

1 ILLINOIS POLLUTION CONTROL BOARD

2 CITY OF KANKAKEE, )

3 )

4 vs Petitioner, ) PCB 03-125

5 )

6 COUNTY OF KANKAKEE, COUNTY )

7 BOARD OF KANKAKEE, and WASTE )

8 MANAGEMENT OF ILLINOIS, INC., )

9 Respondents. )

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10 MERLIN KARLOCK, )

11 )

12 vs Petitioner, ) PCB 03-133

13 )

14 COUNTY OF KANKAKEE, COUNTY )

15 BOARD OF KANKAKEE, and WASTE )

16 MANAGEMENT OF ILLINOIS, INC., )

17 Respondents. )

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18 MICHAEL WATSON, )

19 )

20 vs Petitioner, ) PCB 03-134

21 )

22 COUNTY OF KANKAKEE, COUNTY )

23 BOARD OF KANKAKEE, and WASTE )

24 MANAGEMENT OF ILLINOIS, INC., )

Respondents. )

1 KEITH RUNYON, )  
 )  
2 Petitioner, )  
 )  
3 vs ) PCB 03-135  
 )  
4 COUNTY OF KANKAKEE, COUNTY )  
BOARD OF KANKAKEE, and WASTE )  
5 MANAGEMENT OF ILLINOIS, INC., )  
 )  
6 Respondents. )

7

8 The following is a transcript held in  
9 the above-entitled causes before HEARING OFFICER  
10 BRADLEY HALLORAN, taken stenographically before  
11 TERRY A. STRONER, CSR, a notary public within and  
12 for the County of Cook and State of Illinois, at 385  
13 East Oak Street, Kankakee, Illinois, on the 6th day  
14 of May, commencing at 9:15 o'clock p.m.

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

2 ILLINOIS POLLUTION CONTROL BOARD,  
3 100 West Randolph Street  
4 Suite 11-500  
5 Chicago, Illinois 60601  
6 (312) 814-8917  
7 BY: MR. BRADLEY P. HALLORAN, HEARING OFFICER

8 HINSHAW & CULBERTSON,  
9 100 Park Avenue  
10 Rockford, Illinois 61101  
11 (815) 963-8488  
12 BY: MR. RICHARD S. PORTER

13 and

14 SWANSON, MARTIN & BELL,  
15 330 North Wabash  
16 Suite 2900  
17 Chicago, Illinois 60611  
18 (312) 923-8260  
19 BY: MS. ELIZABETH S. HARVEY

20 Appeared on behalf of the County of  
21 Kankakee and the County Board of Kankakee,

22 LAW OFFICES OF GEORGE MUELLER, P.C.,  
23 501 State Street  
24 Ottawa, Illinois 61350  
(815) 433-4705  
BY: MR. GEORGE MUELLER

25 Appeared on behalf of Merlin Karlock,

26 LAW OFFICES OF KENNETH A. LESHEN,  
27 One Dearborn Square  
28 Suite 550  
29 Kankakee, Illinois 60901  
30 (815) 933-3385  
31 BY: MR. KENNETH A. LESHEN

32 Appeared on behalf of the City of Kankakee,

33

1 PEDERSEN & HOUPPT,  
2 161 North Clark Street  
3 Suite 3100  
4 Chicago, Illinois 60601  
5 (312) 261-2149  
6 BY: MR. DONALD J. MORAN

7 Appeared on behalf of Waste Management,  
8 Inc.,

9  
10  
11 QUERREY & HARROW, LTD.  
12 175 West Jackson Boulevard  
13 Suite 1600  
14 Chicago, Illinois 60604  
15 (312) 540-7662  
16 BY: MR. DAVID J. FLYNN

17 Appeared on behalf of Michael Watson.

18 ALSO PRESENT: Keith Runyon (Pro se)

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1                   HEARING OFFICER HALLORAN: We're going  
2 to start. My name is Bradley Halloran. I'm from  
3 the Illinois Pollution Control Board. I'm the  
4 hearing officer in this matter. Again, I'll read  
5 the caption. This is day two, May 6th,  
6 approximately 9:15. The caption is -- the  
7 respondents are the same, the City of Kankakee,  
8 petitioner, versus County of Kankakee, County Board  
9 of Kankakee and Waste Management of Illinois, Inc.,  
10 PCB 3-125; Merlin Karlock versus the County of  
11 Kankakee, et al., PCB 3-133; Michael Watson,  
12 petitioner, versus County of Kankakee, et al.,  
13 PCB 3-134; and Mr. Keith Runyon, petitioner, versus  
14 County of Kankakee, et al., PCB 3-135 and these  
15 cases are consolidated.

16                   Again, this matter is continued on  
17 record from yesterday, May 5th and again, I don't  
18 know -- we have one member of the public, Mr. Bruck,  
19 would you like to give testimony under oath subject  
20 to cross here in a few minutes, but I do want to  
21 take care of a housekeeping matter. I believe the  
22 County filed on March 24th a motion for extension of  
23 time and for leave to file reduced number of copies.  
24 I've already granted the County's motion for

1 extension of time to file the record that was in an  
2 order dated March 26th, 2003, however, I don't think  
3 I addressed the motion for leave to file reduced  
4 number of copies and if I don't see any objections  
5 and none have been filed, I will grant the County's  
6 motion. With that said I think -- I haven't talked  
7 to all of the attorneys, I believe Watson was going  
8 to have two witnesses that are going to testify --  
9 it's going to come in as an offer of proof, I ruled  
10 that yesterday. I don't think they're available  
11 until 10:00 o'clock, correct Mr. Flynn?

12 MR. FLYNN: Approximately.

13 HEARING OFFICER HALLORAN: And I think  
14 Mr. Mueller's witnesses, the Norrisses, I don't  
15 know, 10:30, Mr. Mueller?

16 MR. MUELLER: They said if they could  
17 get here earlier, they would. I don't see them yet.

18 HEARING OFFICER HALLORAN: Okay. All  
19 right. Terrific.

20 I guess before we take public  
21 comment, there was an issue about the written  
22 deposition questions regarding I believe  
23 Mr. Effraim Gill. Where are we on that, Counselors?

24 MR. FLYNN: They're being faxed down

1 and were faxed down to being walked over right now.  
2 We're going to submit them as soon as they get here  
3 and then it's just a question of time frame in terms  
4 of answering and filing the answers and then whether  
5 supplemental questioning is going to be allowed by  
6 you as to any of the other parties.

7 MR. LESHEN: I have a request in the  
8 spirit hopefully of cooperation. I would ask that  
9 the County's attorneys call Mr. Gill, who presumably  
10 is at home recovering from his ailment which led him  
11 to be unavailable for in-person questioning and  
12 find out whether he is available today to answer the  
13 questions because I would represent to you that I  
14 will have somebody drive to his dwell and wait  
15 outside in a car while he answers so that we can get  
16 this done today.

17 HEARING OFFICER HALLORAN: I think  
18 Mr. Porter did call him yesterday at 5:30.  
19 Mr. Porter, would you like to respond?

20 MR. PORTER: Actually, Ms. Harvey  
21 called and I was in the city at the time, but yes,  
22 we did telephone right after this hearing to Gill  
23 and Associates, which is the number we have, we left  
24 a voice mail message for Mr. Gill and it has not

1 been returned. We left both of our cell phone  
2 numbers and my cell phone is on today at your  
3 request as is Ms. Harvey's. I'd like to make a  
4 quick record. When the hearing officer issued his  
5 order, we were going to get a list of written  
6 questions, I'm going to make some cross-examination  
7 questions that I was also going to send along with  
8 that list to Mr. Gill. I was not going to wait for  
9 the answers before sending the cross-examination  
10 questions, even though I realize that might be at my  
11 own risk, but that was the way I was going to  
12 approach it and willing to approach it right now.

13 I also want to be sure that the  
14 record is clear, that the pleadings we filed  
15 previously to quash the deposition of Mr. Gill was  
16 on behalf of the County of Kankakee. At no time did  
17 we appear for Mr. Gill. So if we have a problem at  
18 this point forward getting in touch with him, I  
19 don't want the record to suggest that I have any  
20 kind of appearance on behalf of Mr. Gill and I just  
21 need that to be clear. I am making every possible  
22 effort to get in touch with him and soon I can get  
23 these questions that I do have not yet today of  
24 course (inaudible) --



1 HEARING OFFICER HALLORAN: And I'm  
2 going back to Mr. Leshen's arguing on the record  
3 yesterday. I can understand the frustration when at  
4 least in my mind I thought as well at one point  
5 you're representing him and then another point  
6 you're not. I guess we'll cross that bridge when we  
7 come to it, that's the way I perceived it, but in  
8 any event, this could be moot. We'll take that up  
9 and we'll discuss a little bit off the record in a  
10 short while. Mr. Leshen?

11 MR. LESHEN: If you give me a moment,  
12 I will run copies of these that have been delivered  
13 by Mr. Power's secretary and we can go from there.

14 MR. PORTER: We believe we may have a  
15 fax number for him as well.

16 HEARING OFFICER HALLORAN: Okay.  
17 We'll go off the record for a few minutes.

18 (Whereupon, a discussion  
19 was had off the record.)

20 HEARING OFFICER HALLORAN: We took a  
21 short break while Mr. Leshen copied the faxed  
22 documents he just received regarding the questions  
23 of the written deposition. They have been handed  
24 out. Now we're trying to get a hold of Mr. Effraim

1 Gill to hopefully fax it to him. So with that said,  
2 if there's no other comment, Mr. Flynn, maybe you  
3 can shelve that for a little bit and revisit that  
4 regarding the Gill written deposition on how we're  
5 going to handle that. Did you want to make a  
6 comment on that?

7 MR. FLYNN: The only comment I wanted  
8 to make was why don't we mark this as Watson Exhibit  
9 No. 5.

10 HEARING OFFICER HALLORAN: Okay. It's  
11 done. We're going to mark as Watson Exhibit No. 5,  
12 the Gill questions from the written deposition and  
13 -- Ms. Harvey, do you have a question?

14 MS. HARVEY: Did you say Watson  
15 Exhibit No. 5?

16 HEARING OFFICER HALLORAN: Right.  
17 We're going to mark the questions -- the written  
18 deposition questions Watson Exhibit No. 5 at the  
19 suggestion of Mr. Flynn.

20 MS. HARVEY: I just want to make sure  
21 about the designation because I have Watson Exhibit  
22 No. 5 was going to be my affidavit.

23 HEARING OFFICER HALLORAN: That was  
24 going to be part --

1 MS. HARVEY: Part of the other one.

2 HEARING OFFICER HALLORAN: No.

3 MR. FLYNN: No. We submitted the  
4 Waste Management answers to interrogatories as  
5 Watson 3, the County's answers as Watson Exhibit  
6 No. 4 and then you said for completeness the County  
7 should be allowed to submit the affidavit of  
8 Ms. Harvey. I suggested that be marked as a County  
9 exhibit.

10 MR. PORTER: That's fine.

11 HEARING OFFICER HALLORAN: Okay.

12 We'll do that. Has anybody got a copy of the --

13 MS. HARVEY: I have a copy, I just  
14 haven't been able to get a photocopy made yet.

15 HEARING OFFICER HALLORAN: Okay.

16 We'll revisit that as well. So it stands that  
17 Gills's questions are Watson Exhibit No. 5 and when  
18 the time arises, we'll make the affidavit of  
19 Elizabeth Harvey County Exhibit, I believe, No. 1.  
20 With that said, we're still waiting for some of the  
21 parties' witnesses, however, Mr. Darrel Bruck I  
22 believe --

23 MR. BRUCK: Bruck.

24 HEARING OFFICER HALLORAN: Bruck,

1 spoke to me off the record and he wants to make a  
2 statement under oath and you will be subject to  
3 cross-examination if the parties so choose so if you  
4 want to stand up here -- sit up here and raise your  
5 right hand and the court reporter will swear you in.

6 (Whereupon, Mr. Bruck was  
7 sworn in by the reporter.)

8 MR. BRUCK: I want to speak to a  
9 couple of issues. I attended almost all of the  
10 hearings for the siting last fall and on the first  
11 day, which was a Monday I believe November 18th in  
12 the morning, one of the issues raised was the  
13 availability of the Waste Management application and  
14 operating record at the County Clerk's Office.  
15 Because that issue was raised at the lunch break  
16 that day, I went to the County Clerk's Office. I  
17 asked Esther Fox at the County Clerk's Office if I  
18 could see the Waste Management operating record and  
19 the application. She had no idea what I was talking  
20 about or where it was at. She proceeded to ask  
21 other employees in the office. The office is a very  
22 wide open area so I can easily see this. None of  
23 them knew what the items were or where they were.  
24 About ten minutes went by and Dan, a county clerk

1 employee, he's the same county clerk employee that  
2 was at the hearing that morning, walked in. They  
3 proceeded to ask him if he knew anything about these  
4 items. He did. And he seemed to be the only one in  
5 the office that did and luckily he walked in. He  
6 took me to a small room across from the information  
7 desk and showed me a couple boxes and said they're  
8 in there. Again, it appears that the information on  
9 these items, where they were at and what they were,  
10 that they were available there, was not told to the  
11 other employees. He was the only one that knew.

12                   Now, another item -- the last item  
13 I want to address is the -- in January, I believe it  
14 was the 31st, when the County Board met to decide  
15 whether or not -- to take the vote on siting the  
16 Waste Management landfill. During the meeting, a  
17 Waste Management employee, Mr. Hoekstra, left the  
18 room and I noticed coincidentally a few minutes  
19 later Karl Kruse's cell phone rang in the middle of  
20 the meeting and I thought that was odd that he even  
21 had his cell phone on during such an important  
22 meeting. He proceeded to answer the phone and then  
23 he left the room. It just struck me that these two  
24 things took place, Mr. Hoekstra leaving the room

1 first and then Karl Kruse's phone ringing in the  
2 middle of the meeting as to be quite odd and  
3 coincidental and perhaps that there was some  
4 communication going on between the two as direction  
5 on how to direct the discussion and the particular  
6 criteria that was being discussed at that time.

7 Thank you.

8 HEARING OFFICER HALLORAN: Thank you.

9 Any questions of this witness by any party?

10 MR. PORTER: Was this witness sworn  
11 in?

12 HEARING OFFICER HALLORAN: Yes, he was  
13 sworn in.

14 MR. PORTER: If I understand you  
15 correctly, you went to the County's Clerk Office on  
16 November 18th of 2002 and you were shown the  
17 operating record, correct?

18 MR. BRUCK: Yes. After about ten  
19 minutes or 15 minutes of asking different employees  
20 what it was and where it was at and Dan walked in  
21 and --

22 MR. PORTER: My statement was correct,  
23 you saw it, correct?

24 MR. BRUCK: Yes.

1                   MR. PORTER: And did you see that  
2 there were signs posted that the application was  
3 available not only at the County Recorder's Officer,  
4 but also at several libraries?

5                   MR. BRUCK: I didn't seen no such  
6 postings. In fact, it was news to me this morning  
7 about that -- or yesterday morning.

8                   MR. PORTER: Now, in regard to --

9                   THE REPORTER: I'm sorry. Can you --  
10 I can't really hear you with the microphone. Maybe  
11 you cannot use it. I'm sorry.

12                  MR. PORTER: In regard to the phone  
13 call issue, you never heard Mr. Hoekstra speaking to  
14 any county employee that day, correct?

15                  MR. BRUCK: Did I ever hear him  
16 speaking to any county employee? I can't say that.  
17 There was many county employees there going in and  
18 out and I'm sure there were greetings.

19                  MR. PORTER: Did you hear Dale  
20 Hoekstra have any communication with Karl Kruse that  
21 day?

22                  MR. BRUCK: Any? I'm sure that they  
23 were greeted, yes, or --

24                  HEARING OFFICER HALLORAN: Just answer

1 the question in a yes or no, sir.

2 MR. BRUCK: Yes.

3 MR. PORTER: Other than a greeting,  
4 did you hear any communications between Karl Kruse  
5 and Dale Hoekstra?

6 MR. BRUCK: I can't say that I did.

7 MR. PORTER: And if I understand  
8 correctly, the only thing you're testifying is that  
9 Karl Kruse got a phone call during the meeting and  
10 Dale Hoekstra left the room at some point in the  
11 meeting, that's the nature of your testimony?

12 MR. BRUCK: The nature of my testimony  
13 is, yes, is that Dale Hoekstra left the meeting  
14 about three minutes before Karl Kruse's cell phone  
15 rang and then Karl Kruse left the room.

16 MR. PORTER: And has anybody told you  
17 they ever heard Karl Kruse speaking to Dale Hoekstra  
18 on the telephone that day?

19 MR. BRUCK: No.

20 MR. PORTER: Nothing further.

21 HEARING OFFICER HALLORAN: Thank you.  
22 Mr. Moran?

23 MR. MORAN: Mr. Bruck, at any point  
24 prior to November 18th of 2002, did you ever seek to



1 review the siting application that was on file with  
2 Kankakee County?

3 MR. BRUCK: No.

4 MR. MORAN: At any time prior to  
5 November 18th, 2002, did you ever seek to review the  
6 operating record that was on file at Kankakee County  
7 regarding the proposed expansion?

8 MR. BRUCK: No.

9 MR. MORAN: Who told you to go to the  
10 County Board offices on November 18th to look at the  
11 operating record?

12 MR. BRUCK: I chose to do so because  
13 the issue had been -- it was a hot topic that  
14 morning and I thought judging by my experience with  
15 the County Clerk's Office that I could go there that  
16 morning and I could still find it.

