

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 PEOPLE OF THE STATE OF ILLINOIS,

4 Petitioner,

5 vs. No. PCB 95-091

6 WASTE HAULING LANDFILL, INC.,

7 and WASTE HAULING, INC.,

8 Respondents.

9 and

10 WASTE HAULING LANDFILL, INC.,

11 and WASTE HAULING, INC.,

12 Cross-claimants,

13 vs.

14 BELL SPORTS, INC.,

15 Cross-Respondent.

16

17

Proceedings held on May 19, 1997, at  
18 10:00 a.m., at the Office of the Attorney General,  
Conference Room, 500 South Second Street,  
19 Springfield, Illinois, before the Honorable Michael  
L. Wallace, Hearing Officer.

20

21 Reported by: Darlene M. Niemeyer, CSR, RPR  
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A P P E A R A N C E S

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I N D E X

WITNESS	PAGE NUMBER
William E. Zierath	7, 60, 76, 77, 82, 84
Gerald R. Riddle	91, 133, 159, 163, 169, 170
Jerry E. Camfield, Sr.	176, 203, 232, 261, 265

E X H I B I T S

NUMBER	MARKED FOR I.D.	ENTERED
Respondent's WHL Exhibit 14	15	52
Respondent's WHL Exhibit 15	27	54
Respondent's WHL Exhibit 16	33	56
Respondent's WHL Exhibit 17	117	168
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Respondent's Bell Exhibit 3	140	144
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P R O C E E D I N G S

(May 19, 1997; 10:00 a.m.)

HEARING OFFICER WALLACE: Pursuant to the direction of the Illinois Pollution Control Board, I now call Docket 95-91.

This is the matter of the People of the State of Illinois versus Waste Hauling, Inc., Waste Hauling Landfill, Inc. and the counter-claim of Waste Hauling Landfill, Inc., Waste Hauling, Inc. versus Bell Sports, Inc.

May I have appearances for the record, please? For the People?

MS. MENOTTI: Maria Menotti for the People.

MR. DAVIS: Thomas Davis for the People.

MR. RICHARDSON: Greg Richardson for the Illinois EPA.

MR. VAN NESS: Phil Van Ness for Waste Hauling Landfill, Inc. and Waste Hauling, Inc.

MR. LATSHAW: Michael Latshaw for Waste Hauling, Inc. and Waste Hauling Landfill, Inc.

MR. NAHMOD: Jack Nahmod, from Sidley & Austin, for Bell Sports.

MR. TAYLOR: Byron Taylor for Bell

1 Sports.

2 HEARING OFFICER WALLACE: All right.

3 Thank you.

4 Let the record reflect there are no other  
5 appearances at today's hearing.

6 Are there any preliminary matters? We  
7 did have a brief off-the-record discussion.

8 Mr. Van Ness?

9 MR. VAN NESS: Yes. Thank you, Mr.  
10 Hearing Officer.

11 In previous testimony by witness Mr. Maw,  
12 M-A-W, there was introduced for identification  
13 Waste Hauling Exhibit Number 5. That document is a  
14 quite large and thick document.

15 However, we have learned that  
16 approximately a third of an inch of the material at  
17 the very beginning of that document was extraneous  
18 for our purposes, being material that the witness  
19 testified was not included in the report material  
20 that was sent to the Illinois EPA.

21 Therefore, I would move to amend the  
22 Exhibit Number 5 to exclude these materials  
23 appearing before the page dated 10 March 1993 and  
24 bearing the signature of Mr. Maw and the letterhead

1 of Weston Gulf Coast, Inc.

2 HEARING OFFICER WALLACE: All right. Any  
3 objection?

4 MS. MENOTTI: No.

5 HEARING OFFICER WALLACE: Mr. Taylor?

6 MR. TAYLOR: No objections to the  
7 specific request of Mr. Van Ness.

8 HEARING OFFICER WALLACE: All right.

9 MR. TAYLOR: But we would like to restate  
10 that we are not waiving our previous objections to  
11 this document as it exists.

12 HEARING OFFICER WALLACE: So noted. Then  
13 we will amend Exhibit 5 to exclude -- it is kind of  
14 hard to describe, actually.

15 MR. VAN NESS: Yes, it is hard to  
16 describe. It evidently was internal documentation  
17 that they used of some sort.

18 HEARING OFFICER WALLACE: We will start  
19 Exhibit 5 with the letter dated 10 March 1993, and  
20 the other material will be excluded from Exhibit  
21 5.

22 All right. Any other preliminary  
23 matters? Ms. Menotti?

24 MS. MENOTTI: Nothing.

1 HEARING OFFICER WALLACE: Mr. Taylor?

2 MR. TAYLOR: No.

3 HEARING OFFICER WALLACE: Is Waste  
4 Hauling Landfill ready to proceed?

5 MR. VAN NESS: Yes.

6 HEARING OFFICER WALLACE: All right.  
7 Would you call your next witness, then.

8 MR. VAN NESS: Yes, thank you. Waste  
9 Hauling recalls Mr. William Zierath.

10 HEARING OFFICER WALLACE: You were  
11 previously under oath.

12 THE WITNESS: Yes.

13 HEARING OFFICER WALLACE: Please consider  
14 yourself still under oath and continue to tell the  
15 truth.

16 You may proceed.

17 MR. VAN NESS: Thank you, Mr. Hearing  
18 Officer.

19 W I L L I A M E. Z I E R A T H,  
20 having been previously duly sworn by the Hearing  
21 Officer, saith as follows:

22 DIRECT EXAMINATION

23 BY MR. VAN NESS:

24 Q Mr. Zierath, I would like to ask you

1 about one of the barrels you removed from the Waste  
2 Hauling Landfill on April 22, 1992. Do you recall  
3 your testimony relating to that date?

4 A Yes.

5 Q Do you specifically recall discussing  
6 barrel number 33?

7 A My recollection of barrel number 33 is  
8 not one we sampled, but the only one we found with  
9 a label on it.

10 Q So you didn't actually sample the  
11 contents of that barrel?

12 A No, we did not.

13 Q Can you describe the outward appearance  
14 of that barrel?

15 A My recollection of it, it was a crushed  
16 drum. Some of the paint was off the outside of  
17 the -- it was a metal drum, so some of the paint  
18 had come off the outside. It was notable because  
19 it had a sticker on it that said nonhazardous  
20 waste.

21 Q Did barrel number 33 share any appearance  
22 characteristics with the other barrels removed that  
23 day?

24 A Well, all the drums we were able to find



1 had been crushed, and many of them likewise had  
2 paint scraped off the outside of them. To the best  
3 of my recollection, that's the only --

4 Q Okay. Did you -- I am sorry. Go ahead.

5 A That's the only tie in to the others.

6 Q Okay. Did you see any of the rubbery  
7 material that you had described earlier with  
8 respect to some of the barrels?

9 A I would have to refer to my notes again.  
10 I can't remember whether we could even see into  
11 that one. Many of the drums were crushed and you  
12 couldn't see inside them. So I would have to refer  
13 to my notes as to whether I was able to observe  
14 anything in that drum.

15 Q Okay. Would looking at your notes  
16 refresh your memory, then, is that what you are  
17 suggesting?

18 A Yes.

19 Q Why don't we hand those notes to you,  
20 then. Is that 14, People's 14? Thank you.

21 I am going to hand you, sir, what has  
22 already been marked People's Exhibit 14. That is a  
23 report to which you just referred; is that correct?

24 A That is correct, yes.

1 Q Take your time to look through that.

2 A All right. (The witness reviewed the  
3 document.) My notes do not reflect the contents of  
4 that drum.

5 Q Okay. It was just one of the 53 drums  
6 you found in that area?

7 A That is correct.

8 Q Now, you stated earlier that the label  
9 you observed on barrel number 33 resembled labels  
10 you had seen elsewhere; is that correct?

11 A That's correct.

12 Q Do you recall where you saw similar  
13 labels before?

14 A I saw similar labels at the -- what was  
15 referred to as the Bell Helmets facility in Rantoul  
16 previously, during previous inspections.

17 Q Did you see it subsequent to that date  
18 also?

19 A I saw labels, similar looking labels, at  
20 the Bell Sports facility in January of 1993.

21 Q So you visited the Bell Sports facility  
22 in January of 1993?

23 A Yes.

24 Q Was that the first time you visited the

1 Bell Sports facility after the removal of the drums  
2 from Waste Hauling Landfill?

3 A No. We were -- Jack Johnson from the  
4 State Police, Dustin Burger from the Champaign  
5 regional office of the Illinois EPA, and I were out  
6 there in 1992, subsequent to the excavation of the  
7 drums from the Waste Hauling Landfill.

8 Q Do you recall what day and what month  
9 that was?

10 A My recollection is it was July of 1992.

11 Q Do you recall whether -- pardon me. Do  
12 you recall whether you prepared a report relating  
13 to that visit to the Bell Sports facility?

14 A Which one, the one in January?

15 Q I am talking about the one you are  
16 referring to that came prior to the one in  
17 January.

18 A No, I did not.

19 Q Okay. Was that visit to the facility  
20 that -- I am talking about the earlier one, now --  
21 was that related to the discovery of hazardous  
22 waste in the drums at Waste Hauling?

23 A Yes, it was.

24 Q So by that time you had already received

1 the laboratory reports of analysis?

2 A Yes.

3 Q Okay. Why don't you describe your visit,  
4 that first visit, then, to the Bell Sports  
5 facility?

6 A Well, essentially, I was assisting the  
7 State Police and Agent Johnson, in particular, in  
8 his investigation. We showed up at Bell Sports.  
9 We had a brief meeting with a number of officials  
10 from the company.

11 My recollection is their attorney they  
12 wanted to confer with was not available. He was  
13 out of town and not reachable. And so they asked  
14 if they could confer with their attorney and talk  
15 to us later, at which time we left.

16 Q I see. Did you have a search warrant  
17 with you when you came that time?

18 A No, we did not.

19 Q Do you recall who you spoke with at Bell  
20 Sports?

21 A No, I don't recall the names of the  
22 individuals.

23 Q Do you know a Mr. Nick Riddle?

24 A Yes.

1 Q Can you identify him?

2 A I don't recall what his job title was  
3 every time I was there, but at times he was the  
4 plant engineer at -- my recollection is that he  
5 worked for the company that had this facility  
6 before Bell, Vetter Products, and then worked for  
7 Bell for a number of years.

8 Q Do you recall whether Mr. Riddle was  
9 present on that first date that you visited after  
10 the lab samples were back from Waste Hauling?

11 A I don't recall.

12 Q During that first visit do you recall  
13 whether you or anyone requested permission to  
14 inspect the premises?

15 A My recollection is that we did not  
16 request permission to inspect the premises. We  
17 wished to talk to them first, and they requested  
18 that they be allowed to talk to their attorney  
19 first.

20 Q Okay. Did you request permission to take  
21 samples?

22 A Not that I recall.

23 Q Okay. Do you recall discussing the April  
24 9th waste shipment from Bell Sports to Waste

1 Hauling Landfill?

2 A We identified that as being what we were  
3 concerned about, but the discussion didn't go  
4 anywhere because they wished to talk to their  
5 attorney first.

6 Q Do you recall what their reaction was?

7 MR. TAYLOR: Objection. It calls for the  
8 characterization of another person.

9 MR. VAN NESS: I didn't ask for a  
10 characterization. I just asked what their response  
11 was.

12 HEARING OFFICER WALLACE: Overruled.

13 THE WITNESS: I don't recall specifically  
14 any reaction on their part.

15 Q (By Mr. Van Ness) The only reaction was  
16 we have not consulted with our attorney, so come  
17 back another date?

18 A That's basically a fair statement, yes.

19 Q What was the outcome of that visit? Was  
20 there any promises made or any assurances made by  
21 either side?

22 A My recollection is basically they agreed  
23 to talk to their attorney and get back to Agent  
24 Johnson from the State Police.

1 Q Do you know whether they ever got back to  
2 Agent Johnson?

3 A No, I do not.

4 Q Do you know whether they ever got back to  
5 you?

6 A I received a letter from them subsequent  
7 to our visit.

8 Q I see. Do you recall when that letter  
9 was received by you?

10 A I don't recall the date, no.

11 Q If I showed you a copy of that letter  
12 would you recognize it now?

13 A Yes.

14 HEARING OFFICER WALLACE: This has not  
15 been previously marked, has it?

16 MR. VAN NESS: No, it has not. That is a  
17 Plaintiff's Exhibit from a deposition.

18 HEARING OFFICER WALLACE: All right.

19 MR. VAN NESS: Would you mark this,  
20 please.

21 (Whereupon said document was  
22 duly marked for purposes of  
23 identification as WHL Exhibit  
24 14 as of this date.)

1 MR. VAN NESS: Okay. Thank you.

2 Q (By Mr. Van Ness) I am going to hand you  
3 what has just been marked WHL Exhibit Number 14,  
4 and ask you if that is the correspondence which you  
5 previously referred?

6 A Yes.

7 Q Can you describe that document, please,  
8 for the record?

9 A Well, the first two pages are a letter  
10 addressed to me from William Hassell,  
11 H-A-S-S-E-L-L, vice president of manufacturing from  
12 Bell Sports.

13 The third page is a copy of a special  
14 waste permit issued by our Agency for paint sludge  
15 from -- well, it is issued -- the permit is issued  
16 to Jerry Camfield and the waste generator indicated  
17 as Bell Helmets, Vetter Products.

18 The fourth page is a copy of a waste  
19 manifest for shipment that was made on April 9th of  
20 1992. And the last page appears to be some  
21 analysis results from material indicated -- it  
22 indicates it was -- this report was sent to Bell  
23 Helmets.

24 Q Can you say whether these are true,



1 accurate and complete copies of the documents as  
2 you recall receiving them?

3 A This is an accurate copy of the document  
4 I received, yes.

5 Q For the record, I would ask you to refer  
6 to the first line of the letter just above the  
7 greeting where it says, re, your request. Do you  
8 see the date that is referred to there?

9 A Yes, June 8, 1992.

10 Q Does that refresh your memory as to when  
11 your visit occurred?

12 A Yes, it does. That was the date.

13 Q You would agree that the first visit you  
14 previously described to the site was, in fact, on  
15 June 8, 1992?

16 A That's correct.

17 Q Thank you. Do you see in the last  
18 paragraph in the letter from Mr. Hassell it says  
19 request for additional information?

20 A Yes.

21 Q Why don't you just read that last  
22 paragraph into the record, please?

23 A Okay. It says, as we discussed on June  
24 8th, we would appreciate it if you would provide us

1 further information regarding your concerns with  
2 respect to the April 9th shipment, including any  
3 analytical results which you obtained.

4 Q I take that to be a reference to the  
5 concerns you stated earlier?

6 A Yes, I believe so.

7 Q Do you recall whether you mentioned the  
8 word hazardous waste in your conversation on June  
9 the 8th?

10 A I don't recall specifically, no.

11 Q Do you recall how you expressed your  
12 concern with that April 9th shipment?

13 A Well, I do recall that Agent Johnson  
14 basically told them why we were there, that we had  
15 excavated drums at Waste Hauling Landfill, and why  
16 we were concerned about them. I recall generally  
17 that is what we discussed, but I don't know the  
18 specifics of it.

19 Q Do you know whether you, in fact, did  
20 provide such additional information as was  
21 requested by Mr. Hassell in his letter?

22 A I did not.

23 Q Do you recall when Waste Hauling Landfill  
24 was told that there was a problem with these

1 barrels?

2 A I don't recall the exact date, no.

3 Q Would you agree that they were not told  
4 in June of 1992?

5 A That's possible.

6 Q If I suggested to you, sir, that they  
7 were not told until 1993, would you have any reason  
8 to question that?

9 A I don't know of any time they were told  
10 before that, no.

11 Q I don't know if you know the answer to  
12 this, but may I ask why the Agency didn't bother to  
13 tell the landfill of the presence of hazardous  
14 waste at least as soon as it told Bell Sports of  
15 the problems out there?

