 1S, 2S, 3S and 4S.

Q. And what about the comment fiber optics?

A. Where it runs from 1S, 2S, 3S and 4S as well.

Q. Okay. And on your Dorgan Figure 1, 204-38, does a comment fiber optic line run through the third grid the furthest to the east grid, that has B3, 4 and 6 in it as well?

A. I guess it does.

Q. Mr. Gobelman's northeast excavation attributions are based upon square footage, right?

A. That's correct.

Q. Okay. You heard me talk about his numerator, which is 1,889 square feet.

Do you recall that?

A. I recall discussing it, the specific number, perhaps not.

Q. Let's turn back to 207-18.

A. I'm there.

Q. Okay. Do you see that number on this page?

A. Can you repeat the number, please?

Q. Okay. Do you believe Mr. Gorgan has placed the NRP's observations in the correct place?

A. No.

Q. Okay. If it's been placed further to the easted, how does that impact his allocation?

A. Under his allocation method, it would limit it, lower it.

Q. And what is your overall opinion about his attributions?

A. Again, that he misconstrues the requirement relative to the borings that drove the cleanup of the various grids for northeast excavation.

Q. Let's go to 208-9, and I believe you testified you believe the Washington water line is in the big pond location; is that correct?

A. On Mr. Gobelman's figures, yes.

Q. If it were in the right location, and I think this is consistent with your opinion, a 100 percent of it would be given to IDOT, correct?

A. Yes.

Q. At the time of the first hearing, were there any borings contaminated along the Waukegan waterline within 0393?

A. No.

Q. After the exact location of the Waukegan water line was collected, so after the first hearing, are there any borings contaminated along long the Waukegan water lines in 0393?

A. I recall that's there, I believe, one.

Q. If you could turn to 206-12, please, and I would like it talk about AT&T.

You take issue with Mr. Gobelman's approach to the AT&T lines. And as we discussed, and he discussed, he divided 129 by 1060, to get to 18.9 percent.

If we stick with his method alone, what is your opinion on his numerator, 199 feet, that he believes fell within 0393? I believe that is going to be on his figure 207-18. Give me one second, I'll get there.

A. 207-16?

Q. Yes, 207-16. Thank you very much.

A. Sorry, repeat your question.

Q. So, Mr. Gobelman basically calculated the linear feet of what he felt fell within 0393, or what he felt fell within next to the boring locations on Site 3, correct, Site -- AT&T site 3

attribution?

A. That's correct.

Q. Okay. And he went to B3-26 because that was the next cleanest boring, I believe he testified to?

A. I believe that's correct.

Q. Is his B3-26 in the same locate as your B3-26?

A. No, it's not.

Q. I would like to turn to the AT&T lines site 6.

Mr. Gobelman's attributions made him believe that the AT&T lines ran the entire lenth of the north side and south side of site 6.

Do you recall?

A. Yes, I do.

Q. And did Dr. Ebihara and Mr. Peterson testified about that?

A. Yes, they did.

Q. And what did they say?

A. They said that the lines for a segment of Site 6 in our ground when on poles for the rest 45 line on Site 6.

Q. Was any work done with respect to the

poles?

A. No.

Q. What's your impression for Mr. Gobelman using that his denominator for, I believe, three of his cost categories?

A. It's an over estimating.

Q. How would that impact his attributions?

A. They would lower them.

Q. What would lower them?

A. The denominator would be larger and would lower the attribution.

Q. So, if he had gotten it right, the attribution would be more?

A. It would be larger, yes.

Q. And did you make any assumption about the length 45 the lines reaching your AT&T site 6 attribution?

A. No.

Q. Do you have any opinion about his enumerator here on Site 6, which I believe, if we go to 205 or 206 -- let's look at 207, 207 of 4, and he's talking about it's 90 feet. He comes up with 90 feet he says is what area?

If you turn the page, I think he describes

it.

A. I'm sorry, I am looking a look for the 90 feet. Here it is. On Site 6?

Q. Uh-huh.

A. Yes. So, he defined that as the location where the line came out 45 Site 3 and traversed from roughly 4S -- between 4S and 5S of his area 45 liability.