17 MR. MORAN: And as you indicated, you  
18 did find it, is that correct?

19 MR. BRUCK: Yes.

20 MR. MORAN: And you did review it, is  
21 that correct?

22 MR. BRUCK: Yes.

23 MR. MORAN: And you were satisfied  
24 with your review of it on the 18th?

1                   MR. BRUCK: I was satisfied that I was  
2 able to see it, but not satisfied that the employees  
3 were not informed. It was not generally known by  
4 the staff of the -- what it was or the location of  
5 it.

6                   MR. MORAN: Did you go back to the  
7 County at any point after November 18th and seek to  
8 review any part of either the siting application or  
9 the operating record at the County?

10                  MR. BRUCK: After the 18th, no.

11                  MR. BRUCK: Nothing further.

12                  HEARING OFFICER HALLORAN: Thank you,  
13 Mr. Moran. Mr. Mueller?

14                  MR. MUELLER: Thank you.

15                  Mr. Bruck, do I understand you  
16 correctly that it was only after one of the deputy  
17 county clerk's returned from the siting hearings  
18 that the operating record was located?

19                  MR. BRUCK: That's correct, yes.

20                  MR. MUELLER: And that was in a  
21 conference room across the hall from the County  
22 Clerk's Office?

23                  MR. BRUCK: That's correct.

24                  MR. MUELLER: It was not within the

1 main body of the County Clerk's Office?

2 MR. BRUCK: That's correct, yes.

3 MR. MUELLER: That's all I have.

4 Thank you.

5 HEARING OFFICER HALLORAN: Thank you.

6 Mr. Runyon? Mr. Flynn?

7 MR. RUNYON: I have nothing.

8 HEARING OFFICER HALLORAN: Mr. Leshen?

9 MR. LESHEN: No, sir.

10 HEARING OFFICER HALLORAN: Okay.

11 No further questions? Mr. Porter?

12 MR. PORTER: One follow-up.

13 You don't know whether or not that

14 room the county record was in is actually the County

15 Recorder's conference room, do you?

16 MR. BRUCK: I don't know if it is in

17 particular, no.

18 MR. PORTER: Nothing further.

19 HEARING OFFICER HALLORAN: Thank you.

20 You may step down, Mr. Bruck. Thank you very much.

21 MR. MUELLER: Mr. Halloran, my

22 witnesses are here if you want to kill time.

23 HEARING OFFICER HALLORAN: Sure. Any

24 objections for calling Mr. Mueller's witnesses? All

1 right.

2 MR. MUELLER: We'll call Charles  
3 Norris.

4 MR. LESHEN: I guess before we do  
5 that, and I'll be happy to do that, was Ms. Harvey  
6 able to contact Mr. Gill?

7 MS. HARVEY: I have a fax number for  
8 him, but I have not spoken to him yet. There's no  
9 answer at the phone number.

10 MR. LESHEN: I guess the question is  
11 -- I would ask if the County would call -- I believe  
12 Mike VanMil would have his phone number and I guess  
13 I'd like to know if you guys can call him so we can  
14 reach him at home where he would be.

15 MS. HARVEY: I spoke to Michelle who  
16 is Mr. VanMil's secretary. She gave me all of the  
17 numbers that she had for him. There is a cell phone  
18 number, but I couldn't get through to it. I will  
19 try again in a couple minutes.

20 MR. LESHEN: Okay. Thank you.

21 HEARING OFFICER HALLORAN: Thank you.  
22 Mr. Mueller?

23 MR. MUELLER: We'll call Charles  
24 Norris.

1 (Whereupon Mr. Norris was  
2 sworn in by the reporter.)

3 WHEREUPON:

4 C H A R L E S N O R R I S,  
5 called as a witness herein, having been first duly  
6 sworn, depose and saith as follows:

7 D I R E C T E X A M I N A T I O N  
8 by Mr. Mueller

9 Q. State your name, please.

10 A. Charles H. Norris, N-o-r-r-i-s.

11 Q. Mr. Norris, where and how are you  
12 employed?

13 A. I'm employed by Geohydro,  
14 Incorporated. I am president and principal  
15 scientist.

16 Q. And are you a licensed professional  
17 geologist in the state of Illinois?

18 A. Yes, I am.

19 Q. Mr. Norris, had you been engaged by  
20 Merlin Karlock to serve as a technical consultant  
21 in connection with Waste Management's application  
22 for siting approval in Kankakee County?

23 A. Yes.

24 Q. And in connection with that work, did

1 you have occasion to attend the siting hearings  
2 commencing on November 18th of last year?

3 A. Yes, I did, at least parts of them.

4 Q. And, Mr. Norris, at my direction on  
5 November 19th, did you go to the County Clerk's  
6 Office to inquire into the IEPA filings provided by  
7 Waste Management or the documents that have come to  
8 loosely be known as the operating record?

9 A. Yes, I did.

10 Q. And could you tell us the  
11 circumstances of your going there and what occurred?

12 A. It was over the lunch period, the  
13 lunch break, I went down there with my sister, Janet  
14 Andrzejewski.

15 Q. Let's spell that. Would that be  
16 spelled A-n-d-r-z-e-j-e-w-s-k-i?

17 A. I believe so.

18 Q. All right.

19 A. She knew the layout of the buildings  
20 downtown. She had been attending the hearings, so  
21 she went.

22 Q. By the way, she's a local resident,  
23 right?

24 A. Yeah. She lives in Herscher,

1 Illinois.

2 Q. Okay.

3 A. We went in, I asked at the -- kind of  
4 the reception area in the center of that part of the  
5 building where we might find the record and an older  
6 woman, who I believe I heard referred to by the name  
7 of Esther, came out to meet us. She showed us into  
8 a conference room, indicated that it was her  
9 understanding that that was where the record was.  
10 We kind of started looking around for where it was,  
11 started locating a number of boxes in various  
12 places, some were under tables, some were on tops of  
13 bookcases, some were kind of stacked in corners,  
14 broke the seals, opened them up, established it at  
15 least was documents that based on personal  
16 experience I would expect to be part of the  
17 operating record. We looked through the boxes,  
18 basically tried to make a quick inventory. They  
19 were in -- had been shipped in various sets so that  
20 there were box one of three, box two of five and so  
21 forth. So the first thing we tried to do is  
22 determine that all of the boxes of each of the sets  
23 that we were able to identify were there. There  
24 were probably in total I would guess 12, 15 boxes

1 that had some kinds of materials in them. Very few  
2 of the boxes were full. They would typically have  
3 two or three packets, three or four inches thick  
4 each and then you would go to another box. At some  
5 point the woman who showed us in had another younger  
6 woman come in to stay with us and then the older  
7 woman left so there was someone with us the whole  
8 time we looked through the boxes. In going through  
9 the boxes I was able to locate a substantial packet  
10 -- group of microfiche documents.

11 Q. With respect to the microfiche that  
12 you located, was there a microfiche reader in the  
13 conference room?

14 A. No, there was not.

15 Q. Was there any method within the  
16 conference room to access the microfiche that you  
17 had located?

18 A. No, there was not.

19 Q. By the way, Mr. Norris, based upon  
20 your experience as a consultant in siting hearings,  
21 do the IEPA filings of landfill operators frequently  
22 include a number of records that have been reduced  
23 to microfiche?

24 A. Yes. Generally the record set that



1 comes when one talks about the operating record will  
2 be paper copies of the original application and  
3 significant modifications to that application,  
4 documents prior to the current -- to the current  
5 application or current permit, much of the  
6 correspondence, most of the monitoring data are all  
7 likely to be provided on microfiche rather than  
8 paper copies.

9 Q. Mr. Norris, did you make inquiry as to  
10 the availability of a microfiche reader at the  
11 Kankakee County Clerk's Office?

12 A. Yes. We -- I inquired both with  
13 respect to the opportunity for copying -- if there  
14 were documents that I wanted a copy of, also whether  
15 or not there was a microfiche reader and/or reader  
16 printer that could be used. That inquiry was first  
17 to the younger woman that was there. She indicated  
18 she had no knowledge at all of it and she then  
19 brought this older woman back in and I discussed it  
20 with her.

21 Q. And what was the nature of your  
22 discussion with the older woman that you had heard  
23 referred to as Esther?

24 A. She indicated that somewhere in the

1 building she believed there was at least a  
2 microfiche reader. She thought it printed. If we  
3 could indicate what it was specifically we wanted  
4 printed, she thought she could get it printed.  
5 I pointed out that the nature of microfiche is you  
6 need at least a reader to know which document --  
7 which images on the card that you needed and we  
8 would need the ability to read the microfiche and  
9 she wasn't really clear how that could be done. She  
10 did say at one point that she thought high schools  
11 might have microfiche reader printers or perhaps  
12 libraries and I said -- I then asked well, then,  
13 would it be okay to check out and take parts of the  
14 document with us and she said well, no, I guess I  
15 can't do that and then she thought that perhaps if  
16 we went to one of the libraries that was supposed to  
17 have the records, that we could accomplish it there  
18 because she thought they would have microfiche  
19 reader printers.

20 Q. And did you, Mr. Norris, in fact, then  
21 check with one or some of the libraries where the  
22 record was allegedly located?

23 A. Yes. We went from the County offices  
24 to a local library that was near where the hearings

1 were held. I think it was the Bradley Library, but  
2 I'm not sure. The Bradley Library was able to  
3 produce a paper -- a copy of the paper documents.  
4 They did not have, did not know anything about any  
5 microfiche. They got on the phone, called back the  
6 County to try and determine if there were missing  
7 records or documents of some kind and if so, how  
8 they might be able to get them. At that point it  
9 ended I believe and it kind of looked like it was  
10 going to be a phone tag situation. The people that  
11 needed to be talked to were at lunch or were not  
12 available. So at that time it was left that the  
13 Bradley library would see what they could find out  
14 about it, but at that time, they didn't know  
15 anything about it.

16 Q. By the way, did the Bradley Library  
17 have a microfiche reader?

18 A. I don't recall whether they did or  
19 whether they would be able to put us in touch with  
20 one. I just don't remember whether they actually  
21 said they had one or not.

22 Q. And that's because they didn't even  
23 have microfiche?

24 A. They did not have the microfiche, that

1 is correct.

2 MR. MUELLER: That's all I have,  
3 Mr. Norris. Thank you.

4 HEARING OFFICER HALLORAN: Thank you,  
5 Mr. Mueller. Mr. Porter, cross?

6 C R O S S - E X A M I N A T I O N  
7 by Mr. Porter

8 Q. Are you getting paid for your  
9 testimony today?

10 A. No.

11 Q. When you went to the County Clerk's  
12 Office, if I understood your testimony, you were  
13 told by Ms. Fox that there was microfiche available  
14 in the building -- a microfiche reader available in  
15 the building, is that correct?

16 A. She said that she thought upstairs  
17 -- I believe she said upstairs, assuming that  
18 Ms. Fox is this Esther woman, this older woman.

19 Q. The older woman named Esther told you  
20 that there was microfiche available upstairs?

21 A. She said she thought there was at  
22 least a reader upstairs, it might be a printer, if  
23 we could indicate which documents we wanted printed,  
24 that she might be able to get somebody to print them

1 for us. It was not a reader printer that was in a  
2 place where we could use it.

3 Q. Did you request to go upstairs, use  
4 that reader and indicate which documents you wanted  
5 printed?

6 A. No.

7 Q. Why not?

8 A. She had indicated that we would have  
9 to tell her which documents we wanted and then she  
10 would get them printed, that it was not in a public  
11 area of the building where we would have access to.

12 Q. And you just didn't want the County  
13 clerk to know which documents you wanted printed?

14 A. Without being able to view the  
15 documents, I would not know which ones I might want.

16 Q. You never asked to go up and use the  
17 reader?

18 A. She said it was not in a public area  
19 of the building. It was not available for us to  
20 use. County staff would have to use it. It was a  
21 catch 22. You couldn't look at the fiche to ask  
22 them to print 12L through 12J without having a  
23 microfiche reader to look at it and there was not a  
24 microfiche reader apparently there -- certainly, it

1 wasn't in the conference room and the one that she  
2 was aware of in the building was not in an area that  
3 the public had access to.

4 Q. You attended the Section 39.2 hearing,  
5 correct?

6 A. The siting hearings?

7 Q. Correct.

8 A. Yes.

9 Q. You understand those hearings are held  
10 under Section 39.2 of the Illinois Environmental  
11 Protection Act?

12 A. I assume that's correct. I don't pay  
13 a lot of attention to which areas of which statutes.  
14 I attended siting hearings. If those were 39.2,  
15 then that's fine.

16 Q. Okay. How many siting hearings have  
17 you attended?

18 A. In Illinois probably a dozen, 14.

19 Q. And you didn't know that the statute  
20 that governs those hearings was Section 39.2?

21 A. By number, no.

22 Q. Of those hearings you attended, have  
23 you ever attended an application of Waste  
24 Management?

1 A. Yes.

2 Q. When was that?

3 MR. MUELLER: I'm going to object.

4 This is beyond the scope and I certainly don't  
5 understand it's relevance.

6 HEARING OFFICER HALLORAN: Mr. Porter?

7 MR. PORTER: I believe he's already  
8 reviewed that operating record in recent history.

9 HEARING OFFICER HALLORAN: I will  
10 allow it to go on for a tad longer. Let's wrap it  
11 up, Mr. Porter.

12 BY THE WITNESS:

13 A. There was this siting hearing in  
14 Kankakee, there was Will County, which was a Waste  
15 Management application, there was one in East  
16 Peoria, the hearing started but the application was  
17 withdrawn during the hearings. Those are the only  
18 Waste Management ones I can think of right now.

19 BY MR. PORTER:

20 Q. The documents that are kept on  
21 microfiche, are those older documents generally?

22 A. Not totally older. The older  
23 documents are on microfiche, but most of the  
24 monitoring data are routinely converted to

1 microfiche even though they might only be a year or  
2 two old.

3 Q. When was the Will County case?

4 A. It would have been in the fall perhaps  
5 of '99. I'm not sure.

6 Q. When was the East Peoria case?

7 A. It would have been before that several  
8 years, but I'm not sure.

9 Q. And you had the opportunity to review  
10 that microfiche in the Will County and East Peoria  
11 cases, correct?

12 A. The East Peoria case I believe I may  
13 have gone to Springfield to review documents myself.  
14 The Will County one, there was no preexisting  
15 operating record there. That was a new siting  
16 hearing. So the operating record and historical  
17 records are applicable only for an existing landfill  
18 that's looking for an expansion.

19 Q. Okay. So it's the operating record  
20 only of the existing landfill, not Waste Management  
21 in general, correct?

22 A. Yeah, the operating record of any  
23 existing landfill.

24 Q. All right. On the day during the 39.2



1 hearing, the landfill siting hearing, isn't it true  
2 that at one point Ms. Harvey informed Mr. Mueller  
3 while you were present that the Kankakee County  
4 landfill operating record would be available for you  
5 and that you could review it using a microfiche  
6 reader?

7 A. I don't recall if I directly was a  
8 party to that conversation or it was said, but it's  
9 my -- it was my understanding that the comment was  
10 made that they certainly wouldn't deny us access to  
11 the record.

12 MR. PORTER: I apologize, I received a  
13 phone call right when he answered.

14 HEARING OFFICER HALLORAN: You can ask  
15 that again. Did you need to ask it again or do you  
16 need the answer read back?

17 MR. PORTER: I'd just like the answer  
18 read back, if I may.

19 (Whereupon, the requested  
20 portion of the record  
21 was read accordingly.)

22 BY MR. PORTER:

23 Q. A comment was made that they would not  
24 deny you access to the operating record, correct?

1           A.       Right. That they certainly would not  
2 deny Mueller and his witnesses access to the record.

3           Q.       And that comment was made shortly  
4 after November 18th, 2002?

5           A.       It would have been made sometime  
6 during those hearings when the question of whether  
7 or not the microfiche were available. It would have  
8 been in that time period in context.

9           Q.       And that question was raised at the  
10 beginning of those hearings around November 18th of  
11 2002, is that right?

12          A.       I believe it would have been the 19th  
13 or after, sometime when the hearings were in place.  
14 Again, I don't recall specifically whether I was --  
15 heard that conversation or whether it was related to  
16 me.

17          Q.       And did you ever request to go back  
18 and review that microfiche?

19          A.       No. The microfiche for me was not a  
20 critical issue because I had previously obtained  
21 copies of the operating record and I had the  
22 microfiche. The question that I was asked was  
23 whether or not the representation that the public  
24 had access to the operating record was valid and

1 that's why I went to the library -- or that's why I  
2 went to the County Clerk's Office.

3 Q. Okay. So you didn't need to see it,  
4 you were just offering this testimony because you're  
5 afraid that some of the members of the public might  
6 have wanted to see it and didn't see it, correct?

7 A. I would just like the record to be  
8 clear as to what was and was not available to the  
9 general public.

10 Q. And has any member of the public ever  
11 told you that they wanted to see that operating  
12 record and was not allowed to?

13 A. No.

14 MR. PORTER: Nothing further.

15 HEARING OFFICER HALLORAN: Mr. Moran?

16 C R O S S - E X A M I N A T I O N

17 by Mr. Moran

18 Q. Mr. Norris, good morning.

19 A. Good morning.

20 Q. In fact, Mr. Norris, you extensively  
21 reviewed the operating record of the existing  
22 Kankakee landfill well before the hearings began on  
23 the siting application, isn't that true?