16 MR. DAVIS: We would object. It is  
17 calling for a conclusion that this witness might  
18 not be able to give and also it assumes facts not  
19 in evidence. This witness has simply testified  
20 that he didn't tell Waste Hauling Landfill.

21 MR. VAN NESS: I did ask him if he knew  
22 the answer. If he doesn't know, he can tell me  
23 that.

24 HEARING OFFICER WALLACE: Overruled.

1           MR. DAVIS: I am not done stating my  
2 objection. I think that, as an Officer of the  
3 Court, I can fairly state that the attorneys, of  
4 which I was one, involved in the court proceeding,  
5 told somebody and, in fact, I would state that he  
6 told the attorney for Waste Hauling Landfill.

7           HEARING OFFICER WALLACE: All right. The  
8 objection is overruled.

9           You may answer the question.

10          MR. TAYLOR: I also object to the  
11 characterization of the question, as it infers what  
12 information was conveyed to Bell Sports in June of  
13 1992.

14          HEARING OFFICER WALLACE: Overruled.

15          THE WITNESS: Excuse me. What was the  
16 question again?

17          MR. VAN NESS: Could you read it back.

18                               (Whereupon the requested  
19                               portion of the record was read  
20                               back by the Reporter.)

21          THE WITNESS: I do not know whether they  
22 were told. I do not know why they weren't told. I  
23 didn't have any contact with the landfill for  
24 almost a year after that.

1 Q (By Mr. Van Ness) Okay. Thank you.  
2 Would you agree that with the passage of time the  
3 option of removing the barrels and their contents  
4 as opposed to managing the barrels in place became  
5 less and less viable?

6 MR. TAYLOR: I object to the lack of  
7 foundation.

8 THE WITNESS: Well --

9 HEARING OFFICER WALLACE: Wait just a  
10 minute.

11 MR. VAN NESS: I am sorry?

12 HEARING OFFICER WALLACE: I wondered if  
13 you wanted to respond to the objection.

14 MR. VAN NESS: I didn't hear the basis  
15 for the objection.

16 MR. TAYLOR: Lack of foundation.

17 MR. VAN NESS: I am sorry?

18 MR. TAYLOR: Lack of foundation.

19 MR. VAN NESS: All right.

20 Q (By Mr. Van Ness) Would you agree that  
21 leachate transport is a function of time?

22 A Yes

23 (Mr. Jerry Camfield entered the  
24 hearing room.)

1 Q (By Mr. Van Ness) And you have previously  
2 described what leachate consists of; isn't that  
3 correct?

4 A I did not, no.

5 Q I am sorry. I thought maybe you had.  
6 Why don't you describe leachate to us?

7 MR. TAYLOR: I have no objection to the  
8 question or to the line of questioning. But I was  
9 wondering whether Mr. Camfield will be permitted to  
10 sit through the proceeding and listen to the  
11 testimony of Mr. Zierath.

12 HEARING OFFICER WALLACE: Are you  
13 objecting to his sitting in?

14 MR. TAYLOR: Yes.

15 HEARING OFFICER WALLACE: All right.  
16 Response?

17 MR. VAN NESS: Well, I guess we have  
18 allowed every witness. We haven't excluded any  
19 witnesses to date. I am not sure why we would  
20 exclude Mr. Camfield. I would also point out that  
21 Mr. Camfield is, in fact, a client, a  
22 representative in this case, so I think he is  
23 excluded from --

24 HEARING OFFICER WALLACE: Mr. Camfield

1 can remain.

2 THE WITNESS: I am sorry. I don't recall  
3 the question.

4 Q (By Mr. Van Ness) I asked you a question  
5 about leachate.

6 A Oh. Leachate is the material that is  
7 formed when water mixes with solid waste, and then  
8 carries contamination away from that solid waste.

9 Q Is it fair to say that when solid waste  
10 remains in a landfill that the transport of  
11 leachate becomes a greater concern?

12 A Yes.

13 Q To the best of your knowledge, has the  
14 Agency ever tested the leachate flowing from the  
15 Waste Hauling Landfill?

16 A I don't know specifically about that.

17 Q Do you know whether -- let me back that  
18 up.

19 Do you know whether they have ever  
20 sampled the leachate at all? I am not asking you  
21 to describe the test, but whether you know whether  
22 they have ever sampled the leachate?

23 A It is my understanding that other people  
24 within the Agency have collected samples, yes.

1 Q But you are unfamiliar with any  
2 laboratory results from that?

3 A That's correct.

4 Q Did you have occasion to visit the Bell  
5 Sports facility in Rantoul, Illinois, at any time  
6 subsequent to your visit of June 8, 1992?

7 A Yes. I was there in January of 1993 and  
8 then subsequently in March of 1993.

9 Q What exactly triggered that visit?

10 A Well, I had asked our Permit Section to  
11 notify me if there was a permit application that  
12 was submitted for the paint sludge waste from Bell  
13 Sports to any other facility, any solid waste  
14 facility, because of the fact that Waste Hauling  
15 Landfill at that point was not operating and,  
16 therefore, the only permitted facility to take that  
17 paint sludge from Bell was closed down.

18 Q And so, in fact, you were notified that  
19 there was an application?

20 A Yes, I was.

21 Q When did you visit that facility?

22 A The first time in 1993 was on January  
23 27th.

24 Q Were you accompanied by the State Police



1 at that time?

2 A No, I was not.

3 Q Did you obtain any lab samples?

4 A Yes, we did.

5 Q Did you obtain any documents?

6 A Not during that inspection, no.

7 Q You took photographs, that kind of thing?

8 A Yes.

9 Q Do you recall to whom you spoke at that  
10 time?

11 A A gentleman with the last name of  
12 Marlow. It was -- and I spoke to the security  
13 guard at the gate.

14 Q What transpired from the moment you spoke  
15 to the security guard at the gate? I assume that  
16 was the first person you spoke to?

17 A Yes. Well, I attempted to -- well, let  
18 me back up. I had intended to do an interim status  
19 standards inspection under basically the hazardous  
20 waste inspection at the facility, which would have  
21 included a number of documents I would have to  
22 review.

23 I was told by the security guard that Mr.  
24 Nick Riddle was the only person who had access to

1 the documents in question. He was not available  
2 that day. The security guard then tried to find  
3 some other person for me to talk to and eventually  
4 Mr. Marlow was the person who was sent out to deal  
5 with me.

6 Q Did Mr. Marlow allow you to enter the  
7 plant?

8 A Yes, he did.

9 Q Did he accompany you throughout the time  
10 that you were at the plant?

11 A He accompanied us until we got to the  
12 area, the storage area. He remained for a while.  
13 He pointed out drums of waste and identified them,  
14 and then he left.

15 Q At that time did you get to walk through  
16 the facility and see the production facility?

17 A We did not during that inspection, no.

18 Q Did you prepare a report of your January  
19 27th, 1993 visit and RCRA inspection?

20 A Yes, I did.

21 Q If I showed you a copy of that would you  
22 recognize that?

23 A Yes, I would.

24 MR. VAN NESS: Could you mark this,

1 please.

2 (Whereupon said document was  
3 duly marked for purposes of  
4 identification as WHL Exhibit  
5 15 as of this date.)

6 Q (By Mr. Van Ness) I am going to show you  
7 what has just been marked WHL Exhibit Number 15,  
8 and ask you if that is the document to which you  
9 have referred?

10 A Yes, it is a photocopy of that.

11 Q Thank you. What was the outcome of the  
12 January 27, 1993 visit to Bell? Were there any  
13 additional problems or assurances exchanged at that  
14 time?

15 A Okay. We were interested in collecting  
16 samples at that point. As I stated, I had intended  
17 to do a hazardous waste inspection. However, Mr.  
18 Riddle was not available with documentation, so we  
19 did collect samples and then I got back to Mr.  
20 Riddle later about the follow-up inspection.

21 Q All right. Now, according to your RCRA  
22 inspection report, you and your staff collected a  
23 number of samples, correct?

24 A That's correct.

1 Q Do you recall how many you collected?

2 A I would have to refer to my notes, I am  
3 afraid.

4 Q I am sorry?

5 A I would have to refer to my notes.

6 Q Please feel free.

7 A (The witness reviewed documents.) My  
8 notes reflect I collected eight samples.

9 Q How many barrels were you looking at at  
10 that time?

11 A There were 54 barrels in the group that  
12 we were looking at.

13 Q Is it safe to assume that the same basic  
14 chain of custody procedures applied to the sampling  
15 and securing and transporting of these samples as  
16 you described previously with respect to the  
17 samples you obtained at the Waste Hauling Landfill?

18 A Yes.

19 Q What criteria did you use to determine  
20 which barrels would be sampled?

21 A We had a photoionizing detector by H. New  
22 (spelled phonetically) Company, which basically  
23 gave us a meter reading relative amount of volatile  
24 organics that were in the head space of the

1 samples. And then basically for all of those that  
2 we collected a sample for, we took the ones that  
3 got the highest readings.

4 Q So once again, if you were going to take  
5 a sample from a barrel, it was going to be from  
6 those barrels that had the highest PID readings?

7 A That's correct.

8 Q Do you know whether Agency personnel are  
9 required to follow any set of procedures or  
10 standards in collecting samples for laboratory  
11 analysis?

12 A We have procedures that we follow, yes.

13 Q Can you briefly describe what those  
14 procedures are?

15 A Well, it basically deals with the types  
16 of bottles collected and the sample collection  
17 method. The sample collection method depends on  
18 the type of waste and, you know, what is needed in  
19 order to collect a sample.

20 Q Are you familiar with those requirements?

21 A Yes.

22 Q On January 27th of 1993, did you observe  
23 the sampling being done?

24 A Yes, I did.

1           Q     Based on your observations, do you have  
2     an opinion as to whether you and the Agency  
3     personnel under your direction followed accepted  
4     procedures?

5           A     We collected representative samples as  
6     per our procedures to the best it was possible on  
7     that date.

8           Q     Was there something about that day that  
9     made it more difficult?

10          A     We did have a problem with some of the  
11     drums, because it was quite a bit below freezing.  
12     So any water that was in the drums was frozen.  
13     Therefore, it was difficult to sample as per normal  
14     procedures.

15          Q     Did you attempt to collect samples out of  
16     barrels that had frozen water in them?

17          A     We did, but our normal procedure with  
18     water would be to use a glass tube, which was not  
19     possible in this stage.

20          Q     So what did you use?

21          A     We collected bits of ice using a clean,  
22     stainless steel spoon from those drums where we  
23     could do that.

24          Q     Now, according to your report, those

1 samples were sent to Gulf Coast Laboratories; isn't  
2 that right?

3 A That's correct.

4 Q Do you know what kind of analysis was  
5 requested?

6 A Because our concern was for the organic  
7 contaminants listed in the TCLP, we asked for those  
8 organic analyses.

9 Q Let me back up for a minute. Gulf Coast  
10 Laboratories, Incorporated, why did you send  
11 samples there?

12 A We were interested in getting the results  
13 back fairly quickly and quicker than our lab here  
14 in Springfield could have gotten the results.

15 Q Is Gulf Coast Laboratories a contract lab  
16 for the EPA?

17 A Yes, it is.

18 Q Was it back in 1993?

19 A Yes, it was. Well, let me clarify that.  
20 I haven't dealt with them in recent date. I am not  
21 sure if they are still a contract lab.

22 Q But they were in 1993?

23 A Yes.

24 Q Okay. Thank you. Was any type of report

1 generated during the -- pardon me.

2 Was any type of report generated  
3 regarding the results of the analysis done on  
4 January -- of the samples taken on January 27th?

5 A We did receive a report from the lab,  
6 yes.

7 Q Are you familiar with that report?

8 A I have seen what was submitted to me,  
9 yes.

10 Q I see. What was submitted to you?

11 A The summary of the results listing the  
12 results for the requested analyses on those  
13 samples.

14 Q Was this kind of report -- this summary  
15 report, was this the kind of a report that was  
16 generally relied upon by you at the EPA?

17 A Yes.

18 Q In fact, did you and the Agency not rely  
19 on that report?

20 A Yes, we did.

21 Q Do you recall whether you shared those  
22 laboratory results that you just described with  
23 anyone at Bell Sports?

24 A My recollection is I sent a copy to their



1 attorney subsequent to this inspection.

2 Q Do you recall whether you sent a letter  
3 to Mr. Riddle?

4 A I don't recall.

5 Q If you had, would you recognize such a  
6 letter?

7 A Yes.

8 MR. VAN NESS: Could you mark this,  
9 please.

10 (Whereupon said document was  
11 duly marked for purposes of  
12 identification as WHL Exhibit  
13 16 as of this date.)

14 Q (By Mr. Van Ness) I am going to hand you  
15 what has been labeled WHL Exhibit Number 16. Do  
16 you recall that document?

17 A Yes, I do.

18 Q In fact, are you the author of that  
19 document?

20 A Yes, I was.

21 Q Can you briefly describe that document,  
22 for the record?

23 A Well, the front page is a cover letter  
24 indicating that I am sending to Mr. Riddle a copy

1 of the analysis report from the samples that were  
2 collected on January 27th. It also describes some  
3 of the results in the second paragraph.

4 Everything after that is a photocopy of  
5 the report that we received from the laboratory,  
6 the results and some explanation, plus I see here  
7 at the back there are also copies of the chain of  
8 custody forms.

9 Q Can you say whether this is a true,  
10 accurate and complete copy of the correspondence  
11 you sent to Mr. Riddle?

12 A To the best of my knowledge, it appears  
13 to be so.

14 Q I am going to ask you to compare the  
15 attachment to the letter I just handed you with  
16 what has been marked Waste Hauling Group Exhibit  
17 5. I ask you whether you have seen that document  
18 before?

19 A No, I have not.

20 Q Would you compare the first page of each  
21 exhibit, please?

22 HEARING OFFICER WALLACE: I am sorry.  
23 Would you be more specific on what you want him to  
24 compare, please.

1                   MR. VAN NESS: Well, I want him to see  
2 whether the two pages are the same or different.

3                   HEARING OFFICER WALLACE: I know that,  
4 but I am trying to --

5                   MR. VAN NESS: I am sorry.

6                   HEARING OFFICER WALLACE: Neither of  
7 these exhibits are numbered, are they? And you are  
8 saying compare --

9                   MR. VAN NESS: I am sorry. They are both  
10 numbered. I am sorry. I am asking the witness,  
11 Mr. Hearing Officer, to compare the cover letter to  
12 this particular exhibit that comes at the end of  
13 the Bates numbering.

14                  Q        (By Mr. Van Ness) I am going to ask you  
15 to compare the page number -- Bates number 226 from  
16 Exhibit Waste Hauling 16 to the first page of Waste  
17 Hauling Exhibit 5?

18                  MR. NAHMOD: Mr. Hearing Officer, we have  
19 an objection to Mr. Zierath's testimony concerning  
20 Exhibit Number 5. Mr. Zierath, I believe, just  
21 said he hasn't seen this document before. So it is  
22 not clear to me why he should be able to testify  
23 about this exhibit.

24                  Anybody can get up there and talk about

1 similarities. The document speaks for itself. We  
2 object to Mr. Zierath's testimony about this  
3 exhibit, because he has no knowledge about it. He  
4 just said he had not seen this before.

5 HEARING OFFICER WALLACE: He can do a  
6 comparison. The objection is overruled.

7 Please continue, Mr. Zierath.

8 THE WITNESS: The last page in what is  
9 marked as WHL Exhibit Number 16 appears to be  
10 identical to the first page in WHL Number 5, with  
11 the exception of the stamp when it was received by  
12 our Agency and some handwritten information at the  
13 top that was added by our Agency.