Q. Okay. Are his 4S and 5S in the same place as your 4S and 5S?

A. No, they are not.

Q. You say on 206-13 -- let's go there. We're talking about AT&T's soil sample.

You say that -- turn to 206-14 on the next page. You say that he made an incorrect assumption. What assumption was this?

A. That clean borders were created along the entire length 45 site 6 on both the north and south sides of Greenwood.

Q. How do you know that's not true?

A. That is not what the record reflects.

Q. Did you make the same assumption when doing your calculations for the north side and south side 45 Site 6?

A. I did not.

Q. He says on 205 -- and he talks about this more on 205 than he dos in his other report.

If could to go to 205-11, he said here that the numerator he used to calculates the percentage is 197 linear feet, which is the distance from the western edge of site 6 to the 4.5S.

Do you see that?

A. Yes, I do.

Q. If you go back to 208-11, if you were measuring using your borings in yellow, from the western edge 45 Site 6 to 4.5S, would you come up with the same calculation?

A. No.

Q. And why is that?

A. My length would be slightly longer based upon on the location -- the actual location 454S.

Q. Let's talk a little bit about the North Shore gas line.

On 206-11, you don't need to turn to it. You disagree with his opinion regarding the cost FOR the North Shore line on site 3.

Can you just explain the nature 45 your disagreement?

A. I'm considering all of the North Shore gas line work to be attributable for the IDOT main corridor was needed because of the borings that are specially referenced on parcel 0393 in the Board Order.

By contrast, Mr. Gobelman calculated an area of the corridor that falls within parcel 0393.

Q. As to the North Shore gas line on Site 6 attribution, you make the point that at the time of the EAM, there was no ACM east of 458S.

Why is that relevant?

A. Because the EPA was making the determination of what they were requiring based upon the sample results from 1S to 8S and extending it to the whole length of the border.

So, at the time that the enforcement memorandum was written, they knew that there was asbestos present from 1S to 8S, but they still required a clean corridor to extend past 8S for the utility lines.

So, it was the presence 45 ACM from 1S to 8S that required the entire clean corridor.

Q. I believe you testified earlier your opinion on that wouldn't change, it was from 1S to

4S, correct?

A. That's is correct.

Q. On 205-12, Mr. Gobelman says, "It was the length of the North Shore gas line along line the south side of Site 6 is 2,005 linear feet," and he attributes that to you.

Is that what you said?

A. I don't believe so.

Q. That did you say? I think it's 204-24.

A. My calculation was predicated on the entire length 45 the North Shore gas line, which ran both on the south and the north side of site 6 at different locations.

Q. And, so, he used this 2,005 linear feet as his denominator, correct?

A. That's correct.

Q. Okay. How did that impact his attribution?

A. Increasing the larger denominator with the smaller numerator led to a smaller attribution.

Q. In his supplemental report, Mr. Gobelman says the North Shore GASK lines run through 72 feet of the IDOT area liability on Site 6.

Can you take a look at 207-17. Okay?

A. Yes.

Q. Can you describe for me where that 972 feet was located?

A. I believe that is the calculation that he did to measure from where the North Shore gas line entered Site 6 to sample location on 6S.

Q. 6S?

A. Yes.

Q. Let's go back and look at that. I am not sure if that's correct. Let's go to 207 --

A. Excuse me, I see what he did. Would you like me to clarify that?

Q. Please.

A. So, on Exhibit 17, he has two measurements, which I believe he then adds.

Then the first measurement is enter Site 6 running to roughly just west 454S. Then a second measurement that measures from that location to halfway between 4S and 5S.

Q. Okay. And is that the 72 feet?

A. That looks like it would add up to 72 feet.

Q. And his measurement here -- if you go to the next clean boring exhibit.

A. I already know he did not.

Q. Let's talk about dewatering for a moment. You said that his dewatering attributions were incorrect, that they predicated upon other incorrect attributions on a plot map.

Can you explain that, please?

A. 206-14 regarding dewatering?

Q. Yes, dewatering in Site 3.

A. I believe he used the same understanding of the entire length of both the north and south sides 45 Site 6 to calculate his total area 45 work.

Q. Let's look at this again. I'm talking about Site 3 not Site 6.

206-14, Site 3 dewatering, he said he used Nicor North Shore Gas, northeast excavation, the Waukegan water line, and he used a method similar to you.