24 A. Yes.

1           Q.       In fact, you spent I believe almost  
2   ten days both before and after your receipt of the  
3   application in reviewing that operating record, is  
4   that correct?

5           A.       I would guess something on that order,  
6   yes.

7           Q.       And you received the application for  
8   this expansion when?

9           A.       I don't recall. It was several weeks,  
10  perhaps a couple months before the hearings.

11          Q.       So it would have been several weeks or  
12  months before November 18th, 2002, which was the  
13  start of the hearing on the siting application?

14          A.       That would be correct.

15          Q.       In your review of that regulatory  
16  record, was there any document or any information in  
17  the microfiche that you reviewed that you've been  
18  able to determine in any way the public was unable  
19  to present or offer at the siting hearing?

20                   MR. MUELLER: I'm going to object,  
21  that would call for him to be able to read the minds  
22  of the public.

23                   MR. MORAN: That's what he's been  
24  offered here to do, come in and speak for the public

1 in the alleged prejudice to the public and allegedly  
2 not being able to review microfiche. If he has some  
3 information with respect to documents that he's  
4 reviewed that might in some way relate to this  
5 alleged damage to the public, he can tell us.

6 HEARING OFFICER HALLORAN: I'll allow  
7 him to answer, Mr. Mueller. Objection overruled.  
8 Mr. Norris, if you can.

9 BY THE WITNESS:

10 A. There certainly was a great deal of  
11 information that I reviewed that was not introduced  
12 as evidence at the hearing by members of the public  
13 or by me. There are always choices that a person  
14 makes in terms of trying to make testimony on point  
15 and convey the thrust of what you as a witness want  
16 done. I made those choices based upon my review and  
17 availability of that to me. I would not presume  
18 that I said everything that needed to be said or  
19 that I called on every document that was most  
20 germane, but I don't know whether anyone, had they  
21 been able to review or had they reviewed those  
22 documents, would have come forward and testified  
23 from them or not, I don't know.

24 Q. You aren't claiming that you were

1 unable to present any facts or any claims on behalf  
2 of Mr. Karlock as a result of your review of those  
3 regulatory records, are you?

4 A. No.

5 MR. MORAN: That's all I have.

6 HEARING OFFICER HALLORAN: Thank you,  
7 Mr. Moran. Re-direct, Mr. Mueller.

8 MR. MUELLER: Thank you.

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

10 by Mr. Mueller

11 Q. Mr. Norris, you indicated that you've  
12 been involved in a number of siting hearings?

13 A. Yes.

14 Q. You're acquainted with Mr. Moran, for  
15 example, from other proceedings?

16 A. Yes.

17 Q. And you indicated that prior to the  
18 beginning of these hearings you had, through your  
19 own resourcefulness, acquired for review a copy of  
20 Waste Management's IEPA filings and operating record  
21 in connection with this case, right?

22 A. Yes.

23 Q. So, therefore, the information that  
24 you gathered was -- or the information that you had

1 in preparation for your own testimony resulted from  
2 your own resourcefulness rather than a review of any  
3 records in the clerk's office?

4 A. That is correct.

5 MR. MUELLER: That's all I have.

6 HEARING OFFICER HALLORAN: Thank you,  
7 Mr. Mueller. Mr. Porter, re-cross?

8 R E - C R O S S E X A M I N A T I O N

9 by Mr. Porter

10 Q. So your purpose for going to the  
11 County Recorder's Office on November 19th was not  
12 actually to review the operating record, merely to  
13 see if it was there, correct?

14 MR. FLYNN: Objection, asked and  
15 answered.

16 HEARING OFFICER HALLORAN: I believe  
17 it's Mr. Mueller's witness.

18 MR. MUELLER: It's a good objection,  
19 asked and answered.

20 HEARING OFFICER HALLORAN: I'll allow  
21 it. You can answer, Mr. Norris, if you're able.

22 BY THE WITNESS:

23 A. My purpose was to see if based on the  
24 materials I had reviewed what was being referred to

1 as the operating record was the operating record and  
2 whether it appeared to be complete and whether it  
3 was available for public review, yes, that was my  
4 purpose.

5 BY MR. PORTER:

6 Q. So your purpose was to potentially  
7 offer testimony in a fundamental fairness hearing  
8 that might come later, correct?

9 MR. MUELLER: I object, that's  
10 argumentative.

11 HEARING OFFICER HALLORAN: Mr. Porter,  
12 objection, sustained. Do you want to rephrase that?

13 MR. PORTER: No. I'll withdraw it.  
14 Thank you.

15 HEARING OFFICER HALLORAN: Mr. Moran?

16 R E- C R O S S E X A M I N A T I O N  
17 by Mr. Moran

18 Q. Mr. Norris, the resourcefulness that  
19 Mr. Mueller refers to, your going out and seeking  
20 the record, in fact, related to your going to  
21 Envirogen and again getting copies of the operating  
22 record from that firm, isn't that correct?

23 A. I went out and picked them up from  
24 Envirogen, yes.



1 Q. And Envirogen is the environmental  
2 consultant advising Town & Country Utilities, isn't  
3 that correct?

4 A. I believe that may be correct. I  
5 wasn't involved in those hearings.

6 MR. MORAN: That's all I have.  
7 Mr. Mueller, anything?

8 MR. MUELLER: No thank you.

9 HEARING OFFICER HALLORAN: Thank you.  
10 Mr. Norris, you may step down. Thank you very much.  
11 Mr. Leshen?

12 MR. LESHEN: Before we continue on  
13 with the next witness, I wan to make sure number one  
14 that you have a complete copy here because our copy  
15 seems to have omitted eight. Were you tendered a  
16 copy of the questions?

17 HEARING OFFICER HALLORAN: I was not.

18 MR. FLYNN: No, Watson Exhibit No. 5.  
19 You were tendered a copy, I believe.

20 MS. HARVEY: I don't have page eight  
21 either.

22 HEARING OFFICER HALLORAN: I don't  
23 have a copy of it. We were just talking about it.  
24 Let's go off the record.

1 MR. LESHEN: Let me do this --

2 HEARING OFFICER HALLORAN: Let's go  
3 off the record.

4 (Whereupon, a discussion  
5 was had off the record.)

6 MR. MUELLER: We'll call Janet  
7 Andrzejewski. I already spelled that for the court  
8 reporter once.

9 MR. LESHEN: Mr. Mueller, before we go  
10 to that witness. Apparently now the County has  
11 contacted Mr. Gill and so if you could at least get  
12 them to fax this to him now, then we can at least  
13 start the meter running so to speak.

14 HEARING OFFICER HALLORAN: That would  
15 be terrific. I guess I just assumed it was going to  
16 be faxed to him.

17 MS. HARVEY: We're in the process of  
18 arranging that.

19 MR. LESHEN: What? Has that happened?

20 MS. HARVEY: No. I just got page  
21 eight a second ago.

22 MR. LESHEN: Okay. Great. I can get  
23 you to a fax machine.

24 MS. HARVEY: For the record, I have

1 spoken to Ms. Gill who indicated that Mr. Gill will  
2 start working on the answers as soon as he receives  
3 the fax.

4 HEARING OFFICER HALLORAN: All right.

5 MS. HARVEY: But she couldn't promise  
6 me that they would be done today, but he will begin  
7 today.

8 HEARING OFFICER HALLORAN: Okay.

9 We'll take this up -- revisit this again later on in  
10 the morning.

11 MR. LESHEN: So I'll get Elizabeth to  
12 a fax machine right now.

13 HEARING OFFICER HALLORAN: Okay.

14 Let's go off the record for a minute while -- we're  
15 going to wait for Mr. Leshen to come back.

16 (Whereupon, a discussion  
17 was had off the record.)

18 HEARING OFFICER HALLORAN: We're back  
19 on the record after a short break. Mr. Leshen would  
20 like to make some comments for the record.

21 MR. LESHEN: Yes, and ask for a ruling  
22 on an issue. I would like first to represent to the  
23 Court that despite the fact that we had fax access  
24 to Mr. Gill available here for whatever reason the

1 County determined that it wanted to make the -- it  
2 wanted to have the questions faxed to Mr. Gill from  
3 the County building a block and a half away from  
4 here and that led me to wonder whether or not the  
5 County is, in fact, now representing and has  
6 represented Mr. Gill since otherwise this could have  
7 been faxed from here and I confess to the  
8 bewilderment as to why they did not, so what I'd  
9 like you to do is make a ruling one way or the other  
10 as to whether the County is, in fact, representing  
11 Mr. Gill.

12 HEARING OFFICER HALLORAN: I'll  
13 reserve my ruling, Mr. Leshen, and I appreciate your  
14 comments on the record. I stated that I would make  
15 that ruling if it comes to pass. Right now, I don't  
16 think it's right yet for a ruling. I don't --

17 MR. LESHEN: I respectfully disagree,  
18 but obviously --

19 HEARING OFFICER HALLORAN: Your  
20 comments are on the record and we may or may not  
21 revisit that issue depending on what happens.  
22 Mr. Porter, any response?

23 MR. PORTER: The only response I have  
24 is that our pleadings are absolutely clear. I

1 represent Kankakee County. The pleading we filed  
2 motioning to quash Mr. Gill's deposition is filed on  
3 behalf of Kankakee County. Mr. Gill is no longer a  
4 County employee. It would be completely  
5 presumptuous for me to say that I represent him.  
6 Regardless, we have been good -- I guess I'm a  
7 little -- I do want to make a record. I've bent  
8 over backward throughout discovery in this. I  
9 presented 16 people for a deposition over a matter  
10 of three days and that was presented at the schedule  
11 of the city and the petitioners, some of which  
12 ex-county board members, so I think I've put more  
13 than a good faith effort on the part of the County  
14 and we're trying very hard to get in touch with  
15 Mr. Gill and present him the questions that were  
16 given to us literally a half hour ago, we were  
17 faxing them to him and trying to get responses for  
18 the city today. I don't know what more I possibly  
19 could do.

20 MR. LESHEN: Just as we've addressed  
21 the issue of completeness, I would like to respond  
22 to that by saying that I find it extremely  
23 interesting that there's such a protestation of good  
24 faith here given the issues with tapes and all kinds

1 of late responses with documents. Be that as it  
2 may, I think it would be important, and as you said,  
3 I've made the record, to know whether or not -- the  
4 County's version of who they represent have changed.  
5 First they said we simply did this as an  
6 accommodation to -- as a favor to Mr. Gill. I think  
7 that's a direct quote, as a courtesy to Mr. Gill.  
8 Now they're saying we did it on behalf -- now  
9 they're saying we did it on behalf of the County. I  
10 don't know what any of that means other than you  
11 can't be a little bit pregnant, either you are or  
12 you're not and whatever -- you said you'd reserve  
13 the ruling, you say it's not right yet sobeit.

14 HEARING OFFICER HALLORAN: And I,  
15 along Mr. Leshen's line, in my May 1st order states  
16 I did find the County had standing a motion to  
17 quash. The only reason they would have a standing  
18 motion to quash is if they were representing Mr.  
19 Gill. I could be wrong, but that was my ruling,  
20 read between lines or whatever, but in any event,  
21 hopefully we may or may not have to cross that  
22 bridge. I'm not sure I have to make a ruling today  
23 and depending on what Mr. Gill, if he can answer  
24 these questions -- I've looked at the questions

1 briefly, there's 49 of them, it is 9 pages, they  
2 don't look that complicated, complex. At the very  
3 latest I would assume he would be done -- finished  
4 by tomorrow morning and I'm not sure what  
5 Mr. Porter's plan is to file any kind of cross  
6 questions, if any, but --

7 MR. PORTER: We're hoping to file  
8 cross questions even before receiving responses.  
9 I've got Elizabeth working on drafting some.

10 HEARING OFFICER HALLORAN: Very well.  
11 Okay. Again, we'll have to revisit this later.

12 MR. LESHEN: Thank you, Mr. Halloran.

13 HEARING OFFICER HALLORAN: Thank you,  
14 Mr. Leshen, Mr. Porter.

15 Mr. Mueller, you're back on your  
16 case in chief. Sorry.

17 MR. MUELLER: We'll call Janet  
18 Andrzejewski.

19 (Whereupon, Ms. Andrzejewski was  
20 sworn in by the reporter.)

21  
22  
23  
24

1 WHEREUPON:

2 J A N E T A N D R Z E J E W S K I,  
3 called as a witness herein, having been first duly  
4 sworn, depose and saith as follows:

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

6 by Mr. Mueller

7 Q. Would you state your full name and  
8 spell your last name for the reporter, please?

9 A. Yes. My name is Janet Andrzejewski,  
10 A-n-d-r-z-e-j-e-w-s-k-i.

11 Q. And, Janet, are you related -- where  
12 do you reside?

13 A. I reside in Pilot Township, Herscher,  
14 Illinois.

15 Q. That's in Kankakee County?

16 A. That's right.

17 Q. And were you, as a member of the  
18 public, interested in the Waste Management siting  
19 hearings last fall?

20 A. Yes, I was. Yes, I am.

21 Q. In addition, were you interested  
22 because your brother, Chuck Norris, was a consultant  
23 on the project?

24 A. Yes.



1 Q. And did you have occasion to go with  
2 him on November 19th at approximately mid-day to the  
3 County Clerk's Office?

4 A. Yes, we did.

5 Q. Could you relay your recollection of  
6 those events?

7 A. We entered through the west door of  
8 the County building and inquired as to where we  
9 could find the record of Waste Management and the  
10 receptionist referred us to an elderly woman,  
11 Esther, and she directed us to and escorted us to a  
12 room across the hall from the ladies bathroom and in  
13 that room were a few tables, long tables, and  
14 bookshelves full of boxes and she indicated that the  
15 records were there. We -- I think -- I believe that  
16 my brother asked for the microfiche right off the  
17 bat and she indicated it was all there, whatever we  
18 needed was there, and so we were going to be looking  
19 through it and she was very nervous about us looking  
20 through any of it, but we started to lift up boxes  
21 and look and the -- I recall that it was in the  
22 beginning of this --

23 MR. PORTER: I'm sorry. Is there a  
24 question pending?

1                   MR. MUELLER: Yes. I'm asking her  
2 what occurred.

3                   HEARING OFFICER HALLORAN: She may  
4 answer.

5 BY THE WITNESS:

6           A.       In the beginning -- shortly after we  
7 were in the room my brother inquired about the  
8 microfiche and she said that there -- that it was  
9 there and then he asked about reading it and she  
10 said that she did not have a reader in the room and  
11 there was no way to copy it and she suggested  
12 perhaps there would be something available at a  
13 school or a library and --

14                   HEARING OFFICER HALLORAN: Mr.  
15 Mueller, excuse me, you can interject some  
16 questions.

17 BY THE WITNESS:

18           A.       I'm connected with schools.

19                   MR. MUELLER: Hold on a second.  
20 Maybe we can wait about 5 seconds until the civil  
21 defense practice ends.

22   (Brief pause.)

23 BY MR. MUELLER:

24           Q.       Janet, you're indicating that your

1 brother had a conversation with Esther at the  
2 beginning or near the beginning of the session?

3 A. That was my recollection.

4 Q. What do you recall about what was said  
5 by him and what was said by this elderly woman?

6 MR. PORTER: I'm going to object for  
7 hearsay.

8 HEARING OFFICER HALLORAN:  
9 Mr. Mueller? She was apparently party to the  
10 conversation. She was there. And it would be a  
11 statement against interest on the part of a County  
12 representative.

13 HEARING OFFICER HALLORAN: Mr. Porter?

14 MR. PORTER: I don't -- without an  
15 offer of proof, I don't know if the statement is...

16 HEARING OFFICER HALLORAN: I'll allow  
17 the witness to answer if she's able.

18 BY THE WITNESS:

19 A. Okay. My recollection is that the  
20 conversation about the availability of viewing the  
21 microfiche was at the -- more in the beginning of  
22 the interlude in the room. She said that it would  
23 be available to view perhaps through a school or a  
24 library and I know enough about the schools in our

1 area to know that two people walking in with a box  
2 to any of our school libraries wouldn't work. My  
3 husband is -- works in a school --

4 MR. PORTER: Objection,  
5 non-responsive.

6 HEARING OFFICER HALLORAN: I agree.  
7 Sustain.

8 BY MR. MUELLER:

9 Q. You need to just stick with the  
10 conversation.

11 A. Okay. So anyway, that was totally  
12 irrelevant, her comment about take it to a school or  
13 take it to a library and then he asked well, can we  
14 take it out.

15 MR. PORTER: I'm sorry.

16 HEARING OFFICER HALLORAN: Excuse me,  
17 ma'am. Mr. Porter?

18 MR. PORTER: Is there a question  
19 pending?

20 HEARING OFFICER HALLORAN: Yeah. I'm  
21 kind of lost with the question.

22 BY MR. MUELLER:

23 Q. Can you finish up the conversation  
24 after she said you can take it to a school or a

1 library, what did Chuck say?

2 A. He said can we view it here.

3 Q. And what did she say?

4 A. And she said well, we might have a  
5 viewer here, but it's not in this room. I can take  
6 it -- whatever you want -- and get it copied for you  
7 and there was no way for us to view it to get it  
8 copied.

9 Q. Was there any further conversation  
10 about the microfiche reader?

11 A. I don't believe so.

12 Q. Now, did you, as a citizen of the  
13 county or a resident of the county, feel that the  
14 treatment you received was fair?