14 Q (By Mr. Van Ness) Thank you. I am going  
15 to ask you to compare some additional pages, as  
16 well. Please take all the time you need to do  
17 this.

18 I am going to show you what has been  
19 Bates stamped page number 188 in Waste Hauling  
20 Exhibit 16, and I am going to ask you to see if you  
21 find the identical page also in Waste Hauling  
22 Exhibit 5.

23 MR. TAYLOR: Can you repeat the numbers  
24 again, please?

1           MR. VAN NESS: I am sorry?

2           MR. TAYLOR: Can you repeat the page  
3 numbers once again?

4           MR. VAN NESS: Yes. It is Bates number  
5 188.

6           MR. TAYLOR: In Exhibit 16?

7           MR. VAN NESS: In Exhibit 16, right.

8           MR. TAYLOR: Okay.

9           MR. VAN NESS: We are comparing that now  
10 also with a page in Waste Hauling Exhibit Number  
11 5.

12           THE WITNESS: That page appears to be the  
13 same as what is marked page one in Exhibit Number  
14 5.

15           Q     (By Mr. Van Ness) Would you agree that to  
16 the right of the Bates number 188 there is also the  
17 number one --

18           A     Yes.

19           Q     -- on Exhibit 16?

20           A     Yes, there is.

21           Q     Can we turn the page and continue,  
22 please?

23           A     Okay.

24           Q     Do you see page 189 Bates stamped in

1 Waste Hauling Exhibit 16?

2 A Yes, that appears to be the same as page  
3 two in Exhibit Number 5.

4 Q Now, you don't see any number two on this  
5 Bates 189, do you?

6 A No, I do not.

7 Q But in all other respects they are the  
8 same?

9 A Yes, including the handwritten notations.

10 Q Okay. Turn the page, please, to Bates  
11 number 190 and compare that with the next page of  
12 Waste Hauling Exhibit 5.

13 A It appears to be the same as page number  
14 three in Exhibit Number 5.

15 Q Okay. Bates page number 191 in Waste  
16 Hauling Exhibit 16?

17 A It appears to be what is faintly marked  
18 as page number four in Exhibit Number 5.

19 Q Again, on the next page, Bates page  
20 number 000192?

21 A That appears to be the same as what is  
22 marked as page number five in Exhibit Number five.

23 HEARING OFFICER WALLACE: All right. Are  
24 there two page fives there in Waste Hauling 5?

1 THE WITNESS: There is four and five. I  
2 don't know if I misspoke.

3 Q (By Mr. Van Ness) Okay. Are we comparing  
4 Bates page 193 now to Waste Hauling 5?

5 A Yes. It appears to be the same as page  
6 number six in Waste Hauling 5.

7 Q I see. In fact, page number six  
8 reappears, doesn't it, on Bates page 193?

9 A That is correct.

10 Q And I am going to ask you again with  
11 respect to Bates page 194 in Waste Hauling Exhibit  
12 16.

13 A That appears to be the same as page  
14 number seven in Exhibit Number 5.

15 Q Thank you. And Bates page 195 in Waste  
16 Hauling Exhibit 16?

17 A It appears to be the same as page number  
18 eight in Exhibit Number 5.

19 Q And Bates page 196 with respect to Waste  
20 Hauling Exhibit Number 16?

21 A That appears to be the same as page  
22 number nine in Exhibit Number 5.

23 Q And Bates page 197 in Waste Hauling  
24 Exhibit Number 16?

1           A     That appears to be the same as page  
2     number ten in Waste Hauling Number 5.

3           Q     Okay.  And Bates page number 198 in Waste  
4     Hauling Exhibit Number 16?

5           A     It appears to be the same as page number  
6     11 in Exhibit Number 5.

7           Q     And Bates page --

8                   HEARING OFFICER WALLACE:  All right.  I  
9     don't know that it is a good use of our time to go  
10    through this page by page.

11                   MR. VAN NESS:  Well, I would like to  
12    avoid it.  Perhaps if we gave the witness a few  
13    minutes to leaf through the remaining pages, and  
14    then we could do them in a summary fashion.  Would  
15    that be acceptable?

16                   HEARING OFFICER WALLACE:  Yes.  Why don't  
17    you do that, Mr. Zierath.

18                   Let's go off the record while you leaf  
19    through that.

20   (Whereupon a short recess was  
21    taken.)

22                   HEARING OFFICER WALLACE:  Back on the  
23    record.

24                   Mr. Zierath, have you had a chance to



1 look at the documents in front of you?

2 THE WITNESS: Yes.

3 HEARING OFFICER WALLACE: All right. Mr.  
4 Van Ness.

5 MR. VAN NESS: Thank you, Mr. Hearing  
6 Officer.

7 Q (By Mr. Van Ness) Mr. Zierath, now that  
8 you have completed your review, would you agree  
9 that the pages which comprise the attachment to WHL  
10 Exhibit 16 are simply a collection of selected  
11 pages from WHL Group Exhibit 5?

12 A Yes.

13 Q Thank you. Now, upon reading the report,  
14 were you able to reach any general conclusions as  
15 to the character of the Bell Sports Waste?

16 MR. TAYLOR: We object to this line of  
17 questioning for the same basis we objected to Mr.  
18 Maw's testimony. There has been no -- the basis is  
19 relevance. There has been no connection between  
20 these samples and anything having to do with Waste  
21 Hauling Landfill.

22 HEARING OFFICER WALLACE: Mr. Van Ness?

23 MR. VAN NESS: I think I am asking the  
24 witness to get to that point. I think we are

1 entitled to lay the foundation and have him deal  
2 with it.

3 HEARING OFFICER WALLACE: All right. If  
4 you will hold your objection, then. Or it is noted  
5 and it will be overruled.

6 You can answer the question.

7 THE WITNESS: Excuse me. What was the  
8 question again?

9 HEARING OFFICER WALLACE: Would you read  
10 the question back.

11 (Whereupon the requested  
12 portion of the record was read  
13 back by the Reporter.)

14 HEARING OFFICER WALLACE: All right. To  
15 the extent -- I would ask that you clarify which  
16 exhibit you are referring to.

17 MR. VAN NESS: Well, okay. Why don't we  
18 limit it to Waste Hauling Exhibit 16, the  
19 attachment thereto.

20 HEARING OFFICER WALLACE: All right. Now  
21 answer the question, please.

22 THE WITNESS: For the analysis that we  
23 requested in five of the samples elected, the  
24 results for 2-Butanone were over the standard for

1 hazardous waste.

2 Q (By Mr. Van Ness) Again, 2-Butanone is  
3 commonly known as MEK; is that correct?

4 A Yes, that is an abbreviation for methyl  
5 ethyl ketone.

6 Q Have you compared the laboratory results  
7 for the waste exhumed at the Waste Hauling Landfill  
8 with the laboratory results with the waste found at  
9 the Bell Sports facility?

10 MR. TAYLOR: We would restate our  
11 objection.

12 HEARING OFFICER WALLACE: All right.  
13 Response, Mr. Van Ness?

14 MR. VAN NESS: Yes. I am asking him to  
15 compare those results. Mr. Hearing Officer, I am  
16 not asking him to state any origins of that sort.

17 HEARING OFFICER WALLACE: Well, the  
18 objection is to relevance.

19 MR. VAN NESS: Well, obviously, relevance  
20 is made on the basis of whether there is any  
21 connection. I am simply asking him if there is any  
22 connection. I am trying to establish that now.

23 HEARING OFFICER WALLACE: All right. The  
24 objection is noted. Overruled.

1           Mr. Zierath.

2           THE WITNESS: The sample -- some of the  
3 samples we collected at Waste Hauling Landfill were  
4 hazardous because of the TCLP results for  
5 2-Butanone and similarly, several of the -- some of  
6 the -- five of the samples collected at Bell Sports  
7 were hazardous because they were over the TCLP  
8 limit for 2-Butanone.

9           Q     (By Mr. Van Ness) What did you conclude  
10 based on your comparisons?

11          A     These waste -- the analysis results were  
12 similar.

13          Q     You have already stated in this  
14 proceeding that the drums you excavated in the  
15 samples from Waste Hauling Landfill were from Bell  
16 Sports. Would you agree that the results of your  
17 inspection and sampling at the Bell Sports facility  
18 in Rantoul support that opinion?

19           MR. TAYLOR: Objection. Leading.

20           MR. VAN NESS: I am simply referring  
21 back, Mr. Hearing Officer, to a statement he  
22 previously made already on the record.

23           HEARING OFFICER WALLACE: Overruled.

24           THE WITNESS: The results we got from the

1 analyses done of the Bell Sports' drums, the ones  
2 at their facility, were similar to what we got from  
3 the drums that were excavated at the Waste Hauling  
4 Landfill. So this did not in any way disprove that  
5 those were similar wastes.

6 Q (By Mr. Van Ness) Did you at any time  
7 receive any communication from Bell Sports  
8 challenging the laboratory results?

9 A No, I did not.

10 Q Did you play a role in recommending that  
11 this matter be referred to the Attorney General for  
12 enforcement?

13 A I am sure I recommended to other people  
14 that they refer this.

15 Q Were you aware of any basis for referring  
16 this matter for RCRA enforcement?

17 A There were -- the subsequent inspection  
18 done at Bell indicated that there were apparent  
19 RCRA violations at the facility.

20 Q Let's turn back to that. You mentioned  
21 the subsequent visit to the Bell Sports facility in  
22 Rantoul; is that correct?

23 A Yes.

24 Q Do you recall when that occurred?

1           A     My recollection is it was in March of  
2     1993.

3           Q     Did you have an opportunity to speak with  
4     Mr. Riddle at that time?

5           A     Yes, I did.

6           Q     Did you have an opportunity to visit the  
7     production facilities at the plant?

8           A     Yes.

9           Q     Did you observe where the wastes were  
10    being generated for that facility?

11          A     Mr. Riddle showed us where the paint  
12    sludge was generated in a paint room at the  
13    facility.

14          Q     Do you recall where the paint sludge was  
15    collected?

16          A     It was being placed in some 55 gallon  
17    drums that were in that room.

18          Q     Was there more than one drum or --

19          A     My recollection was that there was more  
20    than one drum, yes.

21          Q     Were you given to understand that both  
22    drums were serving the same purpose?

23          A     I was informed that one drum was where  
24    the employees were to put the material that Bell

1 was characterizing as hazardous waste and at least  
2 one other drum was there for what was not supposed  
3 to have been hazardous waste.

4 Q Where were these drums physically located  
5 relative to each other?

6 A They were quite close together, several  
7 feet apart maybe.

8 Q Do you recall whether the drums were  
9 sealed down?

10 A I don't recall, no.

11 Q Do you recall whether they had a lid on  
12 them at that time?

13 A I don't recall at this point.

14 Q Do you recall whether they were behind  
15 any enclosure or padlocked door or closet or  
16 anything of that sort?

17 A No, they were along the wall.

18 Q Did you observe any impediment of someone  
19 packing these barrels and putting whatever they  
20 wanted to in those barrels?

21 A No.

22 MR. TAYLOR: Objection. It calls for  
23 speculation.

24 MR. VAN NESS: I asked him if he observed

1 an impediment.

2 HEARING OFFICER WALLACE: Overruled.

3 THE WITNESS: No, I did not.

4 Q (By Mr. Van Ness) Did you observe the  
5 waste paint sludge while you were at Bell on that  
6 visit?

7 A I observed some in the drums in the paint  
8 room and essentially there was that type of  
9 material in the paint booths that were in that room  
10 and I also observed that.

11 Q Okay. Let me make sure we understand you  
12 correctly. Did you look into either of the two  
13 barrels you described previously?

14 A Yes.

15 Q I see. Can you describe the contents,  
16 please, as visually they appeared to you?

17 A It was kind of rubbery type material. It  
18 was various colors, including gray, which is a  
19 color they use for an undercoat that was prominent,  
20 and then other colors they had used.

21 Q Did the contents of both barrels have the  
22 same appearance?

23 A I don't recall the difference in colors.  
24 They were essentially the same type of material.



1 Q Did that appearance resemble in any way  
2 what you observed in the contents of the crushed  
3 drums at Waste Hauling Landfill?

4 A Yes, it did.

5 Q If so, in what way?

6 A In both cases it was a rubbery material  
7 with some gray material and then various other  
8 colors.

9 Q Are you aware of any basis for referring  
10 this matter for RCRA enforcement against Waste  
11 Hauling Landfill, other than the presence of the  
12 waste you attributed to Bell Sports?

13 A No.

14 MR. VAN NESS: At this time, Mr. Hearing  
15 Officer, I would move Waste Hauling Exhibits 14,  
16 15, and 16 into evidence.

17 HEARING OFFICER WALLACE: Any objection,  
18 Ms. Menotti?

19 MS. MENOTTI: No objections.

20 HEARING OFFICER WALLACE: Mr. Taylor?

21 MR. TAYLOR: Yes. I guess we have a  
22 whole host of them. We would like to go through  
23 them one by one.

24 HEARING OFFICER WALLACE: All right. WHL

1 Exhibit Number 14.

2 MR. TAYLOR: Exhibit 14 is incomplete. I  
3 guess we don't mind that this be admitted, the  
4 information that is here be admitted, but we would  
5 like the record to reflect that the submittal is  
6 incomplete.

7 If you refer to the last paragraph on  
8 page one of this exhibit, it states that also  
9 enclosed are additional waste analyses that Bell  
10 Sports had conducted and those waste analyses are  
11 not attached to 14, unless my numbers are wrong. I  
12 am referring to a letter. I believe that is 14.

13 HEARING OFFICER WALLACE: The letter from  
14 William Hassell?

15 MR. TAYLOR: Yes.

16 HEARING OFFICER WALLACE: Mr. Zierath,  
17 this is a letter to you. Do you recall that there  
18 were other attachments to that?

19 THE WITNESS: No, I do not.

20 HEARING OFFICER WALLACE: Mr. Van Ness?

21 MR. VAN NESS: Insofar as I understood,  
22 from the basis of discovery, I understood that we  
23 had the complete package here. The TCLP analysis I  
24 understood to be the last page on here. Is there

1 something more?

2 MR. TAYLOR: Yes. In the last paragraph  
3 there is reference to the toxicity analysis.

4 HEARING OFFICER WALLACE: Is there a copy  
5 of this additional information anywhere?

6 MR. TAYLOR: Presumably we would be able  
7 to find it.

8 HEARING OFFICER WALLACE: Well, if you  
9 wish it to be considered then you would have to  
10 provide it. Mr. Van Ness is representing that this  
11 is what was tendered during discovery, and that  
12 this is the extent of his information.

13 Mr. Zierath does not recall any  
14 additional pages. So if there are additional  
15 pages, you can feel free to bring those in.

16 MR. TAYLOR: Let me clarify what we are  
17 saying. I believe that the record should reflect  
18 that this submittal is incomplete, but we would not  
19 object to entering this exhibit or the extent of it  
20 that appears here.

21 HEARING OFFICER WALLACE: Well, I am not  
22 so sure we are all agreed that it is incomplete.  
23 That's the problem. If there are other pages that  
24 are with it or are missing or whatever then it

1 would be good to see those. Otherwise, I think,  
2 you know, the document is complete in what is  
3 presented here.

4 Well, we will move along. I will admit  
5 WHL Exhibit 14. If there are other pages then we  
6 will have to bring it up later.

7 (Whereupon said document was  
8 admitted into evidence as WHL  
9 Exhibit 14 as of this date.)

10 MR. VAN NESS: Thank you.

11 HEARING OFFICER WALLACE: All right.  
12 Exhibit 15, the RCRA inspection report.

13 MR. TAYLOR: I believe this is the page  
14 that is missing that is not there.

15 HEARING OFFICER WALLACE: All right.  
16 Then let's back up to Exhibit 14.

17 MR. VAN NESS: Maybe it got separated. I  
18 have seen it. Evidently when I got it it was not  
19 attached to the letter.