A. I'm sorry, Ms. Brice, I don't know that I'm in the right location. 206-14?

Q. Yes. Maybe I'm in the wrong location, then, but I was talking about -- you know what, it must be back in the 205. Hold on, give me a second.

Let's go back to 205. I apologize. I was not as organized as I was earlier. It's been a long

day.

Let's go to 205, 205-14, not 2o6-14. My bad. I was off by a number. He used these dewatering calculations involving Nicor and North Shore Gas, City of Waukegan line in the northern 6 excavation, correct?

A. That's correct.

Q. And he attributed nothing to the Nicor Gas line and City of Waukegan line; is that correct?

A. That's correct.

Q. But you would have attributed something to the City of Waukegan water line, right?

A. That is correct.

Q. And in your report -- go to 205-15. How did Mr. Gobelman arrive at his attribution on dewatering on Site 6?

A. He would have the final work plan at the lenth of the work on the south side 45 Site 6, the 419 linear fight feet.

Q. And then what did he do?

A. He then considered how much of the length was in what he considered to be IDOT's area 45 liability, which I believe was 197 linear feet.

Q. Okay. And we talked about that same

measurement of179 linear feet, which is from the western edge 45 Site 6 to 4.5s.

Would your opinion be the same with respect to site 6 dewatering as it was with respect to that measurement we discussed earlier?

A. Yes.

Q. What is your opinion about this 419 feet? Did you believe it to be accurate? He's measuring from 1S to 9S.

A. It's difference in the approach where he's trying to take a measurement that was done collectively between the north and south side 45 Site 6. I don't think it's an appropriate way to try to attribute the dewatering processes.

Q. Okay. And his 1S to 9S would be different from your 1S to 9S, because Site 6 borings are in different locations?

A. That is correct.

Q. Okay. Mr. Gorgan, can you turn to 205-28, please? Let me know when you are there.

A. I'm there.

Q. Did you hear Mr. Gobelman testify that he believed the ramp to be that area that is denoted as a ramp in a cross-hatched area with a box around it?

A. Yes.

Q. Is that the ramp?

A. No, that's not the context of how it was used in my report.

Q. Okay. Where is the ramp?

A. The ramp is along the Greenwood Avenue.

Q. How far east does it go?

A. I believe nearly the length of 0393.

Q. What work was done in the embankment? In the ramp. I'm sorry, pardon me.

A. As I testified earlier, it was the work they undertook to sample the ramp area, in order to avoid having to put a cap on the slope of the embankment.

Q. Okay. And did they take soil borings?

A. Yes, they did.

Q. Did they find asbestos-containing material to within 0393?

A. Yes, they did.

Q. On 205-29, Mr. Gobelman has been using an area approach for Site 3 filling and capping.

Your method looked at the gas buckets driving the remedy; is that right?

A. Okay. Could you just restate that,

please?

Q. Sure. He uses an approach for Site 3 filling and capping that lives in an area, and your approach looked at what task buckets were driving the remedy for cap in Site 3; is that right?

A. Generally, yes.

Q. Okay. What do you believe is wrong with his method?

A. Similar to the other instances where he is narrowing and defining IDOT's responsibility as being only the work for filling the capping that was done within Site 3. -- or, excuse me, parcel 0393. I'm sorry.

Q. Right. And what did you do?

A. I attributed it based upon what the driver was out of the Bush National Marine.

Q. Okay. And he measured this .208 acres based upon where he places soil borings on Site 3, correct?

A. Yes, that's correct.

Q. And do you believe his placement of the soil borings to be accurate?

A. No.

Q. Would this affect his attribution?

A. Yes.

Q. Okay. 2015-16, please, filling and capping form site 6. Again, we have this 5,470 linear foot number that he uses as a denominator.

Again, what is your opinion on that?

A. That's overstated.

Q. And why is that?

A. Because filling the capping wasn't done on the entire length of the north and south 45 Site 6.

Q. Again, we're seeing this 197 linear feet that you've testified about.

Would your opinion be the same here, with respect to that measurement?

A. Yes.

Q. Did your attribution for filling on Site 3 relay on measuring distances?

A. No.

Q. I didn't go through the Site 3 and 6 task buckets for all of these; but just for clarity, to the extent there was something wrong with the attribution in either the Site 3 task bucket or Site 6 task bucket, when you come together and create a combined the Site 3 task bucket, how would that affect the attributions?