15 A. No. That's why I'm here today.

16 Q. And you're not being paid for your  
17 time here today?

18 A. Not at all.

19 Q. And you've never been on the  
20 consulting payroll of Mr. Karlock or myself?

21 A. No.

22 Q. And you've never been involved in any  
23 previous landfill siting other than the one in your  
24 own community here, right?

1 A. That's correct.

2 Q. And did you --

3 MR. MUELLER: Well, that's all I have.

4 Thank you.

5 HEARING OFFICER HALLORAN: Mr. Porter?

6 C R O S S - E X A M I N A T I O N

7 by Mr. Porter

8 Q. You didn't want to review the  
9 operating record, your brother did, correct?

10 A. I was very concerned about the --

11 Q. Did you understand my question? I'm  
12 sorry. Did you want to review the operating record?

13 A. I was curious to see what the  
14 operating record looked like and what I could see  
15 was record of leachate cramping up our environment,  
16 yes, I was interested.

17 Q. And did you review the paper documents  
18 that were there?

19 A. Yes, I looked at them.

20 Q. And did you at any time after that  
21 date request to see the microfiche?

22 A. No, I have not.

23 Q. You did attend the Section 39.2  
24 hearings, correct?

1           A.       If those were the hearings held at  
2   Quality Inn out on the highway, yes, I did, quite  
3   extensively.

4           Q.       And at those hearings you heard an  
5   announcement that the operating record was available  
6   at the County Clerk's Office and various other  
7   venues, correct?

8           A.       I did hear that. I hesitated to  
9   believe it however because of my experience prior to  
10  that.

11          Q.       And you never went to confirm it after  
12  you heard that announcement, correct?

13          A.       No, I did not.

14          Q.       You weren't a participant in the  
15  underlying hearing, is that right?

16          A.       I made a couple comments, you know,  
17  open to the public comments, that's all.

18          Q.       And did those comments at all relate  
19  to the fact or allegation that you couldn't see the  
20  operating record?

21          A.       No.

22                   MR. PORTER: Nothing further.

23                   HEARING OFFICER HALLORAN: Mr. Moran?

24

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

2 by Mr. Moran

3 Q. Why did you go with your brother that  
4 day? He could have done it himself.

5 A. That's true, but I don't see him that  
6 often and I enjoy being with him and I'm very  
7 concerned about the garbage dump that's coming to my  
8 county that is supposedly going to be expanding next  
9 to the Kankakee River.

10 Q. Were you aware of the fact that your  
11 brother had spent at that point at least four full  
12 days reviewing the operating record he was asking to  
13 see?

14 A. It doesn't matter. There's a lot of  
15 detail there.

16 Q. Let me ask you the question again.

17 Were you aware that when you went  
18 with him that day he had already spent at least four  
19 days, four full days, going through that very  
20 operating record? Were you aware of that?

21 A. No, I wasn't aware of it.

22 Q. Were you aware that at some point your  
23 brother ended up spending ten full days going  
24 through that operating record? Were you ever aware



1 of that?

2 A. I'm not surprised. There's a great  
3 deal of material to go through.

4 Q. Now, I think you said you spent a few  
5 minutes looking through the operating record when  
6 you went and accompanied your brother to the County  
7 office?

8 A. That's true.

9 Q. And that was the only time you looked  
10 at the operating record, is that correct?

11 A. Right.

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

13 HEARING OFFICER HALLORAN:

14 Mr. Mueller, redirect?

15 MR. MUELLER: No thank you.

16 HEARING OFFICER HALLORAN: You may  
17 step down. Thank you very much.

18 Mr. Mueller, are you finished with  
19 your case in chief?

20 MR. MUELLER: We're finished with our  
21 witnesses, that's correct.

22 HEARING OFFICER HALLORAN: Thank you.

23 Mr. Flynn, do you have a question?

24 MR. FLYNN: No.

1 HEARING OFFICER HALLORAN: Are your  
2 witnesses here?

3 MR. FLYNN: My witnesses are here.

4 HEARING OFFICER HALLORAN: Before we  
5 get to that, Ms. O'Dell, who made public comment  
6 yesterday came to me off the record and said she may  
7 have a change of heart and she would like at least I  
8 think to come up here under oath and give her  
9 statement again subject to cross-examination and  
10 I will allow that. So before we get to your  
11 witnesses, Mr. Flynn, is that okay for Ms. O'Dell to  
12 come up.

13 MR. FLYNN: I'll leave it up to  
14 Ms. O'Dell. These two witnesses came down from  
15 Chicago and are waiting to go back and that's about  
16 two-and-half hours, but if Ms. O'Dell wants to go --

17 HEARING OFFICER HALLORAN: Is that  
18 fine -- if we --

19 MS. O'DELL: Fine with me.

20 HEARING OFFICER HALLORAN: Thank you.  
21 Mr. Flynn, your case in chief.

22 MR. FLYNN: We'll call Marianne  
23 Powers. She's out in the hall.

24 MR. MORAN: Mr. Hearing Officer, just

1 so we're clear, this is an offer of proof?

2 HEARING OFFICER HALLORAN: I said it  
3 this morning, I said it yesterday and I'll say it  
4 again, Mr. Moran, when they get up here. Thanks.

5 I do want to refresh everyone's  
6 recollection that yesterday I did grant Waste  
7 Management's motion in limine that any evidence  
8 relating to Criterion 3 I think I would ask the  
9 Board to disregard. I'm only allowing these two  
10 witnesses up as an offer of proof so with that said,  
11 Mr. Flynn.

12 MR. PORTER: Mr. Hearing Officer, I  
13 don't recall if I joined in the objections to their  
14 testimony, I want to be sure I do before they  
15 testify.

16 HEARING OFFICER HALLORAN: Okay.  
17 Thank you, Mr. Porter.

18 MR. FLYNN: We also believe not only  
19 that this would be relevant to Criterion 3, but we  
20 also believe it's relevant to the fundamental  
21 fairness issue as we alluded to yesterday.

22 HEARING OFFICER HALLORAN: Okay. I  
23 made my ruling and your objection is noted for the  
24 record.

1 MR. FLYNN: Okay.

2 MR. LESHEN: And the city would, in  
3 case it is not clear as well, join in  
4 Mr. Flynn's objection.

5 HEARING OFFICER HALLORAN: Thank you,  
6 Mr. Leshen from the city. You may proceed with your  
7 offer of proof.

8 MR. FLYNN: Has the witness been  
9 sworn?

10 THE REPORTER: No.

11 WHEREUPON:

12 M A R I A N N E P O W E R S  
13 called as a witness herein, having been first duly  
14 sworn, deposeth and saith as follows:

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

16 by Mr. Flynn

17 Q. Would you please state your full name  
18 and spell your last name for the record, please?

19 A. My name is Marianne Powers,  
20 P-o-w-e-r-s.

21 Q. Where do you reside?

22 A. In Oak Lawn, Illinois.

23 Q. Are you employed?

24 A. Yes.

1 Q. Where are you employed?

2 A. Daley College, one of the City  
3 Colleges of Chicago.

4 Q. What is your job title?

5 A. I'm a supervisor of the admission and  
6 markets office.

7 Q. How long have you held that title?

8 A. That title I've held for about ten  
9 years.

10 Q. What are your responsibilities?

11 A. Maintaining records, graduation  
12 roster, the whole -- registration, everything  
13 involved in the records in the admissions office.

14 Q. Have you been asked to search the  
15 school's records as to whether or not Patricia  
16 Beaver, now known as Patricia Beaver McGarr, ever  
17 graduated from Daley College?

18 A. Yes.

19 Q. When was the first time you were asked  
20 to search?

21 A. For Ms. Beaver.

22 Q. When were you asked?

23 A. I don't recollect the last -- you  
24 know, maybe almost a year ago.

1 Q. This was an inquiry from  
2 Ms. Beaver McGarr?

3 A. Right.

4 Q. And what was Ms. Beaver McGarr advised  
5 at that time as to whether or not she had graduated?

6 A. She was advised that she did not  
7 graduate.

8 Q. When is the next time you were asked  
9 to make a determination or a review of the records  
10 as to whether or not Ms. McGarr did, in fact,  
11 graduate?

12 A. A couple months later when another  
13 attorney had called, but I don't know who that  
14 attorney was.

15 Q. What did you tell that attorney with  
16 regard to --

17 A. Well, he wanted an affidavit from me,  
18 but working for the city colleges you can't give  
19 affidavits, so you just submit all the documents  
20 to our attorneys and they submit the paperwork. I  
21 did tell him she did not have a degree. That's all  
22 the directory information we can give.

23 Q. I'm going to show you what we're going  
24 to mark as Watson Exhibit No. 6.

1 A. Would you like the original?

2 Q. You do have the original?

3 A. Not an original, but an original of  
4 the original card. We didn't have preprinted  
5 degrees back when she had attended -- preprinted  
6 transcripts. What we kept were permanent record  
7 cards back in 1978.

8 Q. I'm just going to hand you this for a  
9 minute, if you can hold on to that.

10 Daley College does keep records  
11 of students that did attend from 1978 through 1980,  
12 is that a fair statement?

13 A. Absolutely.

14 Q. With regards to Watson Exhibit No. 6,  
15 is that a transcript of Ms. McGarr?

16 A. Yes.

17 Q. Is that a true and accurate copy of  
18 the transcript indicating the classes she attended  
19 and the credit that she obtained?

20 A. Yes.

21 Q. How many credits were required for a  
22 degree in 1980?

23 A. Sixty.

24 Q. How many credits did Ms. McGarr

1 acquire?

2 A. Fifty-seven.

3 Q. When a student wants to graduate or  
4 wants a degree, do they have to fill out an  
5 application or other paperwork?

6 A. An application for graduation, yes.

7 Q. If an application for graduation is  
8 filed, is that a document that is kept?

9 A. Yes.

10 Q. Is there an application for graduation  
11 on file at Daley College for Ms. Beaver McGarr?

12 A. No.

13 Q. Was a search made for that record?

14 A. Yes.

15 Q. Had one been filed, would you have it?

16 A. Yes.

17 Q. Would it be fair to state that

18 Ms. Patricia Beaver McGarr did not file an

19 application for graduation?

20 A. Yes.

21 Q. Would it be fair to state that

22 Ms. Patricia McGarr never received a degree from

23 Daley College?

24 A. Yes.



1           Q.        Would it be fair to state that  
2 Ms. Beaver McGarr was not entitled to a degree from  
3 Daley College?

4           A.        Yes.

5           Q.        I'm going to show you what's been  
6 previously marked as Petitioner's Exhibit No. 26  
7 during the underlying siting hearing which I believe  
8 is already part of the record.

9                        The document which I have handed  
10 which has been previously marked as Petitioner's  
11 Exhibit No. 26 is entitled affidavit of Elwood Holm,  
12 correct?

13          A.        Yes.

14          Q.        Do you know Mr. Holm?

15          A.        Yes.

16          Q.        Is Mr. Holm responsible for keeping  
17 records?

18          A.        No.

19          Q.        With regards to paragraph No. 2,  
20 does the college keep records even though they may  
21 be in excess of 20 years old?

22          A.        If there is a degree or an application  
23 for graduation, we do keep those for always.

24          Q.        If there isn't an application for a

1 degree, do you keep those records?

2 A. No. We discard them after 12 years.

3 Q. Do you keep the transcripts of the  
4 classes attended and the credits received?

5 A. Yes.

6 Q. Paragraph No. 4, according to the  
7 transcript, which is the record you testified to,  
8 Watson Exhibit No. 6, paragraph 4, would be  
9 inaccurate as 19 classes would not be enough for a  
10 degree, correct?

11 A. No. He just states here that they  
12 were the required classes. You need required  
13 classes and then you need electives.

14 Q. With regards to the transcript marked  
15 as Watson Exhibit No. 6 there are 19 classes that  
16 were actually completed and credits were given?

17 A. I think there's 20 -- 19, yeah.

18 Q. So 19. There are three other classes,  
19 one where she withdrew and two where she received an  
20 incomplete?

21 A. Right.

22 Q. Based upon that transcript, which  
23 would be the only record in the last three years at  
24 Daley College, concerning the courses attended by

1 Ms. McGarr, the only conclusion that could be drawn  
2 in terms of graduation is that she did not qualify  
3 to graduate?

4 A. Right.

5 Q. With regards to the two incompletes  
6 listed on Ms. Beaver's transcript, did you check to  
7 determine whether or not incompletes were given to  
8 all the students in those classes?

9 A. I'm not real -- all I did was pull the  
10 grade roster and not all the students had  
11 incompletes. In a lot of them the grades have  
12 already been changed.

13 Q. Do you know whether the grades have  
14 been changed or whether they were the original  
15 grades?

16 A. You know, I can't remember. I wish  
17 you would -- you know, I could have brought -- no, I  
18 couldn't because it had too many other students on  
19 it.

20 Q. Approximately a year ago when  
21 Ms. Beaver McGarr inquired concerning whether or not  
22 she had graduated or whether or not she had a  
23 degree, did you personally talk to her?

24 A. Yes.

1           Q.       And you made it quite clear that she  
2 did not have a degree, correct?

3           A.       Yes.

4           Q.       Were any efforts -- or strike that.

5                     Did she ask for a copy of her  
6 transcript?

7           A.       Yes.

8           Q.       Did you ever discuss with her the two  
9 incompletes?

10          A.       Yes.

11          Q.       Were any efforts undertaken that  
12 you're aware of to remove those incompletes?

13          A.       No.

14          Q.       Do you have any records that you keep  
15 indicating that the transcript was, in fact, sent to  
16 Ms. McGarr?

17          A.       Yes.

18          Q.       What records do you have that you did,  
19 in fact, send the transcript to Ms. McGarr?

20          A.       On the back of her permanent record  
21 card we list wherever we sent out a transcript to.

22          Q.       Do you have that permanent record card  
23 with you?

24          A.       No. We don't take those out of --

1 Q. Pardon me?

2 A. We don't let those leave the building.

3 Q. Do you have a copy of the card with  
4 you?

5 A. I did copy the back of it.

6 Q. Have you reviewed the card in  
7 preparation of testifying today?

8 A. Yes, I did.

9 Q. And your records do, in fact, indicate  
10 that card, based upon your review, that the  
11 transcript was, in fact, sent to Ms. McGarr?

12 A. Right, they were -- yeah, given to  
13 her.

14 MR. FLYNN: That's all I have for you.

15 THE WITNESS: Okay.

16 HEARING OFFICER HALLORAN: Mr. Porter?

17 MR. PORTER: No questions.

18 HEARING OFFICER HALLORAN: Mr. Moran?

19 C R O S S - E X A M I N A T I O N

20 by Mr. Moran

21 Q. Ms. Powers, do you know what title  
22 Mr. Holm holds?

23 A. Yes. He's vice-president of Daley  
24 College -- interim vice-president of Daley College.

1 Q. He's the interim vice-president?  
2 A. Yes.  
3 Q. And I believe your position was?  
4 A. Supervisor, admissions and markets  
5 office.  
6 Q. You're not a vice-president of Daley  
7 College?  
8 A. No.  
9 Q. Do you report to Mr. Holm?  
10 A. Sometimes, yeah.  
11 Q. He'd be considered your superior,  
12 correct?  
13 A. Right.  
14 Q. You had an opportunity to review  
15 Mr. Holm's affidavit?  
16 A. No, I didn't. Just now.  
17 Q. You have it in front of you?  
18 A. Right.  
19 Q. Have you ever seen it before today?  
20 A. No.  
21 Q. Could you take a moment please and  
22 review the affidavit, it's only two pages long --  
23 actually, it's only one page.  
24 (Witness read the document.)

1 BY MR. MORAN:

2 Q. Ms. Powers, have you completed your  
3 review of Mr. Holm's affidavit?

4 A. Yes.

5 Q. Now, I believe you testified that the  
6 number of credits required for a degree is 60?

7 A. Yes.

8 Q. And when we're talking about a degree,  
9 what type of degree are we talking about?

10 A. An associate in arts degree.

11 Q. An associate in arts degree is a  
12 degree that, in essence, is the equivalent of a  
13 junior college degree or a two-year?

14 A. It's a two-year degree.

15 Q. And you testified that in reviewing  
16 Ms. McGarr's transcript there were two courses for  
17 which she had received an incomplete grade, is that  
18 correct?

19 A. Yes.

20 Q. And those two courses were  
21 introduction to business and business law one, is  
22 that correct?

23 A. Yes.

24 Q. Mr. Holm in his affidavit indicates

1 that all the students in those two classes had  
2 received incomplete grades, is that correct?  
3 Directing your attention to paragraph five of  
4 Mr. Holm's affidavit?

5 MR. FLYNN: I'm going to object to the  
6 form of the question. Is he asking is that what the  
7 affidavit says or whether or not that is, in fact,  
8 true?

9 HEARING OFFICER HALLORAN: Mr. Porter?

10 BY THE WITNESS:

11 A. It's what his affidavit states. Our  
12 records indicate that all students in those two  
13 classed received an initial grade of incomplete.

14 BY MR. MORAN:

15 Q. Is that statement true?

16 A. It could be. I don't remember.

17 Q. You have no information or facts to  
18 indicate that that statement is untrue, is that  
19 correct?

20 A. Right.

21 Q. If Ms. McGarr or her grade for either  
22 of those classes was changed at any point from  
23 incomplete to a passing grade, would she then have  
24 had sufficient credits to qualify for a degree from



1 Daley College?

2 A. Yes.

3 Q. And you have no information to  
4 indicate whether for Ms. McGarr either of those  
5 incomplete grades were changed?