20 MS. MENOTTI: May I see it?

21 MR. DAVIS: I can make some copies of  
22 this.

23 MR. VAN NESS: Thank you.

24 HEARING OFFICER WALLACE: Okay. If I

1 could have it.

2 Mr. Zierath, take a look at that and see  
3 if you recognize that, and if you can testify that  
4 that was attached to that letter.

5 THE WITNESS: I don't recall that it  
6 was. But I did not look into the matter very  
7 extensively at this point. So it may have been. I  
8 mean, I don't know.

9 HEARING OFFICER WALLACE: All right. Do  
10 you object to the attachment?

11 MR. VAN NESS: No. Mr. Hearing Officer,  
12 we have no objection to adding that page so that  
13 Counsel for Bell can be satisfied that the exhibit  
14 is, in fact, complete. The copy of the exhibit  
15 that we have does not include that, but that  
16 document does appear to be a page I have seen  
17 floating around as a result of discovery. So it  
18 may have simply become detached.

19 HEARING OFFICER WALLACE: All right. I  
20 will attach the page that has a heading of Randolph  
21 & Associates, Inc. with a report date of 04-23-90,  
22 and that will be attached to WHL Exhibit 14, and  
23 then we will make some copies later.

24 Okay. Any objection to 15?

1 MR. TAYLOR: No.

2 HEARING OFFICER WALLACE: All right.

3 Exhibit 15 is admitted.

4 (Whereupon said document was  
5 admitted into evidence as WHL  
6 Exhibit 15 as of this date.)

7 HEARING OFFICER WALLACE: That's a RCRA  
8 inspection report dated 01-27-93.

9 All right. Then WHL Exhibit 16.

10 MR. TAYLOR: Yes.

11 HEARING OFFICER WALLACE: You have an  
12 objection?

13 MR. TAYLOR: Yes. First, I don't  
14 understand what basis it is being provided for as  
15 an exhibit, whether it is supposed to be a business  
16 record of the Agency or whether somehow these pages  
17 are supposed to be authenticated somehow.

18 Second, is we will renew our objection to  
19 relevance. We still clearly did not see a  
20 connection between these sample results and any  
21 waste that was found at the landfill. To make it  
22 more clear, there has been no testimony that this  
23 waste was sent to the landfill. We believe that  
24 the statements of reason given are inadequate to

1 establish foundation.

2 HEARING OFFICER WALLACE: All right.

3 MR. VAN NESS: As regards to former, I  
4 would simply point out that the witness was asked  
5 whether this was the type of record that was relied  
6 upon and, in fact, was it not, in fact, relied upon  
7 by he and the Agency, and he stated yes.

8 As regards to the second, as far as  
9 foundation is concerned, I think it is  
10 transparently clear the witness has described the  
11 visual appearance, the chemical results obtained  
12 from the samples that were taken, and he described  
13 them as being comparable and similar and supportive  
14 of his previously stated view of origin of these  
15 waste materials and, consequently, I think we have  
16 all of the relatives that we need to show for  
17 purposes of this exhibit.

18 MR. TAYLOR: May I respond?

19 HEARING OFFICER WALLACE: Yes, you may.

20 MR. TAYLOR: The last point that should  
21 be made here is that these samples were collected  
22 approximately nine months, by my count, after the  
23 landfill shut down.

24 MR. VAN NESS: I think that will be

1 self-evident from the record. The witness  
2 testified he obtained those samples in January of  
3 1993. I think it is certainly within the purview  
4 of the Board to draw any conclusions it wishes to  
5 make or not to make, based upon his technical  
6 expertise and the associated testimony relating to  
7 this case.

8 HEARING OFFICER WALLACE: All right. I  
9 am going to admit WHL Number 16.

10 (Whereupon said document was  
11 admitted into evidence as WHL  
12 Exhibit 16 as of this date.)

13 MR. VAN NESS: Just a moment, please.

14 (Mr. Van Ness and Mr. Latshaw  
15 confer briefly.)

16 MR. TAYLOR: Can we ask for a  
17 clarification to the ruling as to whether this  
18 Exhibit Number 16 is admitted for the validity of  
19 the test results or for the fact that it may have  
20 caused Mr. Zierath to take certain actions?

21 The reason we raise the issue is I do not  
22 believe Mr. Zierath has provided any testimony  
23 relating to the chain of custody of anyone outside  
24 the Agency in handling the samples. As you see,



1 the samples were not analyzed by the Agency.

2 HEARING OFFICER WALLACE: I am sorry.  
3 Would you repeat that? I am not sure I am clear on  
4 your objection or your request for a clarification.

5 MR. TAYLOR: I guess we are asking for a  
6 clarification as to whether Exhibit 16 is submitted  
7 for, or admitted -- excuse me -- to prove that the  
8 sampling results are correct or whether it is  
9 submitted just to show that Mr. Zierath's reading  
10 of this information may have caused certain actions  
11 from within the Agency.

12 HEARING OFFICER WALLACE: Well, to  
13 clarify that, I have admitted it into the record  
14 without any restrictions, so it is admitted for  
15 whatever it is worth. You know, there were no  
16 restrictions on its admission. So I don't  
17 understand. Are you now asking me to restrict it  
18 to a certain use, not necessarily to clarify --

19 MR. TAYLOR: Yes, we would ask you to  
20 limit the use of the exhibit on the basis just  
21 stated. I can restate it again.

22 MR. VAN NESS: I think I would have to  
23 object to that. First, we put no such limitations  
24 on similar evidence that was produced by the State

1 in the course of its case, and I see no reason to  
2 do so here either.

3 The witness' testimony is self-limiting  
4 by his own descriptions of the kind of document  
5 they receive from the EPA contract laboratory and  
6 the sort of information upon which they relied. It  
7 is, I think, well, again, within the purview of the  
8 Board to decide where else they want to go with  
9 respect to the use of that evidence.

10 HEARING OFFICER WALLACE: Ms. Menotti, do  
11 you have any comment?

12 MS. MENOTTI: No.

13 HEARING OFFICER WALLACE: All right. I  
14 am not going to place any restriction on WHL  
15 Exhibit Number 16. It is admitted into the record  
16 for whatever it is worth and you can argue that it  
17 is worth nothing or it is worth something. I don't  
18 know.

19 All right. Mr. Van Ness.

20 MR. VAN NESS: Thank you.

21 Q (By Mr. Van Ness) Mr. Zierath, I want to  
22 return very quickly to the inspection of the Waste  
23 Hauling Landfill on April 22, 1992. Do you recall  
24 the laboratory results for the three barrels that

1 did not, in your judgment, test hazardous?

2 A I don't recall the analytical results for  
3 those, no.

4 Q Do you recall -- perhaps you can recall  
5 whether the contents of those barrels included  
6 positive results for either methyl ethyl ketone or  
7 butane?

8 A Well, they all -- I am afraid I would  
9 have to look at the results. As I recall, they may  
10 not have all had above the detection limit for all  
11 those, but some of them had below the standard but  
12 above the detection limit.

13 Q So there might have been methyl ethyl  
14 ketone present, but not in a concentration above  
15 the standard?

16 A That's correct.

17 (Mr. Van Ness and Mr. Latshaw  
18 confer briefly.)

19 MR. VAN NESS: One moment, please.

20 (Mr. Van Ness and Mr. Latshaw  
21 confer briefly.)

22 MR. VAN NESS: We have no further  
23 questions for Mr. Zierath.

24 HEARING OFFICER WALLACE: Mr. Taylor,

1 cross-examination?

2 MR. TAYLOR: Mr. Nahmod will begin.

3 HEARING OFFICER WALLACE: All right. Mr.  
4 Nahmod?

5 CROSS EXAMINATION

6 BY MR. NAHMOD:

7 Q Mr. Zierath, I want to turn your  
8 attention to People's Exhibit Number 14, and  
9 specifically to attachment one to a memo dated  
10 April 22, 1992.

11 A Yes.

12 Q You had testified that, if I am not  
13 mistaken, that the appearance of the drums were all  
14 pretty much the same; isn't that right?

15 A They were crushed steel drums with  
16 various amounts of paint scraped off the outside.

17 Q The one drum with a label on it was drum  
18 number 33; isn't that right?

19 A That's correct.

20 Q And the color of that drum was green;  
21 isn't that right?

22 A According to my records here, yes.

23 Q The only other drum that was green was  
24 drum number 31; isn't that right?

1           A     That's correct.

2           Q     So of the 53 drums, the one with the  
3 label and then one other drum were green and the  
4 rest were black, blue and white; isn't that right?

5           A     That's correct.

6           Q     As to that drum with a label on it, there  
7 was no PID reading registered for that drum; isn't  
8 that right?

9           A     That's correct.

10          Q     And Bell's name was not on the label;  
11 isn't that right?

12          A     Yes, that's correct.

13          Q     The label that you saw, it's a label that  
14 is commercially available; isn't that right?

15          A     Yes.

16          Q     And you had seen them elsewhere?

17          A     I had seen them at Bell and at least two  
18 other facilities I had been to.

19          Q     So it was -- it could have been more than  
20 two facilities that you had seen it?

21          A     Essentially, yes.

22          Q     How many facilities have you visited as  
23 part of your responsibilities with the Agency?

24          A     I don't know the -- hundreds of them. I

1 don't know the number specifically.

2 Q You could have seen these labels at any  
3 one of those hundreds or more than one of those  
4 hundreds of facilities; isn't that right?

5 MR. VAN NESS: Objection. Are you asking  
6 the witness to speculate or are you asking him  
7 whether he has actually seen such labels?

8 MR. NAHMOD: He is not speculating. I am  
9 asking him to testify as to his knowledge.

10 HEARING OFFICER WALLACE: Overruled.

11 THE WITNESS: I have seen them at more  
12 than one other facility.

13 Q (By Mr. Nahmod) More than two other  
14 facilities; isn't that right?

15 A Yes, if you count Bell. I recall seeing  
16 them at at least three places other than the  
17 landfill.

18 Q Did you visit those other two places when  
19 you found these labels at the landfill, at the  
20 Waste Hauling Landfill?

21 A No.

22 Q Isn't it true that Bell is not the only  
23 facility that uses paint of various colors?

24 A Yes.

1 Q And that Bell isn't the only facility  
2 that uses gray paint?

3 A That's correct.

4 Q And Bell is not the only facility that  
5 uses pink paint?

6 A That's correct.

7 Q Isn't it also true that Bell is not the  
8 only facility at which you have seen waste of a  
9 rubbery texture?

10 A That's correct.

11 Q Is Bell the only facility that uses MEK,  
12 otherwise known as 2-Butanone?

13 A No.

14 Q Is Bell the only facility that uses  
15 acetone?

16 A No.

17 Q You testified that you saw these labels  
18 at the Bell Sports facility before your visit to  
19 the landfill; isn't that right?

20 A Yes.

21 Q Was that, in fact, known as the Bell  
22 Sports facility at that time?

23 A My recollection is when I first dealt  
24 with Bell it was known as Bell Helmets.

1 Q Did you visit the facility when it was  
2 known as Bell Helmets?

3 A Yes, I did.

4 Q When was that?

5 A My recollection is around 1986.

6 Q What was the purpose of that visit?

7 A It was a routine RCRA inspection,  
8 hazardous waste inspection.

9 Q Was the facility known as Vetter Products  
10 at that time?

11 A It had previously been known as Vetter.

12 Q You were also there in June of 1992;  
13 isn't that right?

14 A That's quite possible, yes.

15 Q And you didn't see any labels then, did  
16 you?

17 A Not that I recall.

18 Q Did you complete a report based on that  
19 visit?

20 A Yes, I did.

21 Q Did you take any photographs from that  
22 visit?

23 A Yes, I did.

24 Q Do you recall a visit to the facility



1 when you were not allowed to enter the facility?

2 A No.

3 Q So every time you visited the Bell Sports  
4 facility, you have been granted entrance?

5 A Yes.

6 Q And have you been allowed to inspect the  
7 facility every time you have visited it?

8 A Not during the June 1993 inspection  
9 visit, I guess.

10 Q The visit during which you were not  
11 allowed to inspect the facility, was that before or  
12 after the drums were excavated at the Waste Hauling  
13 Landfill?

14 A That was after.

15 Q What was the date of that visit?

16 A That was the June 8, 1992 visit.

17 Q Then the subsequent visit you had just  
18 referred to, was that January of 1993?

19 A Yes.

20 Q In June of 1992, did you visit any other  
21 facilities besides Bell's?

22 A Not in connection with this  
23 investigation.

24 Q So the Bell Sports facility was the only

1 one you visited?

2 A In conjunction with this investigation,  
3 yes.

4 Q Had you already decided by the time you  
5 visited Bell's facility that it was the source of  
6 the drums that were found at the landfill?

7 A That was our -- that was the theory we  
8 were working under at that point.

9 Q So you didn't have any theory that  
10 anybody else could have been the source of those  
11 drums; is that right?

12 A That's correct.

13 Q When you tested the waste at Bell's  
14 facility, you said that the results from that  
15 testing did not disprove that the wastes were  
16 similar; isn't that right?

17 A That's correct.

18 Q So you were not testing Bell's waste to  
19 see whether it proved that that waste was similar  
20 to the waste at the landfill; isn't that right?

21 A That's correct.

22 Q I want to turn your attention to the  
23 January 1993 report.

24 MR. VAN NESS: Is that Waste Hauling

1 Exhibit 15?

2 THE WITNESS: Yes, Waste Hauling Exhibit  
3 15.

4 MR. VAN NESS: Thank you.

5 Q (By Mr. Nahmod) At this point in time the  
6 Waste Hauling Landfill was no longer accepting  
7 waste; isn't that right?

8 A That's correct.

9 Q So the waste tested during this visit did  
10 not end up at the Waste Hauling Landfill, did it?

11 A To the best of my knowledge, no, it did  
12 not.

13 Q Where did it go, to the best of your  
14 knowledge?

15 A I don't know.

16 Q Do you have any reason to think that it  
17 went to the Waste Hauling Landfill?

18 A No.

19 Q You mentioned that you scraped the tops  
20 of drums during this visit; isn't that right?

21 A Excuse me?

22 Q You had testified earlier today that you  
23 took the samples by scraping the tops of drums;  
24 isn't that right?

1           A     We collected samples using generally  
2 stainless steel spoons from the material at the top  
3 of the drums.

4           Q     Okay. Was that what you consider a  
5 representative sample of the contents of the drums?

6           A     Yes.

7           Q     But that doesn't at all indicate what is  
8 in the drums; isn't that right?

9           A     No, I wouldn't characterize that as  
10 right.

11          Q     So when you took the samples from the  
12 tops of the drums, you were assuming what was in  
13 the drums; is that right?

14                   MR. VAN NESS: Objection. That is not  
15 what the witness stated. He is mischaracterizing  
16 the witness' testimony.

17                   HEARING OFFICER WALLACE: Sustained.

18          Q     (By Mr. Nahmod) You didn't collect a  
19 sample from anywhere but on top of the drums; isn't  
20 that right?

21          A     That is -- for several of the samples we  
22 used glass tubes to collect a -- the liquid that  
23 was in the drums, some of which wasn't water, so we  
24 did collect as much of a column of liquid as we

1 could in the containers.

2 Q Where was that liquid taken from?

3 A It was liquid that was in the drums, and  
4 so we used glass tubes, basically, to get a  
5 cross-section of the liquid in those drums.

6 Q So now you are saying that the samples  
7 were not taken from the tops of the drums?

8 A I am saying that where we could we used  
9 glass tubes to take a cross-sectional sample of the  
10 liquid. Where all we could reach or all we could  
11 find was the solid material, then we collected what  
12 we could reach using the stainless steel spoons.