A. They would trickle down to the rest 45 them.

Q. Similar question: Turning here to demonstrative Exhibit 245, "Task buckets used to influence by those experts to determine oversight in support services tas bucket attribution."

Do you see that?

A. Yes, I do.

Q. Okay. We know, Mr. Gobelman, you used the same metrology we've established.

You say that Gobelman has calculated IDOT's share of the construction-related costs. Because he miscalculated IDOT's share 45 construction-related costs, all 45 his calculations for the site-wide cost categories are incorrect, unreasonable and unreliable. That's from your report of the 206-15.

Can you explain that opinion with reference to this demonstrative?

A. I saw the top of the demonstrative shows which elements of the work were performed and factored into each of the individual categories.

And then the table below it provides the comparison between the attribution calculations that

Mr. Dorgan made and the calculations that I had made.

It simply demonstrates how if there's a difference in any one of the individual construction attribution elements, it will end up being reflected as a change in all of the general site attributions that were made.

Q. Okay. So, it's all connected?

A. Yes.

Q. Is that a good way to put it? Okay. And that's true, with respect to all 45 these oversight support services task buckets, type 3 prep, Site 6 prep, site 3-6 prep, health and safety Site 3 oversight, oversight and legal; is that correct?

A. That's correct.

Q. Okay. A couple 45 last questions. In your attributions, if your numerator is smaller, how does that affect your attribution, with respect to calculations that you and Mr. Gobelman did?

A. It would make them smaller.

Q. Okay. And if your denominator is larger, how does it impact them?

A. It would also make them smaller.

HEARING OFFICER HALLORAN: Ms. O'Laughlin, do

you need a few moments?

MS. O'LAUGHLIN: We can take a break.

HEARING OFFICER HALLORAN: What are you thinking, 15 minutes, no longer. Thank you.

Pam, we're leaving for 15. Off the record. Thank you.

(Recess taken.)

HEARING OFFICER HALLORAN: We're going back on the record. We have Ms. O'Laughlin crossing JM's rebuttal expert, Mr. Dorgan. You may proceed.

CROSS REBUTTAL EXAMINATION

BY MS. O'LAUGHLIN:

Q. Good afternoon, Mr. Dorgan.

A. Good afternoon.

Q. You testified that you had relied on AEM to provide you a cad file in the production 45 your map?

A. That's correct.

Q. Okay. And did you produce that CAD file to IDOT?

A. I believe we produced the Cad file to you on my depositions.

Q. And would that deposition have occurred on June 12th, 2019?

A. Sounds about right.

Q. That's what my notes reflect. During that deposition, it came out that a CAD file was never produced to IDOT?

MS. BRICE: Objection. That misrepresents the record.

HEARING OFFICER HALLORAN: Ms. O'Laughlin?

MS. O'LAUGHLIN: That's correspondence between the parties.

HEARING OFFICER HALLORAN: I didn't hear what Ms. Brice was saying. It misrepresents evidence?

MS. BRICE: It misrepresents correspondence between the parties. I have an email where we discussed it.

We had produced it bridget format, and we showed we produced some 45 those earlier 67 documents and showed them to the witnesses.

MS. O'LAUGHLIN: Okay, it's a speaking objection where she's putting in her argument.

HEARING OFFICER HALLORAN: I'm trying to figure out what you're trying to get at, what question, because --

MS. O'LAUGHLIN: Can I ask the question?

HEARING OFFICER HALLORAN: Go ahead, and then

Ms. Brice can made an objection. I'm not sure what you were asking.

BY MS. O'LAUGHLIN:

Q. What is a is CAD file?

A. A CAD file is a digital format of a document that's created in side the AutoCAD software.

Q. And you relied on that CAD file in the production of your maps that you produced in your expert report in this second round 45 hearings?

A. That's correct.

Q. As we were discussing --

MS. BRICE: Objection.

BY MS. O'LAUGHLIN:

Q. It was discovered during your June 2019 deposition that Johns Mansville had not produced this CAD electronic file to IDOT; is that right?

HEARING OFFER HALLORAN: Ms. Brice?