6 A. Yes, I do. I have the original grade  
7 sheets.

8 Q. Okay.

9 A. I have the original grade sheets which  
10 show that, you know, what the original grade was and  
11 then what it was changed to. Ms. McGarr's was never  
12 changed from an R.

13 Q. And the records that you have that  
14 reflect the fact that that change was not made in  
15 the transcript that you're referring to here?

16 A. It would be changed on this transcript  
17 also, but it would also be changed in the grade  
18 book, the one that -- you know, the teachers  
19 originally submit the final grade roster, we have  
20 copies of all the final grade rosters and when a  
21 change of grade is submitted, we do a change of  
22 grade in the grade book and on the student's  
23 transcript.

24 Q. Directing your attention to the third

1 sentence of Mr. Holm's affidavit in paragraph five  
2 where it says grades were subsequently corrected, do  
3 you see that?

4 A. Uh-huh.

5 Q. Is that an accurate statement?

6 A. Grades on -- I don't know what he's  
7 referring to here. You know, grades were  
8 subsequently corrected, however, Ms. McGarr does not  
9 reflect a change. On the grade sheets that we pull  
10 looking up these Rs, there were grades on the final  
11 grade roster that showed there were changes, but not  
12 for Ms. McGarr.

13 Q. Is that statement in Mr. Holm's  
14 affidavit correct?

15 A. Right.

16 Q. Looking at the next sentence in that  
17 paragraph five of Mr. Holm's affidavit, the original  
18 grade change forms are no longer available, is that  
19 a correct statement?

20 A. True.

21 Q. And the last statement in his  
22 paragraph five of his affidavit, this is why we  
23 presume that the records do not reflect that she  
24 graduated, is that a true statement?

1           A.       True.

2                   MR. FLYNN:  Objection, that's not a  
3 statement, that's speculation and conclusion and  
4 it's requiring this witness to speculate.

5                   HEARING OFFICER HALLORAN:  I'll allow  
6 her to answer if she's able.  Objection, overruled.

7                   MR. MORAN:  I think she answered.

8                   HEARING OFFICER HALLORAN:  Okay.

9                   MR. FLYNN:  No, I don't believe she  
10 didn't answer.

11                   MR. MORAN:  She answered yes.

12 BY MR. MORAN:

13           Q.       Did you answer yes to that question?

14           A.       Yes.  What he's talking about --

15                   MR. MORAN:  That's all I have.

16                   HEARING OFFICER HALLORAN:  Mr. Flynn,  
17 redirect?

18                   MR. FLYNN:  Yes.

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

20                                   by Mr. Flynn

21           Q.       You were about to say something about  
22 what you believe Ms. Holm to be talking about.

23           A.       When he's talking about the original  
24 grade forms are no longer available, when a teacher

1 -- you know, I work at the college so it's tons of  
2 paperwork. What he's referring to is when a teacher  
3 changes a grade, there's a change of grade form,  
4 once we receive a change of grade form, we pull the  
5 grade book, change the grade there, pull the  
6 student's record card and change it there and then  
7 we do have -- you know, going back probably 17  
8 years, but we just don't have those change of grades  
9 forms because we're lacking space.

10 Q. Just so we're clear on the record,  
11 your office maintains a grade book for each student?

12 A. Yes -- no, not each student. A grade  
13 book is -- yeah, it's for each student, but it's a  
14 list of each class and the grades given by the  
15 teachers for each course taught at the college.

16 Q. And in order for a grade to be entered  
17 for a student in a class, you must be given  
18 something from the teacher?

19 A. Right.

20 Q. And if it's an incomplete, that's  
21 what's recorded?

22 A. Right.

23 Q. Now, if that grade is subsequently  
24 changed or an incomplete is changed, a change of

1 grade form is filled out by the teacher or professor  
2 and submitted to your office?

3 A. Correct.

4 Q. And even though the change of record  
5 or change of grade is not kept, the actual change is  
6 made?

7 A. Right.

8 Q. And in Ms. McGarr's case, it indicates  
9 an incomplete for each of those two courses,  
10 correct?

11 A. Right.

12 Q. And does it indicate that that grade  
13 has ever been changed at any point in time?

14 A. No.

15 Q. Now, going to the last sentence of  
16 paragraph five of Mr. Holm's affidavit, this is why  
17 we presume the records do not reflect that she  
18 graduated. In fact, it's your testimony that she  
19 did not graduate, correct?

20 A. Right.

21 Q. And if anyone makes an inquiry into  
22 Daley College, the answer they are given concerning  
23 Ms. McGarr and graduation is that she did not  
24 graduate?

1 A. True.

2 Q. So would it not be more accurate to  
3 state that the records indicate she never completed  
4 those courses, she was never entitled to a degree  
5 and she never graduated?

6 A. True.

7 Q. With regards to the records from those  
8 classes, you indicated that some grades were changed  
9 from an incomplete to another grade?

10 A. Right.

11 Q. Not all of the original grades were  
12 incomplete for those particular courses?

13 A. That, I can't remember. I'm sorry.

14 Q. Would you have to look at the --

15 A. I would have to go pull those grade  
16 rosters again.

17 Q. With regards to these records, these  
18 are not something that Mr. Holm would have access  
19 to in the sense that he'd be able to walk into the  
20 office, pull them off the shelf and look at them,  
21 he would have to make a request for these particular  
22 records?

23 A. He would probably -- knowing Mr. Holm,  
24 he would probably come back to the vault with me to

1 go through and pick them.

2 Q. You are the individual who's  
3 responsible for maintaining these records?

4 A. Right.

5 Q. And it's your job to be able to file  
6 them so that you can gain access to them?

7 A. Right.

8 Q. Is that Mr. Holm's responsibility?

9 A. No.

10 Q. Regardless of the transcripts, the  
11 records or of any of that information, you  
12 specifically recall having a conversation with  
13 Ms. McGarr within the last year wherein she made an  
14 inquiry of you as to whether or not she graduated?

15 A. Yes.

16 Q. Would I be correct in no uncertain  
17 terms she was advised that she had not graduated?

18 A. Yes.

19 Q. And was she advised that she was short  
20 credits?

21 A. Yes.

22 Q. Now, when students come to Daley  
23 College, are they assigned a counselor for academic  
24 purposes, making sure that they take all the

1 required courses?

2 A. Not necessarily, no.

3 Q. In terms of graduation applications,  
4 that has to be filled?

5 A. Yes.

6 Q. How are the students apprised that  
7 they have to fill out an application?

8 A. That's in the catalog.

9 Q. With regards to applications, if  
10 somebody submits an application and they do not  
11 qualify, what, if any, record is kept?

12 A. There would have been a file folder on  
13 her.

14 Q. And her file folder would have  
15 included a denied application?

16 A. An application and what took place,  
17 yes.

18 Q. And in this particular case there is  
19 no file and there is no application?

20 A. No.

21 Q. That is correct?

22 A. True.

23 Q. Thank you.

24 A. You're welcome.



1 HEARING OFFICER HALLORAN: Mr. Moran?

2 R E C R O S S - E X A M I N A T I O N

3 by Mr. Moran

4 Q. Ms. Powers, when you had this  
5 discussion with Ms. McGarr, was this a telephone  
6 conversation?

7 A. Yes, sir.

8 Q. She didn't come in to see you  
9 personally?

10 A. I did meet her once.

11 Q. When was that?

12 A. You know, I see so many students.  
13 It was wintertime. I want to say maybe November.

14 Q. Now, when you first spoke with  
15 Ms. McGarr, did she in anyway indicate to you that  
16 she believed she had a degree from Daley College?

17 A. She actually believed she did have a  
18 degree.

19 Q. After you told her that your records  
20 didn't reflect that she had a degree, did she have  
21 any response?

22 A. She was shocked.

23 Q. What did she say?

24 A. She was very upset because she thought

1 for sure she did have a degree.

2 Q. Was there any question in her mind  
3 that she received a degree from Richard J. Daley  
4 College?

5 MR. FLYNN: Objection, calls for  
6 speculation and asked and answered.

7 HEARING OFFICER HALLORAN: Sustained.

8 BY MR. MORAN:

9 Q. Ms. Powers, after Ms. McGarr learned  
10 of what you had told her regarding what the records  
11 of Daley College showed, did she at any point  
12 indicate to you that she may not have, in fact,  
13 received that degree?

14 MR. FLYNN: Objection to the form of  
15 the question. He asked once Ms. McGarr learned  
16 that. The record is quite clear.

17 MR. MORAN: I'm just asking what she  
18 was told by Ms. McGarr after McGarr learned the  
19 records didn't reflect she had a degree.

20 HEARING OFFICER HALLORAN: I'll allow  
21 the question to stand. Objection, overruled

22 BY THE WITNESS:

23 A. She was upset.

24

1 BY MR. MORAN:

2 Q. Did she continue to tell you that she  
3 believed she had a degree from Daley College?

4 MR. FLYNN: Objection, hearsay.

5 HEARING OFFICER HALLORAN: Overruled.

6 BY THE WITNESS:

7 A. She didn't continue, she just really  
8 and truly believed that she did have one.

9 BY MR. MORAN:

10 Q. And the last discussion you had with  
11 her she still continued to believe she had a degree,  
12 isn't that correct?

13 A. No. She knew she didn't the last time  
14 I talked to her.

15 Q. When you say she knew she didn't,  
16 you're speculating now on what she knew --

17 A. Once she received her transcript and  
18 she counted her hours and she knew she didn't have  
19 the required 60 hours for the degree, she was aware  
20 that she did not have enough hours to obtain a  
21 degree.

22 Q. Well, how do you know she was aware of  
23 that fact or she believed that fact, is that what  
24 she told you during one of these conversations?

1           A.       Yeah. She was shocked, you know, to  
2 know that she only had 57 hours and not 60.

3           Q.       After this first conversation you had  
4 with her in which you told her what the records of  
5 the college showed, did you have any subsequent  
6 conversations with her?

7           A.       Yes.

8           Q.       How many?

9           A.       Probably about two more.

10          Q.       Were they also phone conversations?

11          A.       Two were and then she came once to  
12 meet me.

13          Q.       And over what period of time did these  
14 three phone calls and meeting occur?

15          A.       Within this past year.

16          Q.       Was it within a week, was it within a  
17 couple of weeks --

18          A.       No. It was like -- I thought I put it  
19 away -- it was like maybe a month later, you know, a  
20 couple months later.

21          Q.       So over a three or four-month period?

22          A.       Right.

23          Q.       At any point did she state to you or  
24 admit to you that she did not have a degree from

1 Richard J. Daley College?

2 A. The only way I can answer that is when  
3 somebody asks me what she would need to do to obtain  
4 a degree, I would assume that she knew that she did  
5 not have one.

6 Q. So all you're doing is assuming she  
7 didn't know, she never told you or acknowledged that  
8 she did not have a degree from Richard J. Daley  
9 College, is that correct?

10 MR. FLYNN: Objection, argumentative,  
11 mischaracterizes the witness' testimony.

12 HEARING OFFICER HALLORAN: I'm still  
13 kind of waiting for an answer. There hasn't been a  
14 definite answer to Mr. Moran's question, but I'll  
15 allow this one question, Mr. Moran, and if the  
16 witness can't answer it, she can't answer it and you  
17 can move on. Objection, sustained.

18 BY MR. MORAN:

19 Q. Did Ms. McGarr ever state to you that  
20 she accepted the fact that she did not have a degree  
21 from Richard J. Daley College?

22 A. Yes.

23 Q. Did she tell you that as opposed to  
24 what you assumed she knew?

1           A.       She knew.

2                   MR. MORAN:  I'll move to strike that  
3 response.

4 BY THE WITNESS:

5           A.       I'm maybe not understanding your  
6 question.  I feel like I'm being harassed here.

7                   HEARING OFFICER HALLORAN:  The  
8 response is stricken.  It's a yes or no I think  
9 question for the last five times and we've been  
10 waiting.

11                   MR. MORAN:  I'll try --

12                   HEARING OFFICER HALLORAN:  One more  
13 time and we'll just move on and the record will  
14 reflect the response or non-response.

15 BY MR. MORAN:

16           Q.       Ms. Powers, did Ms. McGarr ever say  
17 to you that she recognized that she did not have a  
18 degree from Richard J. Daley College?

19           A.       Yes.

20           Q.       How did she say that to you, what were  
21 her words to you?

22           A.       I can't believe I do not have a  
23 degree.

24           Q.       Is that all she said to you in that

1 regard?

2 A. And then she asked me what she would  
3 need to obtain a degree.

4 Q. And what did you tell her?

5 A. I told her if she came back to school  
6 now a lot of things have changed and you would need  
7 64 hours to obtain a degree.

8 Q. And when did you have this  
9 conversation with her?

10 A. I don't know, but I'm going to start  
11 writing down my conversations. I don't know.

12 MR. MORAN: Okay. I have no further  
13 questions.

14 HEARING OFFICER HALLORAN: Any  
15 re-redirect, Mr. Flynn?

16 MR. FLYNN: Yes. I have a couple  
17 questions.

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

19 by Mr. Flynn

20 Q. You indicated that the first time you  
21 had a conversation with her was about a year ago  
22 over the phone?

23 A. Yes.

24 Q. And I know you didn't write down these

1 conversations and you can't give exact dates and  
2 times, but what I want to know from you is how good  
3 is your recollection that that conversation took  
4 place a year ago from now?

5 MR. MORAN: Object to the form of the  
6 question.

7 HEARING OFFICER HALLORAN: Mr. Flynn?

8 MR. FLYNN: I'll withdraw the  
9 question.

10 BY MR. FLYNN:

11 Q. You had a phone conversation with  
12 Ms. McGarr approximately one year ago?

13 A. Yes.

14 Q. Are you confident that that  
15 conversation took place in the springtime of 2002?

16 A. Approximately.

17 Q. And at that time an inquiry was made  
18 by Ms. McGarr if she had a degree and you told her  
19 she did not, is that correct?

20 A. Yes.

21 Q. Now, when she came in, what I believe  
22 you indicated was November 2002 and you had a couple  
23 phone conversations concerning her lack of degree,  
24 were you not surprised that she was inquiring as to



1 the existence of the degree when you, in fact, had  
2 previously advised her she didn't have one?

3 A. Was I surprised?

4 Q. Yeah.

5 A. No.

6 Q. Why not?

7 A. Because I have students like that all  
8 the time.

9 Q. Was her claim of ignorance and  
10 surprise, to put it mildly, less than genuine?

11 MR. MORAN: Objection.

12 HEARING OFFICER HALLORAN: Mr. Flynn,  
13 do you want to respond to Mr. Moran's objection?

14 MR. FLYNN: As soon as I find out what  
15 the objection is I will.

16 HEARING OFFICER HALLORAN: Mr. Moran?

17 MR. MORAN: Asking for a  
18 characterization of someone's emotional state of  
19 feelings.

20 MR. FLYNN: I believe that was  
21 inquired on Mr. Moran --

22 HEARING OFFICER HALLORAN: You know,  
23 I think I allowed you to ask a question of that  
24 sort, so if the witness can answer, I direct her to

1 do so.

2 BY MR. FLYNN:

3 Q. Would you like me to repeat it?

4 A. Please.

5 Q. You indicated that during the call  
6 Ms. McGarr acted surprised that she did not have a  
7 degree despite the fact that you had a prior  
8 conversation with her about a year ago when she was  
9 advised that she did not have a degree. Did you  
10 believe her claims of ignorance, her claims of  
11 surprise to be less than genuine? In other words,  
12 was she putting on an act?

13 A. No, I don't think so. I mean -- no.

14 Q. Would it be fair to state that  
15 Mr. McGarr did not contest the accuracy of that  
16 transcript, which has been marked as Watson Exhibit  
17 No. 6?

18 A. No, she didn't contest it, no.

19 MR. FLYNN: At this time we would  
20 move to have Watson Exhibit 6 admitted into  
21 evidence.

22 HEARING OFFICER HALLORAN: Objection  
23 County, Mr. Moran, Waste Management?

24 MR. MORAN: It's an offer of proof.

1 HEARING OFFICER HALLORAN: Yeah. It's  
2 coming in as an offer of proof.

3 MR. MORAN: Okay. Of course I object  
4 to it.

5 HEARING OFFICER HALLORAN: Yeah.  
6 You object and it's so noted in the record and it  
7 will come in as an offer of proof. Mr. Porter, I  
8 assume you join?

9 MR. PORTER: Correct. I made my  
10 objection long ago to this testimony.

11 HEARING OFFICER HALLORAN: Okay. The  
12 parties have a tendency to re-object every hour.  
13 Anyway, Watson Exhibit No. 6 will be admitted as an  
14 offer of proof only.

15 MR. FLYNN: I have no more questions.

16 MR. MUELLER: Mr. Halloran, I'd like  
17 leave to recross briefly.

18 HEARING OFFICER HALLORAN: Excuse me,  
19 I think Mr. Moran is next and regarding your  
20 question, I'm not real sure it's --

21 MR. MUELLER: You've kind of been  
22 skipping over me that's why I'm jumping in.

23 HEARING OFFICER HALLORAN: Yeah.

24 MR. MORAN: Mr. Hearing Officer, this

1 is an offer of proof. An offer of proof basically  
2 sets out what a witness would have said had the  
3 witness been --

4 HEARING OFFICER HALLORAN: I  
5 understand that, but -- excuse me, Mr. Moran.  
6 The reason I'm having the witness up here and having  
7 questions posed is in case the Board overrules me  
8 and we don't have to come back here and you don't  
9 have to look at my face again, so I just want to get  
10 everything on the record and we can do it that way,  
11 but Mr. Moran, do you have any re-rerecross?