13 Q And even then you were limited by only  
14 taking what wasn't frozen; isn't that right?

15 A That's correct.

16 Q I want to turn your attention to what has  
17 been marked as Waste Hauling Exhibit Number -- I am  
18 sorry. I am actually referring to People's  
19 Exhibit -- no, that is not it. It is Waste Hauling  
20 Exhibit Number 16.

21 MR. VAN NESS: Number 16?

22 MR. NAHMOD: Yes.

23 Q (By Mr. Nahmod) Specifically, I want to  
24 turn your attention to what is marked in the lower

1 right-hand corner as page number 190. There is a  
2 reading indicated or a level indicated for  
3 2-Butanone on that page; isn't that right?

4 A Yes.

5 Q Do you see to the right of that reading  
6 that there are two letters there; isn't that right?

7 A Yes.

8 Q The letters are E and B?

9 A Yes.

10 Q What is the significance of the letter E,  
11 do you know?

12 A I would have to look in the reference  
13 sheet at the beginning of this.

14 Q Can you please do that?

15 A The reference sheet, which is the second  
16 page of this letter, indicates that E means  
17 concentration exceeds the instrument calibration  
18 range and was subsequently diluted.

19 Q What is the significance of that?

20 A It means that when they ran it through  
21 the first time it was too concentrated and they  
22 couldn't get a usable result, and so they diluted  
23 the sample in known amount and ran it again so it  
24 would fall into the instrumentation range.

1 Q Do you see here what the subsequent  
2 reading was?

3 A Yes.

4 Q Okay. Now, turning your attention back  
5 to the previous page, the letter B, what is the  
6 significance of that?

7 A Referring once again to the reference  
8 page, it says compound was found in the blank in  
9 the sample.

10 Q What is the significance of that?

11 A Well, there are -- basically, the  
12 laboratory uses blank samples. In this case, since  
13 we were not collecting the little volatiles they  
14 would have taken an empty container that hadn't  
15 been used and taken a blank sample to determine if  
16 there was contamination from the lab.

17 Q This indicates that, in fact, the blank  
18 was contaminated; isn't that right?

19 A Yes.

20 Q Turn your attention, please, to what is  
21 in the lower right-hand corner, 000201. There is a  
22 reading on that page for 2-Butanone, isn't there?

23 A Yes.

24 Q To the right of that reading the letter B

1 is there; isn't that right?

2 A Yes.

3 Q Here, too, doesn't this indicate that the  
4 blank was contaminated?

5 A Yes.

6 Q Turning two more pages, please, to page  
7 203, there is a reading there for 2-Butanone, isn't  
8 there?

9 A Yes.

10 Q The notation B there, again, indicates  
11 that the blank was contaminated, doesn't it?

12 A Yes.

13 Q Mr. Zierath, when were these samples in  
14 your custody?

15 A They actually never had them in my  
16 custody. They were collected, and the -- by the  
17 sampler and then handed to Amy Brown, who then  
18 packaged them up in the cooler.

19 Q Who was the sampler?

20 A Debra Paxton was the head sampler. She  
21 was the one who actually collected the samples.

22 Q Then she handed them to Amy Brown?

23 A Yes.

24 Q To whom did Amy Brown hand them?



1           A     She then shipped them to the laboratory.

2           Q     Did you see who shipped them?  By that I  
3 mean who actually transported them from Amy Brown  
4 to the laboratory?

5           A     I don't know.  We usually use UPS.

6           Q     Did you see them handled at the  
7 laboratory?

8           A     No.

9           Q     Do you know who handled them at the  
10 laboratory?

11          A     No.

12          Q     Did you do any of the testing at the  
13 laboratory?

14          A     No, I did not.

15          Q     Did you see how the testing was done?

16          A     No.

17          Q     So you have no knowledge, personally, as  
18 to how the testing was conducted; isn't that right?

19          A     That's correct.

20          Q     You conducted no quality review check of  
21 the testing?

22          A     No, I did not.

23          Q     So you, personally, cannot testify that  
24 this testing was done correctly, can you?

1           A     No.

2           Q     You can't testify that the test results  
3 are accurate, either, can you?

4           A     No.

5                                 (Mr. Taylor and Mr. Nahmod  
6                                 confer briefly.)

7           Q     (By Mr. Nahmod) I want to turn your  
8 attention to what has been marked as Waste Hauling  
9 Exhibit Number 14. Specifically, I want to turn  
10 your attention to what was the last page of the  
11 exhibit, as it was submitted by Waste Hauling,  
12 which I guess now is the second to the last page of  
13 the exhibit.

14                                 These are test results given to you by  
15 Bell Sports; isn't that right?

16           A     Well, they were submitted as part of this  
17 letter.

18           Q     What was tested for?

19           A     Well, it -- the tests that were run were  
20 the toxic characteristic leaching procedure for  
21 organic compounds.

22           Q     And benzene was tested for; isn't that  
23 right?

24           A     Yes, that is one of the compounds.

1 Q And methyl ethyl ketone was tested for,  
2 right?

3 A That is also one of the compounds, right.

4 Q This is the same test you used on Bell's  
5 waste; isn't that right?

6 A That's correct.

7 Q This attachment to Waste Hauling Exhibit  
8 14, indicates that none of the waste sampled at  
9 Bell Sport's facility was hazardous; isn't that  
10 right?

11 MR. VAN NESS: I would object. Let the  
12 report speak for itself.

13 HEARING OFFICER WALLACE: Overruled.

14 THE WITNESS: Nothing -- none of the  
15 results here indicate that the samples here were  
16 from hazardous waste.

17 MR. NAHMOD: We have no further questions  
18 at this time, Mr. Hearing Officer.

19 HEARING OFFICER WALLACE: All right.  
20 Redirect?

21 MR. VAN NESS: Yes. Thank you.

22 HEARING OFFICER WALLACE: Oh, I am  
23 sorry. Ms. Menotti?

24 MR. VAN NESS: I am sorry.

1 MS. MENOTTI: Thank you.

2 CROSS EXAMINATION

3 BY MS. MENOTTI:

4 Q I just have a couple of questions for  
5 you.

6 Mr. Van Ness asked you about leachate  
7 during his direct examination. During your limited  
8 visits to the landfill, did you ever observe  
9 leachate there?

10 A I recall that south of where we were  
11 digging in the afternoon on April 22nd, 1992, there  
12 were stains from leachate, and that's my only  
13 recollection of leachate at that facility.

14 Q What do you mean by "stains"?

15 A Well, there were visible stains on the  
16 ground. There was not liquid flowing that I  
17 recall, but the ground had been stained brown where  
18 leachate had flown out of the -- from the cover of  
19 the material at the landfill.

20 Q You testified that you never took any  
21 leachate samples at the landfill, right?

22 A I never did, no.

23 Q In your review of the file, do you know  
24 if any leachate samples were ever taken?

1           A     I understand that there were, but I did  
2 not review the file for that, so I don't know when.

3           Q     Have you ever taken any leachate samples  
4 at other facilities?

5           A     Yes, I have.

6           Q     Can you tell me what that procedure is?

7           A     The procedure is to find a place in the  
8 leachate flow where you can put a clean glass  
9 container and then just interrupt the flow and  
10 collect the leachate in the glass container, and  
11 then transfer it from there into other appropriate  
12 bottles for the analysis.

13          Q     Why is leachate analyzed?

14          A     Because it is contaminated, generally,  
15 and we wish to characterize how contaminated.

16                   MS. MENOTTI: I have nothing further.

17                   HEARING OFFICER WALLACE: All right.

18 Redirect?

19                   MR. VAN NESS: Yes, Mr. Hearing Officer.

20                                   REDIRECT EXAMINATION

21                                   BY MR. VAN NESS:

22          Q     Mr. Zierath, you testified that you had  
23 seen the label on what is going to be called drum  
24 number 33. You had seen labels like that before;

1 is that correct?

2 A Yes.

3 Q And at other facilities than the Bell  
4 Sports facility?

5 A Yes.

6 Q You further testified, I believe, in  
7 response to Mr. Nahmod's questioning, that you  
8 didn't visit those other facilities at this time;  
9 is that correct?

10 A That's correct.

11 Q Why?

12 A The only other two facilities I remember  
13 seeing those labels on were they were on waste oil  
14 drums, and this was -- that was not what we were  
15 finding at the Waste Hauling Landfill.

16 Q So you would have no reason to look at  
17 those other two sites; is that correct?

18 A That's correct.

19 Q You described taking samples at the top  
20 of the drums. I assume that that is with the lid  
21 off; is that correct?

22 A Yes.

23 Q And you indicated that you first used the  
24 photoionization detector to determine which drums

1 to sample from?

2 A Yes.

3 Q Why was it necessary to use the stainless  
4 steel spoons?

5 A Basically because of the nature of the  
6 material. For solid materials that's what we use,  
7 a clean, stainless steel spoon to dig them out.

8 Q Okay. Now, what was the nature of the  
9 solid material that you were removing?

10 A It was basically a rubbery material and  
11 some of it granular at times and other times it was  
12 solid mass of material.

13 Q Do you recall what the physical  
14 appearance of that material was?

15 A Basically it was a rubbery type material.

16 Q What color was it?

17 A I testified before there was gray plus  
18 various other colors.

19 Q You previously testified, I believe, that  
20 the nature of the test that was performed -- let me  
21 rephrase that. Let me refer you to the correct  
22 exhibit.

23 Let's turn to Waste Hauling Exhibit, I  
24 guess this is 14, and what was the final page, and

1 I guess now is the ultimate page of that exhibit.  
2 Do you have that in front of you, sir?  
3 A Yes.  
4 Q Is that the page that reads Environmental  
5 Science and Engineering at the top?  
6 A Yes.  
7 Q You described the test that was reported  
8 on this page as being the same test that was  
9 reported in the attachment to Waste Hauling Exhibit  
10 16; is that correct?  
11 A Yes.  
12 Q The same type of test was reportedly  
13 done?  
14 A Yes, the TCLP.  
15 Q You didn't see that test performed, did  
16 you?  
17 A No.  
18 Q You didn't do any independent  
19 verification of the assurance of quality control?  
20 A No.  
21 Q All right. So you have no personal  
22 knowledge if these results are accurate either, do  
23 you?  
24 A No.





1           A     I have been involved in projects before  
2 where things were brought to my attention so, yes,  
3 apparently, it is a practice of the Agency.

4           Q     Were any problems brought to your  
5 attention aside from those that Mr. Nahmod  
6 described to you?

7           A     No.

8           Q     Was there anything about those results  
9 that Mr. Nahmod described with you, was there  
10 anything in that set of results that affected your  
11 decision?

12          A     No.

13          Q     Is it still your view that the labs  
14 exhumed on April 22, 1992, from the Waste Hauling  
15 Landfill were received from Bell Sports?

16          A     It is still my opinion that the drums we  
17 exhumed were from Bell Sports, yes.

18                   MR. VAN NESS:   Okay.  I have nothing  
19 further.

20                   HEARING OFFICER WALLACE:  Recross, Mr.  
21 Nahmod?

22                   MR. NAHMOD:    Yes.

23                                    RE CROSS EXAMINATION

24                                    BY MR. NAHMOD:



1 Q So as far as you know, she doesn't have  
2 personal knowledge as to whether proper procedures  
3 were followed in testing the samples?

4 A No.

5 Q As far as you know, she doesn't know  
6 whether the sampling results were accurate; isn't  
7 that right?

8 A That's correct.

9 MR. NAHMOD: No further questions.

10 HEARING OFFICER WALLACE: Ms. Menotti?

11 MS. MENOTTI: Nothing.

12 EXAMINATION

13 BY HEARING OFFICER WALLACE:

14 Q Mr. Zierath, I need you to go back  
15 through some more sampling on January 27th, 1993.  
16 You examined how many drums?

17 A There were 54 drums in a group that were  
18 identified as nonhazardous waste drums.

19 Q And how many drums did you -- you took  
20 samples from how many drums?

21 A From eight drums.

22 Q Did you remove the lids from these drums  
23 or --

24 A We removed the lids from all of the drums

1 that the lids would come off of.

2 Q Now, of the eight drums that you sampled,  
3 were some frozen on top?

4 A There was some ice in a number of the  
5 drums, and including some that we sampled.

6 Q All right. The ones that had ice  
7 required you to use your spoon; is that correct?

8 A That is correct.

9 Q The ones that were not frozen, you used a  
10 glass tube?

11 A If there was liquid that was not frozen  
12 we used a glass tube.

13 Q All right. The glass tube, is that  
14 inserted -- how long is the glass tube?

15 A It is a little over three feet. It is a  
16 little bit longer than the drum is tall.

17 Q And normal procedure is to insert the  
18 glass tube all the way to the bottom?

19 A Yes, if there is nothing obstructing it.

20 Q And then by using the glass tube, you get  
21 a cross-section of the entire barrel, or drum in  
22 this case?

23 A Yes.

24 Q Or at least as far down as it will go?

1           A     That's correct.

2           Q     With the spoon method you scrape off of  
3 the top of the drum; is that correct?

4           A     When we use the spoon, we try and dig  
5 down as far as we can so we don't just get the top  
6 surface, but it is limited in how far.

7           Q     All right. I assume the spoon is not  
8 three feet long?

9           A     You are correct.

10          Q     This is where I am confused. The barrels  
11 that had ice, were you able to use the spoon just  
12 on the surface or did you go down below the  
13 surface?

14          A     The drums that had ice, it frequently  
15 wasn't over the entire surface, so we were able to  
16 dig down through the paint-like material a ways.  
17 As far as collecting the bits of the ice, we were  
18 limited to the surface, what we could break off.

19          Q     Well, then, did you take more than one  
20 sample from each drum?

21          A     We added -- if we collected liquid --

22          Q     Well, wait. Let me back up. I am  
23 somewhat confused. Did you take samples of the ice  
24 crystals that were on top as well as other material

1 in the drum?

2 A We did, but they were all added into the  
3 same bottle to make a single sample of the material  
4 in a drum.

5 Q So then with that type of collection, you  
6 do not get any cross-sectional look at the drum?

7 A That is correct.

8 Q All right. Now the eight samples, how  
9 many were glass tubes and how many were the  
10 stainless steel spoon?

11 A I don't recall right offhand.

12 Q All right. Would your notes show that  
13 or --

14 A Just a second. (The witness reviewed  
15 documents.)

16 It appears as though there was liquid in  
17 seven of the eight samples, so those were the ones  
18 we would have used glass tubes on. I am sorry. It  
19 appears as though all eight samples.

20 Q All eight samples what?

21 A Had liquid and, therefore, we used glass  
22 tubes on all eight of those samples.

23 Q So you do not -- do you recall whether or  
24 not you used the stainless steel spoon at all?

1           A     We used the stainless steel spoons to  
2 collect the solid material from the drums, because  
3 all of the drums had some solids and from the ones  
4 we sampled they all had some liquid also. So in  
5 order to collect as representative as we could get  
6 we collected part of the samples as the solid  
7 material and part of it as liquid.

8           Q     All right. Those samples resulted in  
9 your receiving that information that is contained  
10 with your letter, which has been identified as WHL  
11 Exhibit 16?

12          A     That is correct.

13          Q     Okay. Did you utilize the information  
14 you received in any fashion?

15          A     The information in WHL 16?

16          Q     Yes.

17          A     We -- I subsequently conducted an  
18 inspection at the facility, a RCRA inspection, in  
19 which I reviewed documentation at the facility, and  
20 subsequently our Champaign regional office followed  
21 up on that, since it is actually in their region.  
22 My understanding was this facility went through  
23 what is called closure of their storage facility  
24 where they were storing this material.