MS. BRICE: That's okay. As long as she is having it identified by the electronic aspect of the file, I'm okay with the question.

HEARING OFFICER HALLORAN: Thank you.

BY MS. O'LAUGHLIN:

Q. So, the electronic file, we discovered

during you June 201 deposition, had not been produced to IDOT; is that your recollection?

A. I believe at the deposition we had discussion as to whether it had; and if it had not, that we would. I believe we subsequently did.

Q. You subsequently produced that electronic file to IDOT after your June 2019 deposition?

A. That's correct.

Q. Okay. And your expert report is dated June 13, 2018; is that correct?

A. That's correct.

Q. And your expert rebuttal report is October 25th, 2018, and your expert rebuttal supplemental is dated April 30th, 2019; is that correct?

A. Those sound like the correct dates.

Q. And all those dates tells occur before June 2019?

A. That's that correct.

Q. You spent some time going over -- turning to Exhibit 208-11 and 208-9 --

A. Yes.

Q. You identified those?

A. Yes, I believe we discussed those

previously.

Q. And you spent some time going over the differences of both of these between the AE Con property line and features, the Gobelman property line features, the first property and the property line -- Gobelman's property line features supplemental report.

And they are demonstrated with different colors. You talked about this on your direct testimony.

A. Yes, I did.

Q. Have you ever -- so, looking at this 208-11, so Mr. Gobelman's supplemental report is in blue, and AE Con's property line is in yellow.

HEARING OFFICER HALLORAN: Ms. O'Laughlin, you might want to point your head towards the direction of the speaker.

MS. O'LAUGHLIN: Thank you.

BY MS. O'LAUGHLIN:

Q. Now, this exhibit -- so, the blue is Gobelman's supplemental, which is the one he's adopted; and in blue, are lines east of the yellow borings, for instance B350. Yellow is west of B350.

Is that an accurate description 45 this

figure?

A. Yes.

Q. And when some 45 these match up -- excuse me, strike that.

On this Figure B345 called just "Gobelman Supplemental Report" falls just outside 0393; is that correct, based on this figure?

A. Yes, it is.

Q. You heard Mr. Gobelman testified he included 345 in IDOT'S in the allocation?

A. Yes, I did.

Q. Have you ever gone through the exercise 45 calculating the difference the Gobelman's damages that he had used AE Con's facts as opposed to his supplement base map?

A. No.

Q. You do not have a bibliography. I'm pretty sure it's not in your rebuttal report or rebuttal supplement report.

If you have those before you, you can look at them be, Exhibit 204, Exhibit 206 and 208.

A. Is this out on the table?

Q. Do you include a bibliography in any of your reports?

A. I did not.

Q. Turning to page 206-13, which would be your rebuttal report?

A. Yes.

Q. Starting in the middle of the page of Section 2.5.21 AT&T, the last sentence of the first paragraph, can you read that?

A. "As a result, Mr. Gobelman" --

Q. The last sentences of the first paragraph 45 -- it begins with "Based on the record." 2.5.21 first paragraph last sentence.

A. The second to last sentences, just to clarify, but I can read it, if you like.

Q. You are right. Yes, the last two sentences?

A. "Based on the record, AT&T lines do not run entire length of north and south corridor in Site 6. As a result, Mr. Gobelman's calculations are incorrect."

Q. Where in the record is that information?

A. I believe it's in the final report that was referred AE Con.

Q. But you do not agree with that?

A. No, I do not.

Q. If you can go to 206-14, and if you could read the first full sentence on this page?

A. These assumptions are inaccurate, based upon the record.

Q. And in this section, you're discussing utility ACM's soil excavation; is that correct?

A. That's correct.

Q. Where in the record are you referring to?

A. I do have a citation to Mr. Gobelman's deposition as a footnote at the bottom of the page is how I did my citations and references for this report; and then, of course, the final report on that would have prepared by me.

Q. Okay. So, the final report is approximately how large of a document?

A. Double large.

Q. Double binders large?

A. Several binders large.

Q. And, again, you can't find in the record 45 this entire case, you did not find -- for the record, for this entire case, the citation; isn't that true?

A. That's true.

Q. Also turning to Figure 1 of your 204, your

first report, in this background is 204-38.