12 MR. MORAN: No.

13 HEARING OFFICER HALLORAN: Okay.  
14 Mr. Mueller?

15 MR. MUELLER: Thank you.

16 C R O S S - E X A M I N A T I O N

17 by Mr. Mueller

18 Q. Ms. Powers, I'm a little confused  
19 about the time line.

20 A. Me too.

21 Q. Let me see if I've got it straight.  
22 About a year ago Ms. Beaver McGarr called you and  
23 asked if she had a degree?

24 A. Yes.

1 Q. You told her no and then you sent her  
2 a transcript?

3 A. No.

4 Q. All right. When did you send her the  
5 transcript?

6 A. On the back of the card it stated that  
7 there were two transcripts that were picked up, so I  
8 don't know if the transcript was -- you know, they  
9 were picked up, not sent, but I don't have that  
10 date. I'm sorry.

11 Q. Okay. And after that first  
12 conversation you indicated that you had a couple  
13 more phone conversations with her over the next few  
14 months, right?

15 A. Right.

16 Q. And was it in one of those  
17 conversations that she asked you what she needed to  
18 do to get the degree?

19 A. Yes.

20 Q. So that happened on the phone?

21 A. Yes.

22 Q. And then the last time you saw her was  
23 last November --

24 A. Or October.

1 Q. -- when she actually came in to see  
2 you in person?

3 A. Yes.

4 Q. And that was already after you had  
5 told her on the phone a year ago that she didn't  
6 have a degree and after she had asked you on the  
7 phone what she needed to do to get one?

8 A. Right.

9 MR. MUELLER: Thank you. That's all I  
10 have.

11 HEARING OFFICER HALLORAN: Mr. Leshen?

12 MR. LESHEN: I have nothing.

13 HEARING OFFICER HALLORAN: Mr. Runyon,  
14 do you have anything? Any further direct, Mr.  
15 Flynn?

16 MR. FLYNN: No.

17 HEARING OFFICER HALLORAN: Certainly  
18 Mr. Moran and again, we're kind of beating this to  
19 death. I mean, I'm clear on it, but that's me.  
20 Mr. Moran?

21 R E - R E - C R O S S E X A M I N A T I O N

22 by Mr. Moran

23 Q. Ms. Powers, I believe you responded to  
24 one of Mr. Mueller's questions when he asked you

1 about this time line that you were also confused  
2 regarding the time line, is that correct?

3 A. Right.

4 MR. MORAN: That's all.

5 HEARING OFFICER HALLORAN: Thank you.

6 MR. FLYNN: I do have one follow-up.

7 R E - R E - R E D I R E C T E X A M I N A T I O N  
8 by Mr. Flynn

9 Q. With regards to the general time line  
10 that you just provided, although you're not specific  
11 with the exact dates and times, is that the general  
12 time frame concerning the events that you have  
13 testified to?

14 A. Yes.

15 MR. FLYNN: That's all.

16 HEARING OFFICER HALLORAN: Okay.

17 Thank you. You may step down and again I previously  
18 find this testimony inadmissible and it's being  
19 brought in as an offer of proof only.

20 MR. FLYNN: If I can have a minute,  
21 I might not even need the other witness.

22 HEARING OFFICER HALLORAN: Let's take  
23 five minutes.

24

1 (Whereupon, after a short  
2 break was had, the  
3 following proceedings  
4 Were held accordingly.)

5 HEARING OFFICER HALLORAN: We're back  
6 on the record. Mr. Flynn, are you finished with  
7 your case in chief?

8 MR. FLYNN: In terms of live  
9 testimony, yes.

10 HEARING OFFICER HALLORAN: Do you have  
11 anything to address?

12 MR. FLYNN: Yes, I do. I believe we  
13 left off on Exhibit No. 7 -- or six.

14 HEARING OFFICER HALLORAN: Six,  
15 correct.

16 MR. FLYNN: And previously we had a  
17 stipulation as to the foundation for what I will  
18 have marked as Watson Exhibit No. 7, which is the  
19 County solid waste management plan and it includes  
20 the following resolutions so we'll call it Group  
21 Exhibit No. 7, resolution 03-02-11-725, resolution  
22 01-10-09-393, resolution 02-13-12-481 and  
23 resolution 95-8-8-119 and resolution 000178.

24 HEARING OFFICER HALLORAN: Okay. And



1 those are being offered into evidence as Exhibit  
2 No. 7?

3 MR. FLYNN: Correct.

4 HEARING OFFICER HALLORAN: And the  
5 foundation has been stipulated to? Any objection?

6 MR. PORTER: Yes. He's correct,  
7 foundation was stipulated too. We obviously object  
8 to it. What is trying to come in is the solid waste  
9 management plan and various amendments to it, one of  
10 them post dates the decision in this case. The  
11 solid waste management plan is irrelevant to the  
12 fundamental fairness. This is obvious -- obvious  
13 that this should have been admitted at the  
14 underlying hearing if counsel wanted to do so and  
15 therefore it's irrelevant, inadmissible and the  
16 hearing officer already ruled that the solid waste  
17 management plan admitted is not discoverable in the  
18 present action.

19 HEARING OFFICER HALLORAN: Mr. Moran?

20 MR. MORAN: I join in those motions.

21 HEARING OFFICER HALLORAN: You know,  
22 next time, Mr. Flynn, it really helps the hearing  
23 officer and the Board if you have these previously  
24 marked and somewhat -- you know, I'm carrying all

1 kinds of things out to my car and it just helps the  
2 process.

3 MR. FLYNN: Not a problem.

4 HEARING OFFICER HALLORAN: Just a  
5 reminder for next time.

6 MR. FLYNN: Not a problem.

7 HEARING OFFICER HALLORAN: But in any  
8 event, I will sustain the County's and Waste  
9 Management's objection. I will accept them however  
10 as an offer of proof.

11 MR. FLYNN: As to --

12 HEARING OFFICER HALLORAN: Excuse me,  
13 Mr. Flynn, do you have a rubber band or anything?

14 MR. FLYNN: Sure.

15 HEARING OFFICER HALLORAN: These  
16 aren't attached and there's about 100 pages lose.

17 MR. LESHEN: Would you like a folder?  
18 I can get a folder for you.

19 HEARING OFFICER HALLORAN: This is  
20 fine, Mr. Leshen. Thanks. You've been more than  
21 hospitable.

22 We also have Watson Exhibit No. 5,  
23 that's never been offered into evidence, that's the  
24 questions to the written deposition.

1                   MR. FLYNN: Correct. I mean, we're  
2 offering Exhibit No. 5, it's obviously questions  
3 that we believe are going to be answered and be part  
4 of the record.

5                   HEARING OFFICER HALLORAN: Any  
6 objection from the County or Waste Management?

7                   MR. PORTER: I'm sorry.

8                   HEARING OFFICER HALLORAN: I'm sorry.  
9 Any objection to Watson Exhibit No. 6 regarding the  
10 questions to the written deposition?

11                  MR. FLYNN: That would be No. 5.

12                  HEARING OFFICER HALLORAN: I'm sorry,  
13 No. 5?

14                  MR. PORTER: There are questions  
15 contained within the exhibit that are irrelevant.  
16 Do we want to go through and I mean make objections  
17 to each question? Also, the opening paragraph  
18 provides parameters that are interesting that I  
19 don't believe was ever ruled upon.

20                  MR. MORAN: And the other objection I  
21 would have to them is it seems to me that it's  
22 premature to admit any document with questions as an  
23 exhibit. If indeed these questions are answered and  
24 are submitted they can be made part of the complete

1 package instead of simply questions that have been  
2 submitted without any response.

3 HEARING OFFICER HALLORAN: You know,  
4 I would tend to agree with you, Mr. Moran.

5 MR. FLYNN: I don't necessarily  
6 disagree with that, it's just these written  
7 questions have to be referred to as something which  
8 is why they were given an exhibit number so we know  
9 what we're talking about.

10 HEARING OFFICER HALLORAN: Yeah. I'm  
11 going to hand you back what was offered as Watson  
12 Exhibit No. 5 and I just don't think it's the  
13 appropriate time now to bring it in.

14 MR. FLYNN: Well, just for the sake of  
15 the record, Exhibit No. 5 is being offered in the  
16 event that these questions are never answered or an  
17 issue comes up before the Pollution Control Board.

18 HEARING OFFICER HALLORAN: You can  
19 file it at that appropriate time, okay, so I'm  
20 handing back Watson Exhibit No. 5.

21 MR. FLYNN: With leave to file at a  
22 later time?

23 HEARING OFFICER HALLORAN: We'll  
24 discuss that at a later time. Thanks. You know,

1 before we get too far afield, I want to get  
2 Ms. O'Dell up here. She would like to testify under  
3 oath. Mr. Leshen, do you have a --

4 MR. LESHEN: I have one other document  
5 that -- I don't think any -- I think all the  
6 transcripts that we provided to you are marked as  
7 hearing officer exhibits, so I don't think there's a  
8 city exhibit --

9 HEARING OFFICER HALLORAN: That's  
10 correct.

11 MR. LESHEN: So I would like to tender  
12 to you City's Exhibit No. 1, which consist of two  
13 pages, a fax cover sheet from Brenda Gorski,  
14 Assistant State's Attorney, referencing 16 pages and  
15 a document -- a fax sheet saying that 16 pages --

16 MR. PORTER: I thought it was nine  
17 pages?

18 MR. LESHEN: I don't know what this  
19 is.

20 HEARING OFFICER HALLORAN: Let's go  
21 off the record.

22 (Whereupon, a discussion  
23 was had off the record.)

24 HEARING OFFICER HALLORAN: We're going

1 to have Ms. O'Dell come up here, please.  
2 We're finally going to get to you again. Just step  
3 up and raise your hand. To make the record clear,  
4 Ms. O'Dell did have a public statement yesterday,  
5 but she wishes to testify under oath today so if you  
6 raise your right hand, the court reporter will swear  
7 you in.

8 (Whereupon, Ms. O'Dell was sworn  
9 in by the reporter.)

10 HEARING OFFICER HALLORAN: Thank you.

11 MS. O'DELL: Regarding the idea that  
12 the application records were clearly available to  
13 the public, I would like to speak to that.

14 I signed up to participate in the  
15 hearing last fall and did so and I attended the one  
16 in July that was canceled or whatever the proper  
17 word is and I believe it was the first few hours of  
18 the meeting I was quite surprised to hear that not  
19 only were there application records at the  
20 courthouse, which I assumed they would be there, but  
21 they that were also at area libraries and when those  
22 were listed the Bourbonnais Library was listed as  
23 well. This quite amazed me because I kind of  
24 consider the Bourbonnais Library my child. When we

1 moved here over 20 years ago, within a few weeks I  
2 was on a committee and found out that they were  
3 going to try to pass a referendum to have a library  
4 in Bourbonnais. I spent hundreds of volunteer hours  
5 except for a period of time when medically I wasn't  
6 out and about much. I visit the Bourbonnais Library  
7 reasonably often, sometimes once a week, probably an  
8 average of a couple times a month. My husband is on  
9 the board and I was amazed to hear that the  
10 application was available at our library. I'm in  
11 and out of there. I had signed up to participate.  
12 I had been involved in another hearing, first time  
13 I've ever done anything like this, and I couldn't  
14 believe that there actually was an application at  
15 our library. My husband hadn't told me about it and  
16 he knows I was quite interested and we had  
17 conversed. So on the way home on our supper break  
18 the first night, I stopped in at the library and I  
19 said do you have the Waste Management application  
20 for expansion of the landfill here and finally  
21 somebody said yes and I say where is it and they  
22 pointed to where the two, five-inch binders were and  
23 I was amazed again because they were about three  
24 feet from the end of the coffee machine where the

1 paper comes out that you copy and I have been in and  
2 out of there in the few weeks previously and  
3 sometimes even sat my purse or the papers I'm  
4 copying up on the ledge and I hadn't noticed out of  
5 the corner of my eye or directly that these were  
6 applications. I knew they were in big binders from  
7 the previous -- the city landfill hearing and I also  
8 heard, and I don't remember if it was the same night  
9 or not, but I heard -- I think it was because there  
10 was a lot of discussions about the operating records  
11 and it was actually Mr. Norris who was my closest  
12 neighbor to the left, I asked him, I said if I  
13 wanted to find out about operating records, how  
14 would I recognize them and he said they -- he  
15 thought a moment and he said there should be  
16 sufficient documents to be at least four feet long,  
17 but not more than six feet as far as volume or  
18 amount and so I thanked him and  
19 I believe it was a Monday night I asked about do you  
20 have any operating records or anything else and I  
21 believe the applications had been dropped off in the  
22 spring by somebody, just sort of plopped on the  
23 counter, and at some later date some people --  
24 somebody came and delivered cartons. There were



1 three white boxes about 28, 29 inches long and  
2 I asked if I could see them. I didn't have much  
3 time because I had to get back to the hearing. I  
4 did make a dozen or more copies. I observed that in  
5 the front of the application the letter was dated  
6 March 29th, '02, and I believe -- I copied several  
7 different documents or pages from that. I randomly  
8 chose a few from the operating record. Because of  
9 lack of time, I didn't spend a lot of time there.  
10 My concern is that if these were available to the  
11 public so readily, I am amazed that I never heard  
12 about it from anybody, any source and with my  
13 husband going to meetings and between the two of us  
14 in and out of there several times a month and  
15 knowing a couple of the staff a little better that  
16 work there, this was never mentioned because I had  
17 mentioned I was going to the hearings. At any rate,  
18 I did copy quite a few documents and I referred to  
19 it a couple, three times. Unfortunately, because of  
20 the timing of the hearings, morning, afternoon and  
21 evening for two-and-a-half weeks, it was very  
22 difficult to have time to go in and the time that we  
23 didn't have hearings unfortunately was Thanksgiving  
24 break and the library was closed. So I did try to

1 access them during the three weeks of the hearings,  
2 but there wasn't very much time and I am concerned  
3 that -- I'm a member of the public, I've probably  
4 been in front of a group more in the last two or  
5 three hearings that have gone than I have been in  
6 the whole rest of my life before. This is not easy  
7 for me. It's not my thing, but I was concerned  
8 about the hearings and I was quite surprised. I, as  
9 a member of the public, didn't hear about the  
10 applications. I assumed they would be at the  
11 courthouse. That wasn't very easy to get to for me,  
12 but finding out that they were at our local library  
13 was pretty amazing to me and so I guess I'm  
14 challenging the fact that the public was readily  
15 able to find and look at and check out anything  
16 ahead of time before the first day of the hearing.

17 HEARING OFFICER HALLORAN: Thank you,  
18 Ms. O'Dell. We'll start to my left, Mr. Runyon any  
19 questions?

20 MR. RUNYON: No.

21 HEARING OFFICER HALLORAN:  
22 Mr. Mueller?

23 MR. MUELLER: No thank you.

24 HEARING OFFICER HALLORAN: Thank you.

1 Mr. Flynn?

2 MR. FLYNN: No.

3 HEARING OFFICER HALLORAN: Mr. Leshen?

4 MR. LESHEN: I've changed my spot, but  
5 no, I have no questions.

6 HEARING OFFICER HALLORAN: Mr. Porter?

7 MR. PORTER: A few.

8 Ms. O'Dell, you were involved in the  
9 city of Kankakee siting hearing, correct?

10 MS. O'DELL: Correct, somewhat.

11 MR. PORTER: And throughout your  
12 involvement in that process as well as the County  
13 process you learned that documents were available  
14 at the County Recorder's Office, is that right?

15 MS. O'DELL: Where, the courthouse?

16 MR. PORTER: The county Recorder's  
17 Office, is that correct?

18 MS. O'DELL: The courthouse, yes.

19 MR. PORTER: And did you attempt to  
20 view any of the application and operating records at  
21 the County Recorder's Office?

22 MS. O'DELL: Which hearing are you  
23 referring to?

24 MR. PORTER: In regards to this

1 hearing.

2 MS. O'DELL: This hearing, no. That's  
3 not convenient.

4 MR. PORTER: Well, you indicated that  
5 you were surprised to learn that the records were  
6 available and that you were concerned about the  
7 public's ability to know that the records were  
8 available, but if I understand correctly, you were  
9 aware that you could see any of the records at the  
10 County Recorder's Office, right?

11 MS. O'DELL: Partially. My  
12 understanding was that they would be at the  
13 courthouse, which it was not convenient for me to  
14 get to because of transportation. I was not aware  
15 that they were elsewhere that would be convenient  
16 for public around the county.

17 MR. PORTER: Okay. Now, you're not  
18 suggesting that it's improper for the County to try  
19 to make it convenient for people to see this at  
20 various venues, are you?

21 MS. O'DELL: Do you want to rephrase  
22 that, please?

23 MR. PORTER: You're not suggesting  
24 that it was improper somehow for the County to make

1 this convenient for you to see it by putting it at  
2 your local library, are you?

3 MS. O'DELL: No. Just that they  
4 didn't let us know that they were there through some  
5 communication.

6 MR. PORTER: Well, you did learn that  
7 they were there at the hearing, correct?

8 MS. O'DELL: At the hearing.

9 MR. PORTER: Nothing further.

10 HEARING OFFICER HALLORAN: Mr. Moran?

11 MR. MORAN: No questions.

12 HEARING OFFICER HALLORAN: Any other  
13 follow-up questions? You may step down,  
14 Ms. O'Dell. Thank you very much.