1           Q     Okay.  So your next visit, would that  
2     have been the March of 1993 visit?

3           A     Yes.

4                   HEARING OFFICER WALLACE:  All right.  
5     Thank you.  You may step down.

6                                   (The witness left the stand.)

7                   HEARING OFFICER WALLACE:  Let's go off  
8     the record.

9                                   (Discussion off the record.)

10                  HEARING OFFICER WALLACE:  Let's come back  
11     at 1:10.

12                                   (Whereupon a lunch recess was  
13     taken from 12:10 p.m. to 1:10  
14     p.m.)

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AFTERNOON SESSION

(May 19, 1997; 1:10 p.m.)

HEARING OFFICER WALLACE: All right.

Back on the record. Let's resume for the afternoon.

Mr. Van Ness?

MR. VAN NESS: I believe that my colleague will take it from here, Mr. Hearing Officer.

HEARING OFFICER WALLACE: All right. Mr.

Latshaw?

MR. LATSHAW: Thank you, Mr. Hearing Officer.

Mr. Riddle, I think, for the record, that you have --

HEARING OFFICER WALLACE: Wait. Why don't you call him, so that I can swear him in.

MR. LATSHAW: I am sorry. I thought we were set.

I call Mr. Nick Riddle.

(Whereupon the witness was sworn by the Hearing Officer.)

G E R A L D R. R I D D L E,

having been first duly sworn by the Hearing

1 Officer, saith as follows:

2 DIRECT EXAMINATION

3 BY MR. LATSHAW:

4 Q Mr. Riddle, what is your full name?

5 A Gerald Riddle.

6 Q Gerald R. Riddle?

7 A Gerald R. Riddle. I am sorry.

8 Q You go by Nick; is that correct?

9 A Right.

10 Q Mr. Riddle, you are not presently  
11 employed by Bell Sports; is that correct?

12 A Correct.

13 Q When was the last time you were employed  
14 by Bell Sports?

15 A 1995.

16 Q Prior to 1995, how long had you been  
17 employed there?

18 A Eight years.

19 Q Only eight years?

20 A There was a separation. I had worked  
21 about ten years before that.

22 Q What was the length of the separation?

23 A Almost two years.

24 Q So you were employed there in 1992, then;

1 is that correct?

2 A Yes.

3 Q So it would have been eight years prior  
4 to 1995, that was your second --

5 A Yes.

6 Q -- tour there? If my arithmetic is  
7 correct that would have been, what, 1987 that you  
8 were re-employed?

9 A Right about there, uh-huh.

10 Q During that eight year period prior to  
11 1995, what was your position or status?

12 A Facilities manager.

13 Q What did that entail?

14 A The people in maintenance worked for me.  
15 I had responsibility for security, buildings and  
16 grounds.

17 Q Were you responsible in any way for  
18 handling or managing any paint sludge that might  
19 have been generated?

20 A Yes.

21 Q To what extent were you responsible for  
22 that aspect?

23 A I was responsible for properly training  
24 the people to handle the sludge and to make sure it

1 was disposed of properly.

2 Q In that regard did you have people  
3 working for you?

4 A Yes.

5 Q How many people?

6 A I think at the most it was seven.

7 Q Aside from Mr. Marlow and Mr. Staulter  
8 (spelled phonetically) were there other persons?

9 A Yes.

10 Q Were they -- when you say seven, does  
11 that count turnover?

12 A No.

13 Q Okay.

14 A Total at one time.

15 Q All right. Now, were you familiar with  
16 how this paint sludge was generated?

17 A Yes.

18 Q Can you describe how it was generated?

19 A We painted bicycle helmets, and they  
20 would come into a paint booth on a conveyor, and  
21 that's when the paint was applied. And the paint  
22 sludge was a result of the overspray that dropped  
23 into the booth and caught the water, and that's  
24 where the sludge was obtained.

1 Q Now, was this an automatic spray process?

2 A No.

3 Q Were people used to actually spray the  
4 helmets?

5 A Yes.

6 Q Were the helmets sprayed only during the  
7 first shift?

8 A It varied. The majority of time it was  
9 only on first shift.

10 Q When you say the majority of the time,  
11 could you characterize that in terms of a  
12 percentage?

13 A Over 50 percent.

14 Q Now, how was the spray gathered or  
15 captured or contained in the water that you  
16 described?

17 A The spray hit the water, the waterfall.

18 Q There was a waterfall behind the paint  
19 line, as it were?

20 A In the paint booth, behind the conveyor  
21 line.

22 Q Was it a continuous stream of water like  
23 a waterfall?

24 A Yes.

1 Q How large was the waterfall?  
2 A About five foot by five foot.  
3 Q Five feet by five feet, you mean it would  
4 fall a distance of five feet?  
5 A The back wall was approximately that  
6 size.  
7 Q Okay. So a square area of approximately  
8 five feet?  
9 A Approximately.  
10 Q Would more than one person be involved in  
11 the spraying?  
12 A Only one person in one booth.  
13 Q How many booths were there?  
14 A Three.  
15 Q Were they all operated simultaneously?  
16 A No. Normally 90 percent one booth, 90  
17 percent of the time one booth and maybe 30 -- 20 to  
18 30 percent two booths and the third booth was  
19 rarely, rarely used for spraying.  
20 Q Would there only be one color sprayed at  
21 a time in one paint line?  
22 A In one paint booth?  
23 Q Yes, sir, in one paint booth?  
24 A Just one color.

1 Q Would that color be changed during the  
2 course of a single shift?

3 A It could be, yes.

4 Q Well, usually and customarily would it be  
5 a process of running three or four different colors  
6 during that particular shift?

7 A It really varied according to the  
8 schedule.

9 Q All right. So on some days it could have  
10 been a single color all day?

11 A Yes.

12 Q On some days it could have been two or  
13 three or as many as five colors that day?

14 A Yes.

15 Q Now, what would happen to the water after  
16 it was -- after the paint spray was captured by the  
17 water, what would happen to it?

18 A When we took the sludge out of the back  
19 of the booth we did take some of the water with it,  
20 but it remained. It recycled in the booth.

21 Q Now, what container was there that the  
22 water and the paint fell into? Can you describe  
23 the nature of that container?

24 A It was just part of the paint booth. I



1 can't describe it.

2 Q Was there a container of some sort or did  
3 it just fall on the floor?

4 A No, it was part of the paint booth,  
5 inside the paint booth.

6 Q Can you describe how large an area that  
7 the water fell into in terms of the container?

8 A Five foot by six feet, seven feet.

9 Q Did it have a depth where this water  
10 would fall?

11 A Yes. It was -- I would have to -- I  
12 don't know. It was not over three feet deep.

13 Q Okay. That would be the depth of the  
14 water?

15 A Yes.

16 Q Okay.

17 A Probably less.

18 Q Two feet, perhaps?

19 A It could be.

20 Q Less than two feet?

21 A Doubtful.

22 Q All right. What would happen to the  
23 water then, if anything?

24 A It stayed in the booth.

1 Q Would it be recycled through the booth?

2 A It stayed in the booth. We would add  
3 water if needed.

4 Q So the water that would be used in the  
5 waterfall was sort of just a continuous feeding  
6 process with the same water and maybe you would  
7 have to add some from time to time?

8 A Yes.

9 Q Is that correct?

10 A Yes.

11 Q Now, at some point in time this paint  
12 sludge would have to be removed; is that correct?

13 A Correct.

14 Q How was that done?

15 A There is a small door on the back of the  
16 booth that we could -- gives us access to the  
17 inside, and we would dip the paint sludge out of  
18 it, out of the water.

19 Q What tool or device was used for that  
20 purpose?

21 A It looked something like a shovel, but it  
22 was a -- made with some heavy grading, diamond  
23 shaped grading that let the water fall through as  
24 we picked up the sludge, with a handle on it.

1 Q So this would be the size, say, for  
2 example of a grain scoop?

3 A No, of a flat shovel, scoop or a shovel,  
4 I mean a flat shovel, maybe ten by ten inches.

5 Q Generally square though?

6 A Yes.

7 Q Is that correct? Okay. Where would the  
8 paint sludge be placed?

9 A We put it into a bucket right there  
10 because of the size of the access door and then we  
11 put it into a drum.

12 Q A 55 type --

13 A A 55 gallon drum.

14 Q All right. Now, how often would the  
15 sludge have to be emptied from that booth,  
16 container?

17 A That was strictly due to the -- you know,  
18 how much we painted. And that schedule was all  
19 over the place. It could be any sort of time; once  
20 a week or it could vary all over the place.

21 Q Can you give me some indication of how  
22 long it would take to fill up one of those barrels?

23 A I have no idea.

24 Q You have no idea?

1           A     Huh-uh.

2           Q     You don't remember?

3           A     No.

4           Q     Would you fill one up each time you did  
5 the process of removing the sludge?

6           A     No.

7           Q     Then how often would you remove the  
8 sludge?

9                   MR. TAYLOR:  Asked and answered.

10                   HEARING OFFICER WALLACE:  Overruled.

11                   THE WITNESS:  As needed.  As time  
12 permitted.

13           Q     (By Mr. Latshaw) Well, let me ask you  
14 this.  Let's assume for a moment that you did the  
15 painting on the first shift, and that there was not  
16 going to be any further painting until the next  
17 first shift the next day.  Would somebody on the  
18 second or third shift, if there is one, then remove  
19 the sludge prior to the next day?

20           A     That's when we did it, correct.

21           Q     Okay.  Was that every time, every day?

22           A     No, no.  Not at all.

23           Q     Would it be more than twice a week?

24           A     It depends entirely on how much we

1 paint. I mean, you could paint one day a week or  
2 you could paint four days a week. You know, it  
3 made a difference.

4 Q You didn't paint every day, then?

5 A No.

6 Q Would you paint at least once a week?

7 A Yes.

8 Q Now, as I understand it, there were two  
9 barrels provided close to each other; is that  
10 correct?

11 A Correct.

12 Q One was for hazardous type material and  
13 one was for paint sludge or nonhazardous; is that  
14 correct?

15 A Correct.

16 Q What would go into the hazardous barrel?

17 A Any left over paint at the end of a run,  
18 the end of the day, that maybe got contaminated or  
19 couldn't use or -- and then maybe some material  
20 they used to clean the pots with or the guns with,  
21 the paint guns with.

22 Q Something like paint thinner?

23 A Yes.

24 Q Now, these two barrels were not locked or

1 sealed, were they?

2 A No.

3 Q They would have lids on them, though,  
4 would they not?

5 A Yes.

6 Q Aside from the person in the paint booth,  
7 who was operating the painting process or whatever  
8 that was, were these barrels located in some  
9 location where someone could walk by?

10 A Yes, uh-huh.

11 Q Can you indicate here on the record the  
12 location of the paint booth at the Rantoul facility  
13 at Bell with regard to different hallways or  
14 passageways near it?

15 A The paint room is located -- the paint  
16 booth is located in the paint room, separate  
17 walls. The paint room is right off the main aisle  
18 that goes from the raw material warehouse to the  
19 production area.

20 Q When you say right off the main aisle, do  
21 you mean a fairly large passageway of some kind?

22 A A breezeway, an aisle.

23 Q Okay. What door or access was there to  
24 the paint room from that aisle?

1           A     A 30 man door.

2           Q     Excuse me?

3           A     A 30 man door.

4           Q     I am sorry. I don't understand what that

5     is?

6           A     A three foot door.

7           Q     I see. A three foot door. Okay?

8           A     (Nodded head up and down.)

9           Q     A man door meaning a door as I would

10   probably refer to a door for people to walk

11   through; is that correct?

12          A     Yes.

13          Q     As opposed to a vehicle door, such as a

14   garage door?

15          A     Correct.

16          Q     All right. Now, was that door locked?

17          A     No.

18          Q     Okay. How many people had access to that

19   door?

20          A     It is one of the areas that -- I mean,

21   you don't go into while they are painting. You

22   can't. You are not supposed to, I should say. But

23   other than the time that they are painting, you

24   know, different people can go in there. I don't

1 know how many.

2 Q Well, let's assume for the -- let me ask  
3 you to assume on the second or third shift; would  
4 there be access that people could have to that  
5 paint room during those times, if people were  
6 working those shifts?

7 A Other than the paint people, you mean?

8 Q Other than the paint people.

9 A Yes, people could get in there probably.

10 Q You worked the first shift; is that  
11 correct?

12 A Correct.

13 Q What specific hours of the day  
14 constituted the first shift of Bell at that time?

15 A 6:00 a.m. was the start and worked for  
16 eight hours, so 6:00 to 2:00.

17 Q Until 2:00. All right. That was the  
18 period you worked; is that correct?

19 A Yes.

20 Q Do you -- were there any kind of reports  
21 or any kind of documentation that was generated for  
22 you to review after -- or rather by the people who  
23 would be working after the first shift that you  
24 would review the next morning when you returned to



1 work?

2 A No.

3 Q It was also at that time, though, was it  
4 not, that the people that worked for you would  
5 remove the sludge; is that correct?

6 A Yes.

7 Q Okay. But you wouldn't get any report  
8 from them?

9 A Other than --

10 Q Indicating that we had to empty it and  
11 how much we did and that kind of thing?

12 A Not that type of report.

13 Q Okay. Well, what type of report, if you  
14 got one?

15 A I would get a report if there was any  
16 problems or, of course, hours they worked, just  
17 anything unusual that may have happened.

18 Q Can you give me an example of something  
19 unusual that happened?

20 A A conveyor broke and needs to be repaired  
21 first thing in the morning.

22 Q Conveyor, they would be painting during  
23 the second shift, then?

24 A No, he maintained the conveyor, also.

1           Q     All right.  Let me clear this here.  Did  
2  people work the second and/or third shift who  
3  worked for you?

4           A     One person did.

5           Q     Who was that?

6           A     Proemba.

7           Q     All right.  What was Proemba's job?

8           A     He did several things.  Some general  
9  maintenance and ran a bailer, a garbage compactor,  
10 and removed the sludge from the paint booths.

11          Q     Was this general maintenance clean up  
12 type work?

13          A     Yes.

14          Q     How do you spell his name, so that the  
15 record is clear?

16          A     P-R-O-E-M-B-A.

17          Q     Okay.  So the only report that you would  
18 get from Mr. Proemba would be some kind of oral  
19 report of some sort?

20          A     It would be handwritten if there was a  
21 problem.

22          Q     Did this operation run three shifts?

23          A     Which operation?

24          Q     Bell Sports in Rantoul?

1           A     Sometimes.  I mean, we are talking  
2 several years here.  Sometimes there were only  
3 one.  Sometimes there were three.

4           Q     All right.  Mr. Proemba, however, would  
5 always work the second shift?

6           A     The second or the third.

7           Q     All right.

8                   MR. NAHMOD:  Mr. Hearing Officer, we  
9 would object to this continuing line of  
10 questioning.  Mr. Latshaw just seems to be asking  
11 whatever comes to mind.  The relevance really isn't  
12 clear.

13                   HEARING OFFICER WALLACE:  Overruled.

14           Q     (By Mr. Latshaw) Now, Mr. Riddle, where  
15 was your office with regard to the location of the  
16 two barrels you just described?

17           A     On the opposite end of the building.

18           Q     And did you spend much time in your  
19 office or were you floating around the facilities  
20 inspecting or doing what it is you do?

21           A     I spent quite a bit of time in my office  
22 and I was on the floor as needed, uh-huh.

23           Q     So people could come and go into this  
24 paint room, and you wouldn't know it; is that

1 right?

2 A Yes.

3 Q All right. Now, were you responsible for  
4 training the people who would handle this paint  
5 sludge?

6 A Right, yes.

7 Q With regard to the manner in which you  
8 trained them, was there any kind of written  
9 instructions which you gave to them?

10 A In regards to the training, is that what  
11 you said.

12 Q With regard to I guess the training  
13 regarding the paint sludge, did you give them any  
14 kind of written instructions?