A. Yes, I'm there.

Q. Where is the ramp work? Where does the ramp work displayed on this in Figure 1?

A. The ramp is not specifically to be labeled, but it's represented by the green embankment that the present on Site 3.

Q. And how did that 240 -- is it 38 or 39?

A. I just looked it up. It's 38.

Q. Similarly, how about on 204-39?

A. Same answer.

Q. Where in the record is the ramp work results?

A. The ramp work is discussed in the AE Con final report, and it was discussed in the documentation Dr. Ebihara provided regarding the cost tabulation for the site.

Q. Okay. So, you relied upon Ebihara's calculations.

Did you review the (inaudible)?

A. No.

Q. You relied on Mr. Peterson's supplemental additional photographs?

A. Yes.

Q. IDOT supported your theory, correct?

A. In the photographs of the work that was completed was relevant to my review.

Q. The work required by USEPA, the ones that are pertinent to this section of Site 3 and Site 6, those are not related to this proceeding.

USEPA required a clean corridors that fall in Site 3 and Site 6; isn't that true?

A. Yes, that's true.

Q. USEPA required clean corridors throughout sites 3 and 6; isn't that correct?

A. Yes, 8 meters on Site 3 and Site 6.

Q. They did not require clean corridors, only in those areas where the borings -- in your expanded area, where IDOT was liable.

They did not require clean corridors, only in IDOT areas of liability; isn't that true?

MS. BRICE: Objection, vague.

HEARING OFFER HALLORAN: I kind 45 lost it, too, Ms. O'Laughlin. Can you rephrase that, please?

MS. O'LAUGHLIN: Yes.

BY MS. O'LAUGHLIN:

Q. You have your IDOT theory of liability, which includes 1S through 8S and all of 0393; is

that accurate?

A. For certain elements of the work.

Q. Okay. And USEPA required a clean corridor for utilities that go beyond those areas I just mentioned; isn't that true?

A. In some instances, yes.

Q. And the site is defined by Site 3, not by figuring that, quote-unquote, IDOT area applied that fee?

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

Q. I apologize. USEPA -- how was Site 3 defined?

A. I'm not exactly sure when Site 3 got defined, but it was years ago during earlier phases of this report.

Q. But the clean corridor requirement is driven by all 45 Site 3; isn't that true, Mr. Dorgan?

MS. BRICE: Objection, mischaracterizes his testimony.

HEARING OFFICER HALLORAN: He can answer, if he's able. Mr. Dorgan?

THE WITNESS: I believe I testified previously that clean corridors were required for certain

utilities that are present on Site 3 --

BY MS. O'LAUGHLIN:

Q. And, similarly, that USEPA remedy for Site 6 is for a larger area of Site 6 than 1S to 8S?

A. That's correct.

Q. And the clear corridors are required because USEPA wanted to minimize the potential for exposure ACM material to workers that may be working at a particular utility; is that correct?

A. That was one of the criteria, yes.

Q. Okay. I'll hand you what was disseminated as 21A-30.

Do you remember testifying about these, Mr. Dorgan?

A. Yes, I do .

Q. If you can turn to 21B-30, and go to the bottom right of the page. You see there's a box, and in that box it beings "for"; do you see that?

A. Yes.

Q. What is in the box?

A. It says, "For your information only."

Q. Thank you. Exhibit 204-40. what is that again, for the record?

A. This is a plan and profile for Detour

Road 8.

Q. Okay. And you see at the bottom part 45 this. What does the bottom part of this figure -- what does this depict?

A. It's a profile for the length of the detour road.

Q. And this information also shows how much fill is needed; isn't that true?

A. That's correct.

Q. This is the amount of fill needed for Detour Road A?

A. That's correct.

Q. And you can see the amount of fill needed for Detour Road A; is that true?

A. To be accurate, what that figure is showing is the existing ground surface, relative to the proposed grade of the road.

So, the difference between the two would be worth building.

Q. And it's 7.0. Where is 7.0?

A. 7.0 would at the very western end of detour road A.

Q. Okay. And how much fill would be required there? It looks to me -- how much fill is needed at

station 7 for Detour Road A?

MS. BRICE: I would like object. She's asking for quantified fill amounts, based upon the figure.