15 Before I get to Mr. Leshen, I want  
16 to make sure Mr. Flynn and Mr. Mueller's case in  
17 chief is completed. Mr. Runyon, do you have any  
18 witnesses or things you want to be admitted?

19 MR. RUNYON: No. I'm simply going to  
20 submit the rest of mine in the brief.

21 HEARING OFFICER HALLORAN: Okay.  
22 Thank you.

23 MR. RUNYON: Because it's all from the  
24 record anyway.

1 HEARING OFFICER HALLORAN: Than you,  
2 Mr. Leshen, your case in chief.

3 MR. LESHEN: Yes. We have submitted  
4 -- we've all agreed to the stipulation on the  
5 deposition, so I would only like to submit to you  
6 City's 1. The basis for the early confusion is that  
7 while the questions were 9 pages, there are actually  
8 16 pages referenced in the activity report for the  
9 fax and Ms. Harvey clarified for me that she had  
10 them fax as well your decision requiring Mr. Gill to  
11 answer the questions.

12 HEARING OFFICER HALLORAN: Okay. You  
13 said that we stipulated to the questions from the  
14 deposition.

15 MR. LESHEN: We stipulated to the  
16 discovery depositions being entered.

17 HEARING OFFICER HALLORAN: Oh, we did  
18 because I just gave that -- that was Exhibit No. 5,  
19 Watson Exhibit --

20 MR. LESHEN: I'm sorry. I'm being  
21 confusing for no reason.

22 HEARING OFFICER HALLORAN: For the  
23 ones -- okay, here and in my car. All right.

24 MR. LESHEN: I would like to submit

1 the fax cover sheet and the activity report showing  
2 that at 10:28 the fax did indeed go through to  
3 Mr. Gill containing the questions that were  
4 submitted to him.

5 MR. PORTER: And just because I'm here  
6 to help the city, we will confirm that Mr. Gill's  
7 spouse has indicated that they have received.

8 HEARING OFFICER HALLORAN: Okay. So  
9 this will be marked as the City's Exhibit No. 1.  
10 Any objection?

11 MR. MORAN: I object only on the basis  
12 that it isn't necessary to put this document in the  
13 record. I mean, County's counsel has just indicated  
14 they faxed the questions to Mr. Gill and now we're  
15 going to litter the record with fax cover sheets and  
16 materials sent out. I think it's just unnecessary.

17 HEARING OFFICER HALLORAN: Okay. Your  
18 objection is noted, but overruled. I'm going to  
19 allow City's Exhibit No. 1 to come in. Mr. Leshen,  
20 anything further in your case in chief?

21 MR. LESHEN: Nothing further.

22 HEARING OFFICER HALLORAN: Before I  
23 forget too, I don't think all the parties introduced  
24 themselves prior -- around 9:00 o'clock, but I do

1 want to note for the record that Mr. Runyon has been  
2 here, Mr. Mueller for Mr. Karlock has been here,  
3 Mr. Flynn for Mr. Watson has been here, Mr. Powers  
4 has been in and out for the city, Mr. Leshen has  
5 been here for the city, Mr. Porter has been here for  
6 the County, Ms. Harvey has been here for the County  
7 and Mr. Moran has been here for Waste Management.  
8 With that said, it looks like the petitioner's are  
9 all done with their case in chiefs and who wants to  
10 go first --

11 MR. FLYNN: Mr. Hearing Officer, I did  
12 have two more exhibits that I wanted to offer. They  
13 were alluded to yesterday. They were -- the  
14 foundation has been stipulated to by the County.  
15 One of them is the planning zoning and agricultural  
16 committee tape from January 22nd, 2003. The second  
17 -- which I'm going to have marked as Watson Exhibit  
18 No. 8 and the second tape is the host fee  
19 implementation subcommittee on April 11th, 2003,  
20 which will be marked as Watson Exhibit No. 9. I am  
21 going to have the tapes marked now and I'm going to  
22 submit these. I don't know whether or not you want  
23 transcripts of these prepared or whether the tapes  
24 are sufficient.



1 HEARING OFFICER HALLORAN: I think the  
2 tapes will be sufficient until and if I notify you.  
3 Mr. Porter?

4 MR. PORTER: I do have an objection.  
5 First, the only foundation that I stipulated to is  
6 that the tapes are indeed the tapes that were taken  
7 of those meetings, that's all. These are not the  
8 official County records. The official County  
9 records are the minutes to the meeting which are  
10 then voted on at the next meeting and they are in  
11 possession of the minutes of the host fee  
12 implementation subcommittee meetings for April 11th,  
13 2003. There's never been a request for the PZA  
14 committee minute meetings because that committee  
15 meeting relates to the solid waste management plan  
16 and nothing that is relevant in this or discoverable  
17 in this case. So as to Exhibit A, that document --  
18 that tape --

19 HEARING OFFICER HALLORAN: Exhibit 8?

20 MR. PORTER: Eight, I'm sorry. As to  
21 Exhibit 8, that document relates only to the solid  
22 waste management plan and discussions regarding  
23 amendment of that plan and clearly under the prior  
24 rulings of this hearing officer is inadmissible,

1 irrelevant and not discoverable and should not be  
2 allowed into evidence. As to Exhibit 9, I don't  
3 believe it should be allowed into evidence because  
4 it is not an official record and the only foundation  
5 I have stipulated to is that it is an accurate  
6 reflection of what was said at that meeting.

7 HEARING OFFICER HALLORAN: Mr. Moran?

8 MR. MORAN: Yes. I repeat the  
9 objections the County made to both of these  
10 exhibits.

11 HEARING OFFICER HALLORAN: Okay. What  
12 I'm going to do is bring in Watson Exhibit No. 8 as  
13 an offer of proof. I will sustain the County's and  
14 Waste Management's objection. Regarding the host  
15 fee, Exhibit No. 9, I will allow that in.

16 MR. FLYNN: Can we give the court  
17 reporter an opportunity to put stickers on them so  
18 that they're --

19 HEARING OFFICER HALLORAN: I have it  
20 marked down here. Thanks.

21 All right. Is everybody to my  
22 left, which would be the petitioners, finished with  
23 their case in chief? Anything left to be admitted,  
24 offered?

1 MR. FLYNN: Just the open issue with  
2 Mr. Gill, that's it.

3 HEARING OFFICER HALLORAN: Okay.  
4 We'll address that. Who wants to go first, the  
5 County or Waste Management with their case in chief?

6 MR. MORAN: I'll go first. We rest.

7 HEARING OFFICER HALLORAN: Okay. That  
8 was good, Mr. Moran. Mr. Porter?

9 MR. PORTER: We have no witnesses to  
10 call. We do have the agenda and official minutes  
11 for the January 21, 2003 meeting, which I hope we  
12 have a stipulation as to its authenticity.

13 MR. FLYNN: It's been represented that  
14 these are the ones that were produced and based upon  
15 that representation we will stipulate that they are  
16 the minutes from that meeting.

17 MR. PORTER: Do all the petitioners  
18 agree?

19 MR. LESHEN: As will the city.

20 MR. MUELLER: Yes.

21 HEARING OFFICER HALLORAN: Okay.  
22 All the petitioners agreed. Mr. Porter, what was  
23 that again, the agenda?

24 MR. PORTER: It's the agenda for

1 January 21, 2003, County Exhibit 1. May I approach?

2 HEARING OFFICER HALLORAN: You may.

3 MR. PORTER: The next document we  
4 have, it came up earlier in the hearing, it is the  
5 affidavit of Elizabeth Harvey regarding the  
6 telephone call from Mr. Moran, County Exhibit No. 2,  
7 which I actually believe is already in the record  
8 attached to a pleading, but the hearing officer  
9 wanted it to be submitted again.

10 HEARING OFFICER HALLORAN: You are  
11 correct, sir.

12 MR. PORTER: That is all we have as  
13 far as exhibits to include.

14 HEARING OFFICER HALLORAN: Okay.  
15 County Exhibit No. 2 is admitted. Do I have any  
16 objection to County Exhibit No. 1 being admitted?

17 MR. LESHEN: No. I think we --

18 HEARING OFFICER HALLORAN: Okay. We  
19 stipulated to the authenticity. All right.  
20 County's Exhibit No. 1 is admitted and you rest as  
21 well, Mr. Porter?

22 MR. PORTER: Yes.

23 HEARING OFFICER HALLORAN: I assume  
24 there's no rebuttal.

1                   MR. FLYNN: We do object to No. 2  
2 for the reasons stated yesterday, which is the  
3 affidavit of Ms. Harvey.

4                   HEARING OFFICER HALLORAN: Okay. So  
5 the record will reflect that Watson and I'm not sure  
6 if the rest of the petitioners join in --

7                   MR. LESHEN: We do.

8                   HEARING OFFICER HALLORAN: -- their  
9 objection regarding the affidavit?

10                  MR. LESHEN: We do on behalf of the  
11 city as well.

12                  HEARING OFFICER HALLORAN: Okay.  
13 Well, overruled. I'm allowing it in for  
14 completeness. All right. How are we on the Effraim  
15 Gill saga?

16                  MR. LESHEN: Perhaps somebody can call  
17 Mr. Gill and find out where he is at in terms of his  
18 responses?

19                  MR. PORTER: We just did that about a  
20 half hour ago.

21                  MS. HARVEY: I spoke to Ms. Gill who  
22 indicated that they were in the process of answering  
23 them and would attempt to get them faxed back to us  
24 she said very quickly and I said what's very quickly

1 and she said today, but she also said -- she said I  
2 can't promise, but that's our goal, we're working on  
3 them now.

4 HEARING OFFICER HALLORAN: Okay.  
5 Before I forget, any -- I see one new member of the  
6 public out there at least I haven't seen her.  
7 Would you like to give a comment before I wrap this  
8 thing up?

9 MS. HARVEY: Perhaps I should -- just  
10 for the record, I'm sorry, I didn't mean to  
11 interrupt. I know that the answers -- or the  
12 written questions that Mr. Watson's attorney put in  
13 had a place for Mr. Effraim Gill to, if he chose, to  
14 write his answers. Just so it's totally clear,  
15 Ms. Gill is typing answers to it because she said  
16 his handwriting is almost illegible. She's also  
17 indicated she will provide those signed statements  
18 that was provided with it.

19 HEARING OFFICER HALLORAN: You know,  
20 and this might be a good spot also to address that.  
21 It doesn't look like -- I mean, it may or may not --  
22 the answers are coming in today. I kind of want to  
23 wrap this thing up and Mr. Porter I believe had  
24 objections to the written questions. I'm not sure

1 if he still does, but my thought is to -- if there  
2 are any objections -- if there are objections, they  
3 should be filed tomorrow and any cross questions be  
4 filed as well and I can make my ruling next week.  
5 I can get ahold of you all and as you, Mr. Runyon if  
6 need be because I think we'll still have time and we  
7 have to discuss the briefing schedule, but basically  
8 the opening brief is not due until the end of May,  
9 maybe first of June. So even if these written  
10 questions come in next week, I think we still have  
11 plenty of time.

12 MR. PORTER: On the cross questions,  
13 do we want them cross questioned and answered or  
14 just submit cross questions and we'll deal with  
15 getting them to Mr. Gill later?

16 HEARING OFFICER HALLORAN: What --

17 MR. FLYNN: I think the cross  
18 questions should probably be sent out right away.  
19 We'll be in the same position as the County. He'll  
20 circulate his objections and his cross questions I  
21 believe you indicated by tomorrow and --

22 HEARING OFFICER HALLORAN: It's just  
23 -- I just threw that date out.

24 MR. LESHEN: I guess I'm a little more

1 hopeful that Mr. Gill would have his work done today  
2 and if he'll have his work, maybe we can even do a  
3 follow-up and lunch in one of Kankakee's fine  
4 restaurants and convene back here at even 1:30 and  
5 see if Mr. Gill is about to be finished because if  
6 that's the case --

7 HEARING OFFICER HALLORAN: She  
8 anticipated hopefully today. In my mind, that was  
9 3:00, 4:00, 5:00 o'clock. I don't know, Ms. Harvey,  
10 1:30 is pretty darn optimistic, do you think?

11 MS. HARVEY: I would be pleasantly  
12 surprised if he returned those by 1:00 or 1:30.

13 MR. LESHEN: Can we ask Ms. Harvey  
14 to once again call and at least find out what number  
15 she's at, maybe that will help.

16 HEARING OFFICER HALLORAN: Well, you  
17 know, we'll wait until after closings and give --  
18 I hate to be harassing them every 20 minutes and  
19 calling and seeing where he is. It's not really a  
20 timed test, but, you know, I kind of -- she just  
21 informed us I think she just called a little while  
22 ago so, I don't know. Let's do this, yeah, we're  
23 not going to be able to squeeze this all in and I  
24 still have Mr. Moran's matter to deal with and I



1 don't think that will take much time. We can do  
2 closings if there are any and maybe take a break for  
3 40 minutes and then come back here and see where we  
4 are. I don't know what's -- we can go off the  
5 record.

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

8 HEARING OFFICER HALLORAN: We're back  
9 on the record. I do want to briefly comment on the  
10 City's motion for sanction filed May 5th. I  
11 addressed it briefly in my hearing officer order of  
12 May 1st, however, at that point it looked like it  
13 was taken care of, but there was a paragraph in here  
14 that the City still maintains they were seriously  
15 compromised and I think Mr. Leshen from the City  
16 still would like that addressed and obviously I have  
17 no power to so the Board will have to address that  
18 and take it under advisement with the case.

19 MR. LESHEN: I appreciate that and  
20 again for the record, we were seriously compromised  
21 and that's why we're asking for the (inaudible).

22 MR. PORTER: And so we're clear, I was  
23 under the understanding the issue was mooted because  
24 they now have every tape that they requested.

1 Nonetheless, if we're going to have to respond to  
2 this, we had 14 days from the day the motion was  
3 filed to do so and we will file a written response.

4 HEARING OFFICER HALLORAN: Unless  
5 otherwise ordered by the hearing officer.

6 MR. PORTER: I'm sorry. May I have  
7 time, at least seven days, to respond to that  
8 motion?

9 HEARING OFFICER HALLORAN: And also,  
10 we're going to take a quick lunch and everyone has  
11 -- all the parties have waived their closing  
12 argument, they're going to save it and address it in  
13 their post hearing briefs. You know what we'll do,  
14 if I can ask the parties to take a look at their  
15 calendar. The transcript will be due -- will be  
16 ready by this Friday, however, it may not be readily  
17 available on our web site until Monday. So with  
18 that in mind kind of as you're eating your sandwich,  
19 think about the time frame for the briefing schedule  
20 knowing that the record's got to be closed -- I'm  
21 shooting for June 4th and we'll work from there  
22 because the statutory decision deadline -- oh, no,  
23 I'm sorry, July -- is it July 4th? The statutory  
24 decision deadline is August 8th, but that's a Monday

1 I believe -- bear with me. No, that's a Friday.

2 MR. FLYNN: Mr. Hearing Officer, if we  
3 have all the issues resolved and closings been  
4 waived, I just assume wrap up that issue and  
5 Mr. Gill --

6 HEARING OFFICER HALLORAN: Well, I  
7 think we're still waiting -- I think we're going to  
8 find out if Mr. Gill has answered all the questions  
9 and I think I'm going to take a lunch until 1:15,  
10 which is an hour and five minutes, and see if we're  
11 any further along.

12 MR. FLYNN: It wasn't my plan to wait  
13 around. I can leave my number where I can be  
14 contacted if something unusual comes up, but it's  
15 not my intent to stay around and see it he --

16 HEARING OFFICER HALLORAN: Well, if  
17 that's your prerogative, but this hearing is not  
18 concluded yet as far as the briefing schedule and a  
19 possible decision on the Effraim Gill written  
20 questions from the deposition.

21 MR. FLYNN: All right.

22 HEARING OFFICER HALLORAN: You know,  
23 that seems to be the consensus except for you.

24 MR. PORTER: Mr. Hearing Officer, I

1 did ask for leave to file the response to the motion  
2 for sanction through seven days from today which  
3 would be the 13th of May.

4 HEARING OFFICER HALLORAN: You did  
5 ask? When was that?

6 MR. PORTER: In our conversation it  
7 did occur, but you moved on.

8 HEARING OFFICER HALLORAN: Okay.

9 MR. PORTER: I was seeing if I can  
10 have that time.

11 HEARING OFFICER HALLORAN: So you want  
12 until when to respond to the motion?

13 MR. PORTER: I think I may have  
14 actually more time than the 14 days, but I don't  
15 recall when I got the motion so I'm now asking for  
16 seven days just to make it clear.

17 HEARING OFFICER HALLORAN: Okay.  
18 You have until May 13th to respond.

19 MR. PORTER: Thank you.

20 MR. FLYNN: And if we could have until  
21 May 13th to file a brief adopting the City's motion  
22 for sanctions.

23 HEARING OFFICER HALLORAN: You're  
24 going to file a brief adopting the City's motion for

1 sanctions?

2 MR. FLYNN: Correct.

3 MR. PORTER: If they want to file a  
4 motion for sanctions, I don't see they -- you would  
5 be able to bar them from doing, but we'll deal with  
6 theirs as it comes in I guess.