15 A No.

16 Q Okay. Did they have a checklist?

17 A Yes. There was a checklist and a slide  
18 presentation that we used specifically for that.

19 Q Now, what did this checklist consist of  
20 with regard to the barrels in the paint booth area,  
21 paint room?

22 A I don't remember everything, but I do  
23 know it had the spec on the drums to use, and  
24 the -- how to seal up a drum properly with the

1 gaskets and the rings and the nuts. I don't  
2 remember what else was on there, that was on  
3 there.

4 Q All right. Where would the empty drums  
5 come from?

6 A Our purchasing group purchased them.

7 Q Were they kept -- did you keep a  
8 stockpile, rather, of empty drums someplace?

9 A Out back of the building.

10 Q Okay. That's also where the drums would  
11 be placed after fill; is that correct?

12 A Correct.

13 Q At the same facility?

14 A Correct.

15 Q Now, these drums at some point in time  
16 were tagged or labeled; is that correct?

17 A Correct.

18 Q Do you know at which point in time they  
19 were tagged or labeled?

20 A We always labeled them when we started to  
21 fill a drum, as soon as we first got ready to fill  
22 a drum, we labeled it.

23 Q Now, where were the labels kept?

24 A My office.

1 Q Who had access to them?

2 A Well, really just me.

3 Q Were they locked?

4 A When my office was locked, they were  
5 locked.

6 Q Was your office locked during the day  
7 when you were working?

8 A No, not most of the time.

9 Q So if you were to leave your office  
10 during the day and go somewhere to do something,  
11 you would not lock your office; is that correct?

12 A Correct.

13 Q Would it be possible for someone to come  
14 in and pick up a label if they needed one for the  
15 drum?

16 A Yes, it is possible.

17 Q Okay. Now, were you present all the time  
18 when labels were placed on the drums?

19 A No.

20 Q Did you check to make sure labels were  
21 placed on the drums on a daily basis?

22 A No.

23 Q Could a drum go into the paint area, the  
24 paint booth, or paint room, and remain there for

1 the period of time that it was going to be used for  
2 paint sludge, and then be taken to the storage area  
3 without a label ever being put on it?

4 MR. TAYLOR: Objection. It calls for  
5 speculation. The question is could. I mean --

6 MR. LATSHAW: I am sorry. I couldn't  
7 hear.

8 MR. TAYLOR: The question calls for  
9 speculation.

10 MR. LATSHAW: Well, if he knows, in terms  
11 of if he wasn't there 100 percent of the time. If  
12 there is some basis for him to claim that that is  
13 not possible, I am trying to find out if such a  
14 thing could have happened.

15 HEARING OFFICER WALLACE: Go ahead and  
16 answer the question, Mr. Riddle.

17 THE WITNESS: Could you ask it again?

18 HEARING OFFICER WALLACE: Could you read  
19 the question back.

20 (Whereupon the requested  
21 portion of the record was read  
22 back by the Reporter.)

23 THE WITNESS: Well, anything is  
24 possible. It could. That wasn't the way we

1 trained them to do it.

2 Q (By Mr. Latshaw) Okay. But you didn't  
3 check to make sure that that was done, that they  
4 were following the checklist; is that correct?

5 A Not daily.

6 Q All right. Were these labels numbered in  
7 some kind of accounting system?

8 A No.

9 Q With regard to the nonhazardous paint  
10 sludge, in 1992, for example, do you know what  
11 colors were being used to identify them?

12 A I don't recall exactly.

13 Q Excuse me?

14 A I don't recall exactly, no.

15 Q Did you at any time use green labels for  
16 nonhazardous?

17 A I think so. I am not 100 percent sure.

18 Q Do you know what color of label Bell used  
19 in 1992, for example, with regard to labeling  
20 hazardous drums?

21 A Yellow.

22 Q Was that the color consistently used by  
23 Bell for its hazardous barrels?

24 A Yes.



1 Q But the nonhazardous could have been or  
2 the special waste sludge could have been different  
3 colors from time to time except yellow?

4 A Yes.

5 Q Okay. What was supposed to be written on  
6 these labels, if anything?

7 A Which labels?

8 Q Well, let's take the nonhazardous paint  
9 sludge labels. Did you instruct your people to  
10 write anything on them?

11 A Not on the nonhaz.

12 Q Were they preprinted in some form  
13 specially for Bell?

14 A What time frame are you talking about?

15 Q I am referring to, say, for example,  
16 1992, if you can recall?

17 A No.

18 Q They were not?

19 A No.

20 Q Okay. Was there any printing or writing  
21 done on any of the hazardous labels?

22 A It was preprinted asking for the name,  
23 date, and start date.

24 Q All right.

1 HEARING OFFICER WALLACE: The start  
2 date?

3 THE WITNESS: Start date.

4 Q (By Mr. Latshaw) Now, when they were  
5 filled or after the paint sludge barrels were  
6 filled, they would be removed to the storage area;  
7 is that correct?

8 A Correct.

9 Q Now, this is a facility that is located  
10 outside the building?

11 A Correct.

12 Q Can you describe it in terms of its  
13 dimensions?

14 A Approximately 80 feet by 100 with an  
15 eight foot fence around it up against a block  
16 building.

17 Q Aside from both empty and filled barrels,  
18 what else was located inside that?

19 A Some equipment; maybe some obsolete  
20 equipment; maybe a few racks, racks being obsolete  
21 equipment also, but that's about it.

22 Q All right. There was a gate?

23 A Yes.

24 Q What kind of a gate?

1           A     A double swing gate.

2           Q     Big enough for a vehicle?

3           A     Uh-huh, yes.

4           Q     Was the gate locked?

5           A     Most of the time.

6           Q     Was it locked during the day?

7           A     If we weren't using it, if we weren't

8     going in and out of it.

9           Q     It was not locked all the time during the

10    first shift; is that correct?

11          A     Correct.

12          Q     Could you see this area from your office?

13          A     No.

14          Q     Now, at some point in time Waste Hauling,

15    Inc. was contracted by Bell to pick up special

16    waste sludge; is that correct?

17          A     Correct.

18          Q     Were you responsible for that? Did you

19    make those arrangements?

20          A     Yes.

21          Q     Did you speak with Mr. Camfield or did he

22    come to you?

23          A     I spoke to him.

24          Q     All right. Did you contact any other

1 haulers or landfills at that time?

2 A Yes, Villa Grove and one in  
3 Champaign-Urbana.

4 Q Did you say Villa Grove?

5 A That was one, yes.

6 Q All right. Do you know approximately  
7 when that was?

8 A No, I don't.

9 Q Okay. After that arrangement was made,  
10 did you have your paint sludge hauled anywhere else  
11 until --

12 A With Waste Hauling?

13 Q Yes.

14 A No.

15 Q Well, let me represent to you that Waste  
16 Hauling Landfill was shut down in May of 1992.  
17 Between the time that you originally contacted Mr.  
18 Camfield until May of 1992, is the period I am  
19 referring to.

20 A Yes.

21 Q During that period he is the only one you  
22 used; is that correct?

23 A Correct.

24 MR. LATSHAW: Could you mark this,

1 please.

2 (Whereupon said document was  
3 duly marked for purposes of  
4 identification as WHL Exhibit  
5 17 as of this date.)

6 MS. MENOTTI: Do we have copies of the  
7 exhibit?

8 HEARING OFFICER WALLACE: Do you have  
9 copies?

10 MR. LATSHAW: No, I do not. That's the  
11 second time I have done that.

12 Maybe you would like to take a look at  
13 this.

14 (Mr. Latshaw passed the  
15 document to Ms. Menotti.)

16 MR. LATSHAW: Those are the special waste  
17 manifests that were provided to you during  
18 discovery for Bell through Waste Hauling.

19 Q (By Mr. Latshaw) Mr. Riddle, I want to  
20 hand you what has been marked as Waste Hauling or  
21 WHL Exhibit 17, and ask you to examine those  
22 documents. Take your time.

23 A Okay. (The witness reviewed the  
24 document.) Okay.

1 Q Do you recognize those as copies of Bell  
2 Sports special waste manifests for paint sludge  
3 shipped to Waste Hauling Landfill?  
4 A Yes.  
5 Q Okay. And they cover the period  
6 basically 1989 -- April of 1989 through April of  
7 1992; is that correct?  
8 A Yes.  
9 Q Were those manifests prepared by you?  
10 A All except two.  
11 Q Which two would those be, sir?  
12 A Manifest document number NR41 and  
13 manifest document NR -- and I can't make it out.  
14 It is dated 12-09 and 12-11.  
15 Q Which year, please?  
16 A I can't read it.  
17 Q Was someone else authorized to generate  
18 those manifests from Bell in your absence?  
19 A Yes.  
20 Q Who would that have been?  
21 A George Staulter.  
22 Q Do you recognize Mr. Staulter's writing?  
23 A Yes.  
24 Q Are you representing that those documents

1 were prepared by him?

2 A Yes.

3 Q Now, Bell Sports never shipped any paint  
4 sludge to Waste Hauling Landfill without a  
5 manifest; is that correct?

6 A Correct.

7 Q You had to sign the manifest; is that  
8 correct?

9 A Correct.

10 Q All of those are signed by you; is that  
11 right, except for Mr. Staulter's?

12 A Yes.

13 Q Now, when would you sign the manifest  
14 with regard to a shipment that Mr. Camfield or  
15 someone from his company would pick up?

16 A After the drums were loaded.

17 Q Would you then inspect the load?

18 A Not every time, no.

19 Q Was someone responsible for inspecting  
20 the load at Bell after it was loaded?

21 A No, just the person that was loading it  
22 was responsible for it.

23 Q Do you know, is there some person,  
24 rather, that you had assigned to do the loading job

1 all of the time?

2 A It was either George Staulter or Marlow.

3 Q They would use, what, the forklift or  
4 something like that?

5 A The fork lift.

6 Q The barrels would be stored on pallets?

7 A Not necessarily, no.

8 Q All right. Would you inspect or would --  
9 did you instruct those two gentlemen to insure that  
10 all barrels had labels on them?

11 A Yes.

12 Q Would you from time to time make sure  
13 that they did, as well?

14 A Yes.

15 Q You don't know, however, if every load,  
16 or do you, that every load was inspected to insure  
17 that there were labels on every barrel?

18 A It was not inspected by me.

19 Q If the other two gentlemen you described  
20 did, in fact, inspect it, would they have made some  
21 report to you that they, in fact, had done so and  
22 they looked good?

23 A No, there was not a report.

24 Q Okay. But you would then sign the



1 manifest after someone would come and tell you we  
2 are loaded and ready, and you would come outside  
3 and hand it to the driver?

4 A That or the driver would come to my  
5 office and I would sign it there.

6 Q Okay. On those occasions where he came  
7 to your office, you would not inspect the load,  
8 correct?

9 A Correct.

10 Q Okay. Do you recall in June of 1992 an  
11 occasion when representatives of the EPA and the  
12 State Police came to Bell?

13 A Yes.

14 Q Were you present then?

15 A Yes.

16 Q Was there a meeting of some kind?

17 A Yes.

18 Q Do you remember Mr. Zierath being  
19 present, or do you know Mr. Zierath?

20 A Yes, I know him. I don't remember that  
21 he was there.

22 Q All right. Were other representatives of  
23 the EPA there?

24 A The only one I remember at that meeting

1 was the State Police, and that's the only one I  
2 remember as to who he was.

3 Q Did they tell you why they were there?

4 A Yes, in the meeting, uh-huh.

5 Q What did they tell you?

6 A That -- I don't recall, you know,  
7 exactly.

8 Q Well, did they tell you that the EPA  
9 claims that they had hazardous waste found in Waste  
10 Hauling Landfill and it came from Bell?

11 A Somebody in that group did.

12 Q Okay. That's the first you heard about  
13 it, I guess; is that right?

14 A Yes.

15 Q Do you know on behalf of Bell who else  
16 was present at that meeting?

17 A Bill Hassell was there.

18 Q Who is Mr. Hassell?

19 A He was my -- he was the plant manager and  
20 my immediate boss.

21 Q Who else?

22 A No one else that I can recall from Bell.

23 Q Did you state and make any comments or  
24 make any statements at that meeting with regard to

1 the truth or veracity of that assertion?

2 A No.

3 Q Did Mr. Hassell make any assertion at  
4 that point in time to the truth or veracity?

5 A Not that I recall.

6 Q Mr. Hassell then subsequently prepared a  
7 letter to Mr. Zierath; is that correct?

8 A Correct.

9 Q Have you seen that letter?

10 A Yes.

11 Q I wonder if we could -- that would be  
12 Waste Hauling 14. I want to show you Waste Hauling  
13 Exhibit 14. Do you recall seeing that document,  
14 sir?

15 HEARING OFFICER WALLACE: That goes with  
16 it.

17 THE WITNESS: What was the question?

18 Q Do you recall seeing that document  
19 before, sir?

20 A Yes.

21 Q Did you play any hand in having it  
22 prepared for Mr. Hassles' signature?

23 A Yes.

24 Q Did you write it?

1           A     The fact parts I did.

2           Q     Okay.  There is a reference here to a  
3 copy of an -- I will have you look at the bottom of  
4 the first page, please.  There is a reference to a  
5 copy of an EP toxicity analysis?

6           A     Yes.

7           Q     I believe that is the loose document  
8 accompanying.  That document was included at the  
9 time this was transmitted; is that correct?

10          A     Yes.

11          Q     Now, apparently Mr. Zierath had made a  
12 specific request for specific information,  
13 apparently, am I correct?

14          A     Yes.

15          Q     Now, I guess it is item number two  
16 referred to in this letter, and I guess it is  
17 attached as the third attachment to the letter.  It  
18 appears to be an ESE Engineering report.  Do you  
19 have the document now?

20          A     The last page?

21          Q     Yes, sir, it would be the last page.

22          A     I have got it.

23          Q     The writing up there has paint sludge and  
24 an arrow.  Did you write that?

1           A     I sure did.

2           Q     Okay.  What was this report or this  
3 particular attachment?  What is it?

4           A     It is results of some tests that ESE did  
5 for Bell with testing the paint sludge.

6           Q     Okay.  Had you at any time -- you had  
7 communicated that particular document to Mr.  
8 Camfield in the past; is that correct?

9           A     Not that I recall.

10           MR. LATSHAW:  Could you mark this.  Thank  
11 you.

12                                 (Whereupon said document was  
13                                 duly marked for purposes of  
14                                 identification as WHL Exhibit  
15                                 18 as of this date.)

16           MR. LATSHAW:  That again is the  
17 correspondence with Bell to Mr. Camfield through  
18 discovery.  I think you have seen this, Byron.

19           Q     (By Mr. Latshaw) Mr. Riddle, I will have  
20 you examine WHL Exhibit 18, please.  Do you recall  
21 that document, sir?

22           A     Yes.

23           Q     You wrote that letter as handwritten; is  
24 that correct?

1           A     Yes.

2           Q     All right.  Can you characterize what  
3     that letter is?

4           A     The results of TCLP test of our special  
5     waste.

6           Q     Now, the attachment to that exhibit is  
7     the same as the last page of the exhibit -- the  
8     attachment to the exhibit Waste Hauling 14; is that  
9     correct?

10          A     Correct.

11          Q     So is it fair to say then that you had  
12     communicated -- what is the date of the Exhibit 18,  
13     sir?

14          A     12-17-90.

15          Q     Okay.  So you communicated to Mr.  
16     Camfield the results of your TCLP in 1990; is that  
17     correct?

18          A     Correct.

19          Q     For your paint sludge?

20          A     Yes.

21          Q     Now, subsequent to 1992, you had also had  
22     a visit from Mr. Zierath in I believe January of  
23     1993.  Do you recall that?