HEARING OFFICER HALLORAN: I couldn't hear you, Ms. Brice. Your voice was lowered.

MS. BRICE: I'm sorry. I was just objecting to the extent this goes beyond the testimony, to the extent she's asking him to quantify fill amounts on this figure.

HEARING OFFICER HALLORAN: Ms. O'Laughlin?

MS. O'LAUGHLIN: This goes directly to their argument about fill. It's a document he testified about on direct examination.

HEARING OFFICER HALLORAN: Overruled. You may comment. Mr. Dorgan, answer the question, please.

THE WITNESS: I can't quantify fill volumes because that's not what this document does.

It shows approximate three-and-a-half feet of fill would have been needed at this location.

BY MS. O'LAUGHLIN:

Q. And how about at 8, approximately?

A. About roughly five feet.

Q. And how about 6 plus 50, how much fill would be needed? It's not on the log?

A. No.

(A recess was had.)

HEARING OFFICER HALLORAN: We're back on the record. Ms. O'Laughlin is continuing her cross.

BY MS. O'LAUGHLIN:

Q. I just have one question. Going back to Exhibit 204-40, does this figure show that any unsuitable fill was needed to be removed?

A. No.

MS. O'LAUGHLIN: I have no further questions. Thank you, Mr. Dorgan.

HEARING OFFICER HALLORAN: You were cutting out. There was an objection coming up form Ms. Brice, so can you recreate this?

MS. BRICE: Can we just start at after the break?

HEARING OFFER HALLORAN: We're going to mute you.

BY MS. O'LAUGHLIN:

Q. Mr. Dorgan, Exhibit 206-40, does this document -- does this Exhibit show that unsuitable material needs to be removed?

A. No.

MS. O'LAUGHLIN: No further questions.

MS. BRICE: Susan coming back for redirect. Okay?

REDIRECT REBUTTAL EXAMINATION

BY MS. BRICE:

Q. I'm going to ask Mr. Dorgan a couple of questions about this Exhibit 204-40 and 204-41A, and my questions were: Mr. Dorgan, on these two figures up at top where we have site 6, are we generally depicting the same area around 4S, 5S and 6S?

A. Yes.

Q. Okay. On 204-41A under 7S, did you have to remove unsuitable material in order to build up that area?

A. Yes.

Q. How about under 6S, did you have to remove unsuitable material in order build back up that area?

A. Yes.

Q. And I believe you said about somebody about intersectionality.

Can you please elaborate what you're talking about, because there's been a lot of confusion about how these to figures relate to each other.

If you could foundation please explain that, I think it would be helpful for everyone?

A. Figure 204-40 is a plan of profile for Detour Road A. 204-41A is the plan profile for Greenwood Avenue, and the two of them intersect at the boundary of Site 3 and Site 6, where Detour Road A transitions into Greenwood Avenue's right-of-way to match up with Greenwood Avenue.

Q. Okay. And, so, how do they relate to each other, the two exhibits?

Are they both showing that intersection, but one is the looking at the cross-section 45 Detour Road A, and that is 204-40, and the other is looking at the cross-section the same way at as 204-41A, the intersectionality at Site 6 Greenwood Avenue.

A. That's correct.

Q. Ms. O'Laughlin asked you about whether or not you had a bibliography.

I believe in each of your reports, you have a whole section and discussion about information you considered; isn't that correct?

A. That's correct.

Q. And you also have footnotes that refer to

specific documents that you reviewed that supported various statements you were making and opinions you were drawing?

A. That's correct, yes.

Q. And Dr. Ebihara and Mr. Peterson testified about the lack of work relating to soil removal and soil filling on the north and south side of Site 6, that that was not done for the entire stretch of the north side and south side of Site 6?

A. Yes, they did.

Q. With respect attributions clean corridors, I believe we talked about this in your initial testimony.

Were clean corridors required when there was ACM found somewhere along the line?

A. Yes.

MS. BRICE: No further questions.

HEARING OFFICER HALLORAN: Thank you, Ms. Brice. Ms. O'Laughlin?

RECROSS REBUTTAL EXAMINATION

BY MS. O'LAUGHLIN:

Q. So, Mr. Dorgan, you testified about 204-41A and the removal of unsuitable material.

This document is now called the as-built

plan; is that correct?