7 HEARING OFFICER HALLORAN: So you want  
8 until May 13th to file a brief incorporating the  
9 City's --

10 MR. FLYNN: Well, it's probably going  
11 to have to elaborate upon that, but 5/13 if I can.

12 MR. PORTER: Obviously we'll need time  
13 to respond to that, please.

14 HEARING OFFICER HALLORAN: The County  
15 will have until May 19th to respond to Watson's --  
16 I'm not sure why you need seven days to incorporate  
17 the City's motion, but, you know, if that's what you  
18 feel you need...

19 MR. FLYNN: Thank you.

20 HEARING OFFICER HALLORAN: Mr. Moran,  
21 when is the statutory decision due date, August 7th?

22 MR. MORAN: August 7th, yes.

23 HEARING OFFICER HALLORAN: Okay. The  
24 7th for this matter.

1                   MR. MORAN: Mr. Hearing Officer, I  
2 thought we had already set the briefing schedule in  
3 this case.

4                   HEARING OFFICER HALLORAN: Well, we  
5 did and --

6                   MR. MORAN: June 2nd --

7                   HEARING OFFICER HALLORAN: Well, we  
8 did and I have that written down, sir, but that was  
9 pretty much tentative. Secondly, the transcript is  
10 going to be finished sooner now that we're almost  
11 concluded with this hearing than before. We were, I  
12 think, pushing it out until Friday and then three  
13 business days after that and I do have that and if  
14 all the parties feel comfortable with that, you  
15 know, we'll keep that, but we'll also discuss that.  
16 When we come back, we'll also discuss the Effraim  
17 Gill matter and while -- Mr. Flynn, are you going to  
18 be around after lunch?

19                   MR. FLYNN: Yes.

20                   HEARING OFFICER HALLORAN: Okay.  
21 We'll see you at 1:15.

22   (Whereupon, after a short  
23   break was had, the  
24   following proceedings



1 state of Illinois and a garbage dump that would  
2 reach 250 feet high is not my idea of anything  
3 beautiful and I don't think that even when it was  
4 leveled off and replanted and reseeded that it would  
5 be anything beautiful either. I think that Waste  
6 Management ignoring and trying not to have a double  
7 liner is probably the worst thing I've heard and  
8 there are other things I'm sure, but I'm concerned  
9 with this and then for the City to say they would  
10 have -- they would go half with it, I think is  
11 ridiculous. If Waste Management wants the business  
12 that badly they should pay for and insert the double  
13 liner. I don't think enough attention has been paid  
14 to the possible and probable pollution of the  
15 Kankakee River that would result from one or both of  
16 these dumps -- garbage dump people when you consider  
17 the Kankakee River is not only our major source of  
18 water supply for this county, but other counties too  
19 and also is one of the cleanest rivers in the  
20 country and certainly among the top three cleanest  
21 rivers in the state. The fishing here is ideal and  
22 the pollution would not only kill off the fish, but  
23 they would be inedible and I think that the whole thing  
24 is absolutely ridiculous. I think that if they put



1 their minds to it, they could find other ways to  
2 raise money and at least not spend half of how many  
3 million dollars on a double liner. I wish that the  
4 whole thing would go away, evaporate and never come  
5 back again and I wish the people who are voting for  
6 this thing and think it's so wonderful and so great  
7 would stop and think about the other side of it and  
8 what a lot of us feel about this. I'm not the only  
9 one who feels this way. I've talked to a lot people  
10 who are afraid to speak out in public for whatever  
11 reasons, mostly political. The political seat in  
12 this county really is to the point that it's just  
13 the bottom of the list as far I'm concerned. I wish  
14 the politics would get cleaned up as well as the  
15 garbage. Thank you.

16 HEARING OFFICER HALLORAN: Thank you,  
17 ma'am. I'll start from my left, Mr. Runyon, any  
18 questions of this witness?

19 MR. RUNYON: No, I don't.

20 HEARING OFFICER HALLORAN: Mr. Flynn?

21 MR. FLYNN: No.

22 HEARING OFFICER HALLORAN: Mr. Leshen?

23 MR. LESHEN: No.

24 HEARING OFFICER HALLORAN: Mr. Porter?

1 MR. PORTER: No.

2 HEARING OFFICER HALLORAN: Mr. Moran?

3 MR. MORAN: None.

4 HEARING OFFICER HALLORAN: Thank you  
5 very much, ma'am.

6 Okay. With that said I think  
7 briefly before we get to the Gill matter and I think  
8 that's all we're going to have because the parties  
9 have waived closing. We have previously pretty much  
10 agreed on a post-hearing briefing schedule. As I  
11 stated before, the transcript will be ready by May  
12 9th, that's this Friday, however, I'm not sure it's  
13 going to be posted on the -- our web site until May  
14 12th so we'll go with May 12th, Monday, the start  
15 date and feel free to interject after I'm finished  
16 if you have a problem with any of these dates. The  
17 petitioners' opening brief is due to be filed on or  
18 before June 2nd. The respondents' respective  
19 responses are due to be filed on or before June  
20 23rd. The petitioners' reply, if any, is due to be  
21 filed on or before July 3rd. The mailbox rule will  
22 not apply so service -- the parties must receive the  
23 respective documents. I'm setting the public  
24 comment, the due date is on or before May 23rd,

1    however, the mailbox rule will apply so as long as  
2    you slip it in the mail by May 23rd, 2003, it will  
3    be timely and the Board will consider that as well.  
4    So the way it stands now, the record will close on  
5    July 3rd and the Board will make a decision on or  
6    before August 7th. Does anybody have any problem  
7    with that or any questions, issues? Okay. So it  
8    is.

9                                And also, before I forget, I'm  
10   supposed to make a credibility determination and  
11   based on my legal experience and judgment, I do not  
12   find -- I do not find any credibility issues with  
13   any of the witnesses who testified here today or  
14   yesterday for that matter.

15                               Now on to the Effraim Gill  
16   matter. I understand that the County has not been  
17   able to get ahold of Effraim Gill in the last hour.  
18   Ms. Harvey?

19                               MS. HARVEY: I just three minutes ago  
20   placed a phone call and got the voice mail, I did  
21   not get to speak to a live person, so I don't have  
22   any further up-date from my conversation about two  
23   hours ago.

24                               HEARING OFFICER HALLORAN: Okay.

1 You know, I guess in my mind and just speaking out  
2 loud, I'm looking at the Gill deposition to be filed  
3 on or before May 15th and we can discuss that a  
4 little further and, Mr. Porter, you know, it appears  
5 that -- you stated earlier you were going to -- you  
6 had some objections to the written depositions.  
7 Were you going to file that some time?

8 MR. PORTER: No. I've decided to  
9 withdraw that objection. If we get back responses  
10 from him we will tender those by May 15th, 2003.  
11 What I would suggest is if I need to file some type  
12 of cross-examination, leave it upon my burden to  
13 somehow do that with you. Right now, I don't  
14 foresee that I'm going to unless something comes up  
15 in an answer that calls for me to do some type of  
16 cross. Does that make sense?

17 HEARING OFFICER HALLORAN: I think so.  
18 So May 15th Gill's deposition is due to be filed  
19 with the Board and if you have any cross questions  
20 -- how long do you think you'll need and this is in  
21 a written response to the City and the petitioners  
22 to respond.

23 MR. PORTER: One week.

24 HEARING OFFICER HALLORAN: One week

1 for cross questions?

2 MR. PORTER: At most. I mean, if  
3 that's problematic, I can shorten that up.

4 HEARING OFFICER HALLORAN: Well, it  
5 might be since the opening briefs are due June 2nd  
6 because if you file objections then of course --

7 MR. PORTER: What day of the week is  
8 the 15th?

9 HEARING OFFICER HALLORAN: The 15th is  
10 Thursday.

11 MR. PORTER: I would need at least  
12 until the end of day Monday.

13 HEARING OFFICER HALLORAN: All right.  
14 Thank you. May 19th, any cross questions from the  
15 County is due and you know what, I would like a copy  
16 of that as well.

17 MR. PORTER: If you don't get any by  
18 that date that means there are none.

19 HEARING OFFICER HALLORAN: Okay. And  
20 the mailbox rule does not apply to that. I will  
21 accept facsimile.

22 MR. MORAN: Mr. Hearing Officer, would  
23 we be able to file cross questions as well based  
24 upon whatever responses are submitted? I again

1 don't know whether I would have any, but to the  
2 extent there were questions obviously relating to  
3 this alleged trip to Hawaii that was paid for by  
4 Waste Management and some of these other matters,  
5 I think we ought to have the opportunity to respond  
6 or at least ask cross questions.

7 HEARING OFFICER HALLORAN: Any comment  
8 to that, Mr. Flynn?

9 MR. FLYNN: The -- it was indicated  
10 this morning and I haven't heard anything to the  
11 contrary that Mr. Gill would or could most likely  
12 have answers today, he would do his best to get it  
13 done. To go from the 6th to the 15th I think we're  
14 giving a great deal of time in the area where it  
15 doesn't need to be. In order to ensure that he does  
16 have an opportunity to answer them and they can be  
17 circulated, I don't have a problem giving him more  
18 time.

19 HEARING OFFICER HALLORAN: You know  
20 what, I totally apologize. I'm looking at -- let me  
21 back up. May 15th, you're right, Mr. Flynn, I was  
22 looking at more this week, Thursday, May 8th, I was  
23 jumping a week ahead that Gill's deposition is due.  
24 I stand corrected.

1                   MR. FLYNN: And it would be my  
2 recommendation that if he has his answers on file by  
3 May 8th because I think depending on what some of  
4 the answers are, we may have follow-up questions to  
5 any follow-up questions by any of the parties,  
6 whether it be the County, Watson, petitioners,  
7 respondents be filed maybe by May 11th or 12th or  
8 whatever that Monday is.

9                   HEARING OFFICER HALLORAN: The 12th.

10                  MR. FLYNN: The 12th and that he be  
11 given a week to answer, the 19th, and that would be  
12 the end of it.

13                  MR. PORTER: My only response to that  
14 is if we do not ask any cross, I don't think there  
15 should be redirect.

16                  MR. FLYNN: The difficult part with  
17 that is --

18                  HEARING OFFICER HALLORAN: Excuse me,  
19 Mr. Flynn. Okay. I'm sorry.

20                  MR. FLYNN: The difficult part with  
21 that is we don't know what his answers are until we  
22 heard them and unfortunately we did ask all our  
23 questions before hearing a single answer.

24                  HEARING OFFICER HALLORAN: You know

1 what, I'm going to stop it because -- and part of  
2 the problem is, as I voiced my opinion yesterday,  
3 was this order went out May 1st. The questions just  
4 got to Mr. Gill I understand at nine or ten this  
5 morning. There's 49 questions so I think I'm going  
6 to draw the line somewhere and based on Mr. Porter  
7 -- if Mr. Porter -- excuse me, the County and Waste  
8 Management file any cross questions, then you can go  
9 ahead and file your redirect, but only when and if  
10 they do and you can file your redirect -- how much  
11 time do you think you'll need? If they file theirs  
12 by May 12th --

13 MR. FLYNN: If they file theirs by May  
14 12th, May 15th.

15 MR. PORTER: I realize we're adding  
16 more problems, but we're just refileing questions by  
17 May 12th, that doesn't talk about the responses.

18 HEARING OFFICER HALLORAN: Well, I  
19 don't assume you're going be filing 49 cross  
20 questions, but...

21 MR. PORTER: I prefer not filing at  
22 all.

23 HEARING OFFICER HALLORAN: So before  
24 we jump to Mr. Flynn's due date, if he does have



1 one, let's go with the cross -- the answers from  
2 Gill to the cross questions will be due to be filed  
3 on or about May 15th and the mailbox rule does not  
4 apply and then if that event takes place,  
5 then Mr. Flynn or the City as well -- petitioners  
6 for redirect?

7 MR. FLYNN: Just a couple business  
8 days. Is the 15th a Thursday or a Wednesday?

9 HEARING OFFICER HALLORAN: That's a  
10 Thursday.

11 MR. FLYNN: If I could have until  
12 Monday, which I believe would be the 19th.

13 HEARING OFFICER HALLORAN: See, and  
14 this is opening up a can of worms because based on  
15 your redirect, the respondents are going to have  
16 recross and --

17 MR. FLYNN: Can I throw out a  
18 suggestion?

19 HEARING OFFICER HALLORAN: Sure.

20 MR. FLYNN: Would this individual be  
21 available for an evidence deposition between now and  
22 May 20th?

23 HEARING OFFICER HALLORAN: You know, I  
24 don't think we're going to go that route.

1 MR. FLYNN: Just a suggestion.

2 HEARING OFFICER HALLORAN: We decided,  
3 you know, to do it on the written deposition so...  
4 Yes, sir?

5 MR. PORTER: We'll stipulate not to  
6 recross if that helps.

7 HEARING OFFICER HALLORAN: All right.  
8 There you go. Mr. Porter and -- well, I don't know  
9 about Mr. Moran?

10 MR. MORAN: I stipulate as well.

11 HEARING OFFICER HALLORAN: Okay.  
12 Waste Management and the County stipulated there's  
13 not going to be any cross questions, so anything we  
14 just talked about is moot other than --

15 MR. PORTER: Recross, we had a whole  
16 schedule.

17 HEARING OFFICER HALLORAN: Okay.  
18 You still want to do the cross?

19 MR. FLYNN: So we ended with cross  
20 questions due on the 12th, answers to cross due on  
21 the 15th and then I was asking for the 19th for  
22 redirect and then the question is when does Mr. Gill  
23 have to answer those?

24 HEARING OFFICER HALLORAN: So what do

1 you think?

2 MR. FLYNN: Friday, the 23rd.

3 HEARING OFFICER HALLORAN: Well, the  
4 23rd, I'm also thinking that it is getting close to  
5 June 2nd, but, you know, that gives everybody a week  
6 to digest -- May 23rd answers to redirect, correct?  
7 Okay. Does that sound legit? Go ahead, Mr. Leshen.

8 MR. LESHEN: I want to take a worst  
9 case scenario here just so we're prepared. Number  
10 one, I would suggest that while Mr. Gill have until  
11 Thursday at whatever time you said, in the event  
12 that the County receives them earlier, we would like  
13 have them immediately. We don't want to wait until  
14 -- if the County has them today at 5:00 o'clock,  
15 we'd like to have them today at 5:05 by fax.

16 HEARING OFFICER HALLORAN: I think we  
17 can a do gentleman's -- by when? By what?

18 MR. LESHEN: We'd just like to have  
19 them right after they have them.

20 HEARING OFFICER HALLORAN: They can  
21 fax them to you?

22 MR. LESHEN: Yeah, absolutely.

23 HEARING OFFICER HALLORAN: Do we have  
24 an agreement on that?

1                   MR. PORTER: That's fine with the  
2 understanding I don't plan to stand by the fax  
3 machine myself.

4                   HEARING OFFICER HALLORAN: I agree.  
5 They're going to give their good faith effort. If  
6 it comes in before Thursday, if it comes in this  
7 afternoon --

8                   MR. LESHEN: We just want to have as  
9 much time as we can and secondly, what would --  
10 what will be the provisions should Mr. Gill answer  
11 only half of the questions or there are discovery  
12 disputes relating to that?

13                   HEARING OFFICER HALLORAN: I guess  
14 we're going to have to all meet in a powwow again  
15 over the telephone and I'll call that if I see  
16 something coming, but I probably won't know that  
17 until at the earliest the 8th -- or at the latest  
18 the 8th so at the earliest -- or at the latest we  
19 would have to meet Monday or Tuesday next week and  
20 figure out what we're going to do and if time wise  
21 is getting pushed up against June 2nd, I don't see  
22 why you couldn't respond to Gill's deposition in a  
23 reply if need be, if time is short.

24                   MR. LESHEN: Here's the other issue

1 and I know I raised it and you've reserved ruling,  
2 let us assume that there is a discovery dispute, at  
3 that point either the County as I believe would have  
4 to represent Mr. Gill in that discovery dispute or  
5 Mr. Gill would have to represent Mr. Gill in --

6 HEARING OFFICER HALLORAN: That's  
7 true, that's understood, Mr. Leshen, and I'll take  
8 that up when the time comes if we have to revisit  
9 that. I don't mean to beat a dead dog, but we  
10 talked about that three, four, five times, but,  
11 yeah, in case that's -- because Mr. Porter said  
12 earlier he may have some objections, but he just  
13 recently withdrew the objections, so -- but there we  
14 are. So in any event, I think we've beat this thing  
15 to death. I'm not sure -- do we have any other  
16 issues to talk about in this particular matter?  
17 Anyway, I want to thank you all for participating.  
18 We're going to go off the record for a minute and  
19 get ready for a few seconds in the PCB 3-144 matter.  
20 Thank you very much.

21 (Whereupon, the hearing was  
22 concluded.)

23  
24

1 STATE OF ILLINOIS )

2 ) SS.

3 COUNTY OF C O O K )

4

5

6 I, TERRY A. STRONER, CSR, do

7 hereby state that I am a court reporter doing

8 business in the City of Chicago, County of Cook, and

9 State of Illinois; that I reported by means of

10 machine shorthand the proceedings held in the

11 foregoing cause, and that the foregoing is a true

12 and correct transcript of my shorthand notes so

13 taken as aforesaid.

14

15

16

\_\_\_\_\_

17

Terry A. Stroner, CSR

18

Notary Public, Cook County, Illinois

19

20 SUBSCRIBED AND SWORN TO

before me this \_\_\_ day

21 of \_\_\_\_\_, A.D., 2003.

22

\_\_\_\_\_

23

Notary Public

24