A. That's correct.

Q. The note said it was adopted from IDOT plans; is that correct, on the top left?

A. That's correct.

Q. And it was drawn by RND/JDT?

A. That's correct.

Q. And who would that be?

A. I'm assuming RHD is Ryan Dutton. RJT would be James Trease.

Q. Atwel Florez (phonetic) were legal consultants; is that true?

A. That's correct?

Q. And approved by DDG, which would be yourself?

A. That's correct.

Q. I have no further questions.

HEARING OFFER HALLORAN: Thank you, Ms. Brice. Ms. O'Laughlin?

FURTHER REDIRECT REBUTTAL EXAMINATION BY MS. BRICE:

Q. One questions. We're going to the same figure as Mr. Dorgan.

Understandably, this Figure 4 is something

you created, but at the bottom part 45 Figure 4 is what? What is it based on?

A. The representation of the as-built drawing.

Q. And is that 21A-26?

A. I believe that's correct.

Q. And did you make any bottom notations on 221A and 226, as Ms. Ryan testified she worked on this?

There were a lot of things done, with respect to how they were represented here on your figure?

A. I believe so.

Q. And 221A and 226 was form the as-built drawing; is that correct?

A. That's correct.

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

FURTHER RECROSS REBUTTAL

BY MS. BRICE:

Q. This portion is for 221A and 226; am I understanding that correctly?

A. That's correct.

Q. But what is missing is the for-information-only box; is that true?

A. There is no-information-only box on that.

Q. And the full document 221A and 226 that for information only; is that correct?

A. I believe that's correct.

Q. This is represented here on your figure correct of the worked on represented on you figure?

A. I believe so.

Q. 2845646 was as-built drawings; is that correct?

A. That's correct.

Q. This portion is A21-26, is my understanding that's correct?

A. That's correct.

Q. What is missing is the information only box; is that true?

A. There is no for-information-only-box.

Q. And the full document 21A-26, that's for information only; is that correct?

A. That's correct.

Q. In your opinion, if somebody that didn't work on the project in 1970, and they know what bore information only is on the document, then they should know that.

MS. BRICE: Objection, speculative.

HEARING OFFICER HALLORAN: I'll allow him to answer, if he's able. I'm sorry, Ms. O'Laughlin.

THE WITNESS: I'm not entirely sure what is the relevancy is.

MS. O'LAUGHLIN: I'm done.

HEARING OFFICER HALLORAN: JM, have you finished your case? We still have to talk about the exhibits.

MS. BRICE: Other than the exhibits, yes.

HEARING OFFICER HALLORAN: I think there was a couple more proffers. I think Ms. Gale can address that.

Also, like yesterday, she's going to read them into the record.

MS. GALE: Thank you. We move to admit -- what I'm am going to say is I'm going to say the new exhibits we talked about I'll move to admit, and then I will list all of the exhibits collectively, so that way it's a full package.

The new exhibits I move to admit, we will proffer, just to make sure: 64, USEPA correspondence dated February 1st, 2012; Exhibit 217, Gobelman figures; Exhibit 229E-335 through 339, and that's it.

So, now, my understanding we're just taking a minute to check.

MS. BRICE: Those are the exhibits subject to the objections, our standing objections. So, I am now going to read them collectively.

I'm just going to read the numbers that were on the joint exhibit list filed with the Board on September 1st, 2020; and the new ones that are not on the list, I'll read the description as well. Okay?

Exhibit 21A, 21B, 64, 65, 67, 79, 84, 120, 202, 203, 204, 206, 208, 209, 213, 214, 217, 221, 225, 227, 229E-335 through 339, and 229E-374 and 375, 229F-377 and 365. And then we have Exhibit 21A-26A, which is a blow-up and an agreed modification of 21A-26.

We then have Exhibit 204-41A, which is a demonstrative blowup of 204-41, which is Mr. Dorgan's hand drawing, which he testified to during his direct testimony.

Then we have Exhibit 245, which is another demonstrative drawing. Exhibit 245, which is entitled "Task Bucket used as inputs by both experts to be used to determine oversights and support

services task bucket attributions." That's it.

HEARING OFFICER HALLORAN: Thank you. I think they are agreed to by IDOT. Thank you.

(Which were all the proceedings had.)

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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