24          A     Not specifically that date.

1 Q All right, sir. But some time in the  
2 winter after June of 1992?

3 A Yes.

4 Q Were you present when Mr. Zierath came to  
5 your establishment at that time?

6 A No.

7 Q You were not there?

8 A No.

9 Q Okay. Did you subsequently receive some  
10 communication from Mr. Zierath with regard to his  
11 visit during the winter?

12 A Yes.

13 Q I am going to hand you I think Exhibit  
14 15, Waste Hauling Landfill 15?

15 HEARING OFFICER WALLACE: It is Exhibit  
16 16.

17 Q (By Mr. Latshaw) Excuse me. It is  
18 Exhibit 16. And ask you if you have seen that  
19 document before?

20 A Yes.

21 Q Do you recall if there was any discussion  
22 or reaction to that document by yourself and Mr.  
23 Hassell?

24 A I am sure we discussed it.

1 Q Well, did it mean anything to you, I  
2 guess, is my question?

3 A This?

4 Q Exhibit 16, yes, sir.

5 A Well, I guess I don't understand the  
6 question.

7 Q Well, were you able to understand what it  
8 was communicating to you?

9 A Oh. Yes.

10 Q Did Bell Sports do anything about it at  
11 that time? Did it do anything as a result of  
12 receiving that communication from Mr. Zierath?

13 A We contacted our consultants.

14 Q All right. Now, you were aware at some  
15 time that Mr. Camfield's landfill was shut down; is  
16 that correct?

17 A Yes.

18 Q What did you do with the paint sludge  
19 between the time you learned about that in March of  
20 1993, I believe was the date of that letter; is  
21 that correct?

22 A March of 1993 is the date of the letter.

23 Q Yes. What did you do with the paint  
24 sludge? Did you ship it someplace else between



1 June of 1992 and March of 1993?

2 A No, we didn't ship any nonhazardous after  
3 that date.

4 Q Did you contact any other landfills for  
5 the purpose of doing that?

6 A I didn't.

7 Q You didn't. Did anyone on behalf of  
8 Bell, that you know of, contact any other  
9 landfills?

10 A No.

11 Q How about are you familiar with the  
12 landfill in Clinton?

13 A I just know that there is one there.

14 Q Did you have any contact with the  
15 landfill there to ship the special waste sludge?

16 A No.

17 Q Are you aware of whether anyone else did  
18 on behalf of Bell, that is, sir?

19 MR. TAYLOR: Asked and answered.

20 HEARING OFFICER WALLACE: Overruled.

21 THE WITNESS: I am not aware.

22 Q (By Mr. Latshaw) All right, sir. As a  
23 part of Exhibit 15, if I may hand you Waste  
24 Hauling -- WHL Exhibit 15, imbedded in that exhibit

1 is what appears to be a Bell Sports application for  
2 paint sludge to the Clinton Landfill.

3 MR. TAYLOR: Object to the  
4 characterization of this document.

5 MR. LATSHAW: All right. Well, let me  
6 rephrase it.

7 Q (By Mr. Latshaw) Imbedded in that  
8 document, do you see an application for a special  
9 waste permit involving the Clinton Landfill?

10 A Yes.

11 Q The waste generator is Bell Helmets; is  
12 that correct?

13 A Yes.

14 Q Does that refresh your recollection that  
15 you were trying to find some other landfill to take  
16 special waste at that time?

17 A No.

18 Q It does not?

19 A No.

20 Q Do you know who generated this document?

21 A No.

22 Q If you would look at the fifth page,  
23 there appears to be a letterhead of Bell attached  
24 to it; is that correct?

1 HEARING OFFICER WALLACE: It is the fifth  
2 page of the permit.

3 THE WITNESS: After this?

4 HEARING OFFICER WALLACE: Yes.

5 Q (By Mr. Latshaw) I am sorry. The fifth  
6 page of the permit.

7 A Yes.

8 Q Your name appears at the bottom of it?

9 A Yes.

10 Q Is it dated October 22, 1992?

11 A Uh-huh, yes.

12 Q Is this letter on Bell letterhead  
13 intended to be a part of this permit application?

14 A I have no idea.

15 Q Well, look at page four, one page  
16 forward. It appears to be a page with your  
17 signature on it; is that correct?

18 A Correct.

19 Q You still don't know if that was intended  
20 to be a part of that application to Clinton?

21 A No, I don't.

22 Q None of this refreshes your recollection,  
23 I guess?

24 A Not with Clinton, no.

1 Q The page I just referred to you bears the  
2 date of 10-02-92?

3 A Yes.

4 MR. LATSHAW: Excuse me.

5 (Mr. Latshaw and Mr. Van Ness  
6 confer briefly.)

7 MR. LATSHAW: I tender the witness. I  
8 have no further questions.

9 HEARING OFFICER WALLACE: All right. Mr.  
10 Taylor?

11 MR. TAYLOR: Can we go off the record for  
12 a second?

13 HEARING OFFICER WALLACE: Yes.

14 (Discussion off the record.)

15 HEARING OFFICER WALLACE: Back on the  
16 record.

17 Let me note here for the Board that you  
18 are going to do cross-examination as well as  
19 substantive questions at this point to save time in  
20 recalling Mr. Riddle at a later date.

21 Is that a fair statement?

22 MR. TAYLOR: Yes, that is a fair  
23 statement.

24 HEARING OFFICER WALLACE: All right. So

1 the Board is put on notice at this point.

2 CROSS EXAMINATION

3 BY MR. TAYLOR:

4 Q Mr. Riddle, I have some additional  
5 questions for you.

6 Will you explain for us the types of  
7 waste generated in the paint room at the Bell  
8 Sports facility in Rantoul?

9 A Hazardous and nonhazardous.

10 Q And what was the nonhazardous waste?

11 A The sludge, the paint -- the sludge out  
12 of the back of the paint booths.

13 Q And what was the hazardous waste?

14 A Anything that was generated from the  
15 painting operation; left over paint, cleaning out  
16 the pots and guns with the paint thinners and stuff  
17 they cleaned out the paint with.

18 Q Did you generate equal amounts of these  
19 wastes?

20 A No.

21 Q Was there more of one type of waste  
22 generated?

23 A More of the nonhazardous.

24 Q Why is that?

1           A     Well, the hazardous is -- I mean, this  
2     paint is real expensive.  I mean, you just want to  
3     keep that to a minimum.  You don't like throwing  
4     money out the door.  But the paint sludge, the  
5     amount of that was dictated by how much we  
6     painted.

7           Q     Okay.  So you didn't generate one drum of  
8     hazardous waste for one drum of nonhazardous waste?

9           A     No, no.

10          Q     Do you know what the percentage was?

11          A     No, I don't.

12          Q     Now, how do you know that the  
13     nonhazardous waste was, in fact, nonhazardous?

14          A     I had a consultant, ESE, test it.

15          Q     What does ESE stand for?

16          A     Environmental Science & Engineering out  
17     of Peoria.

18          Q     Did they, in fact, test it?

19          A     Yes.

20          Q     Did they test it more than once?

21          A     Yes.

22          Q     Do you recall how many times they tested  
23     it?

24          A     No.

1 Q Did they test the hazardous waste?  
2 A I don't recall.  
3 Q Okay. Now, did ESE or a representative  
4 of ESE ever come to the Bell Sports facility?  
5 A Yes.  
6 Q Who was that?  
7 A Ken Konter.  
8 Q Do you know about how often he would come  
9 to the facility?  
10 A In a year's time, more than 10 times but  
11 less than 20.  
12 Q Okay. Did he ever provide you with any  
13 assistance other than sampling this paint waste  
14 stream?  
15 A Yes.  
16 Q What other types of things did Mr. Konter  
17 do?  
18 A He helped me with some of the reports.  
19 Q What types of reports?  
20 A Annual reports.  
21 Q Relating to?  
22 A The generation of waste.  
23 Q Okay. Now, did Mr. Konter see how these  
24 wastes were generated?

1           A     Yes.

2           Q     He was familiar with it?

3           A     Yes.

4           Q     Did he provide you any advice on how to  
5 segregate these wastes?

6           A     Yes.

7           Q     And what did he tell you?

8           A     To mark them accordingly and keep them as  
9 far apart as we could in the storage area.

10          Q     Okay.  So did you decide to segregate  
11 these waste streams?

12                    HEARING OFFICER WALLACE:  Let's go off  
13 the record.

14                                    (Discussion off the record.)

15                    HEARING OFFICER WALLACE:  Back on the  
16 record.  Thank you.

17                    Would you read his last question back.

18                                    (Whereupon the requested  
19 portion of the record was read  
20 back by the Reporter.)

21          Q     (By Mr. Taylor) Let me clarify the  
22 question.  Did you decide this without the  
23 assistance of Mr. Konter to segregate the waste  
24 streams?



1           A     I don't guess I understand.

2           Q     Well, did you decide, without consulting  
3 with Mr. Konter, to put the sludge into one drum  
4 and the hazardous materials into another drum?

5           A     No.

6           Q     Now, who would fill the nonhazardous  
7 drum?

8           A     Most of the time it would be Proemba.

9           Q     And did he work for you?

10          A     Yes.

11          Q     And who would fill the hazardous waste  
12 drums?

13          A     Most of the time it would be the painter.

14          Q     Okay. Now, these people, did they  
15 receive any training in how to handle these  
16 materials?

17          A     Yes, that's one of the things Ken Konter  
18 did with the slide presentation.

19          Q     Can you tell us, to the best of your  
20 recollection, what all was encompassed within that  
21 training program?

22          A     We went through everything from the  
23 definitions of hazardous and nonhazardous to the  
24 size of the drum, the spec of the drums, to how to

1 handle it, proper procedures. I don't remember  
2 anything else, I mean, specifically.

3 Q Did you have a clear understanding of  
4 what was supposed to take place after that  
5 training?

6 A Yes.

7 Q Did the employees who worked for you have  
8 an understanding of what was supposed to take  
9 place?

10 A Yes.

11 Q Now, when was it -- for purposes of  
12 clarification, when was it that the labels were  
13 affixed to the drums?

14 A They were put on the day, when we started  
15 to -- when you put material into a drum, that's  
16 when the label was applied.

17 Q Now, were you -- did you ever go into the  
18 paint room?

19 A Yes.

20 Q Did you see the drums in the paint room?

21 A Yes.

22 Q When you went into the paint room, could  
23 you see the labels on the drums?

24 A Yes.

1 Q If you ever found a drum that was not  
2 labeled, was there any sort of policy or procedure  
3 in how to handle that drum?

4 A Yes, we called it hazardous if we didn't  
5 know.

6 Q Even if it contained nonhazardous  
7 material?

8 A Yes.

9 Q Now, where were the drums inside of the  
10 paint room, relative to the other equipment in the  
11 paint room?

12 A Right beside -- well, to the left-hand  
13 side of the paint booth, if you are standing  
14 looking at the paint booth, approximately four foot  
15 away.

16 Q Is this a large room?

17 A No.

18 Q Were the drums next to one another in the  
19 paint room?

20 A They could be. Sometimes they were.

21 Q Was it physically possible to put them  
22 in, like, say, catty-corner within the paint room?

23 A No.

24 Q Why was that?

1           A     We had an oven behind the paint booths  
2     that wouldn't allow you to get a drum to the other  
3     side of the room.

4           Q     Okay.  Now, you stated on -- when Mr.  
5     Latshaw was asking you questions, that the  
6     hazardous waste labels were yellow?

7           A     Yes.

8           Q     What color, ordinarily, were the  
9     nonhazardous labels?

10          A     As I recall, it was green, solid green or  
11     green and white or, you know.

12          Q     If I showed you copies of these labels  
13     would you be able to recognize them?

14          A     The hazardous ones for sure.

15                                 (Mr. Taylor showed the label to  
16                                 Mr. Latshaw and Ms. Menotti.)

17                 MR. LATSHAW:  I think we have seen those  
18     before, haven't we?

19                 MR. TAYLOR:  Could you mark this, please.

20                                 (Whereupon said document was  
21                                 duly marked for purposes of  
22                                 identification as Bell Exhibit  
23                                 3 as of this date.)

24          Q     (By Mr. Taylor) Mr. Riddle, I would like

1 to hand you what has been marked as Bell Exhibit  
2 Number 3. Do you know what that is?

3 A That's the label we used for hazardous  
4 waste.

5 Q Can you describe it for us, generally?

6 A It is square, red and yellow. There are  
7 lines for generator information.

8 Q Now, did you purchase these labels?

9 A Yes.

10 Q Where did you purchase them from?

11 A I asked our purchasing group to do that.  
12 I don't know where they came from. Out of a  
13 magazine.

14 Q Were they just generally commercially  
15 available?

16 A Yes.

17 Q You didn't have them specially printed?

18 A No.

19 Q Okay. Now, who held on to these labels  
20 before they were used at Bell Sports?

21 A I did.

22 Q Was it -- did you keep these labels in  
23 the ordinary course of your business?

24 A Yes.

1 Q Was it ordinary for Bell Sports to keep  
2 these labels in the ordinary course of business?

3 A Yes.

4 MR. TAYLOR: Could you mark this as Bell  
5 Number 4, please.

6 (Whereupon said document was  
7 duly marked for purposes of  
8 identification as Bell Exhibit  
9 4 as of this date.)

10 Q (By Mr. Taylor) Mr. Riddle, I would like  
11 to hand you what has been marked as Bell Number 4.  
12 Do you know what that is?

13 A It is a nonhazardous waste label.

14 Q Can you generally describe that label for  
15 us?

16 A Green and white, nonhazardous waste  
17 labeled on there twice, and it has some information  
18 for the generator.

19 Q In terms of size, is that similar in size  
20 as the hazardous waste label, which is Bell Number  
21 3?

22 A Yes.

23 Q Do you recognize that label as an example  
24 of the type of label that you would have placed on

1 the drums?

2 A Yes, it looks something like that.

3 Q Now, where did you purchase these labels  
4 from?

5 A The purchasing group ordered them for me.

6 Q Who kept them when you were employed at  
7 Bell Sports?

8 A I did.

9 Q Was it in the ordinary course of your  
10 business to retain such labels?

11 A Yes.

12 Q Was it ordinary for Bell Sports to retain  
13 those labels in the course of its business?

14 A Yes.

15 MR. TAYLOR: I would move to enter Bell 3  
16 and 4 into evidence.

17 HEARING OFFICER WALLACE: Any objections,  
18 Ms. Menotti?

19 MS. MENOTTI: No.

20 HEARING OFFICER WALLACE: Mr. Latshaw?

21 MR. LATSHAW: Well, yes, I think I should  
22 interpose an objection to the -- I mean, the  
23 witness, first of all, with regard to the  
24 nonhazardous label simply said it was sort of kind

1 of like the ones that they might have used, as I  
2 recall his testimony. I don't think we have ever  
3 been provided with copies of these labels before  
4 now.

5 MR. TAYLOR: You never asked for them.

6 MR. LATSHAW: I don't know if it is on  
7 the list of exhibits, either.

8 MR. TAYLOR: It is on the list of  
9 exhibits.

10 MR. LATSHAW: But I haven't seen it. I  
11 don't think there is a proper foundation certainly  
12 for the green one, for the nonhazardous. It is  
13 simply indicated that it might have been sort of  
14 like the ones they used, but it is not necessarily  
15 the one.

16 HEARING OFFICER WALLACE: All right.  
17 Bell 3 and 4 are admitted.

18 (Whereupon said documents were  
19 admitted into evidence as Bell  
20 Exhibits 3 and 4 as of this  
21 date.)

22 Q (By Mr. Taylor) Now, you stated that you  
23 retained these labels. Who actually placed the  
24 labels on to the drums?



1           A     Most of the time it was Proemba.

2           Q     Okay.

3           A     Or the painter.

4           Q     You kept these -- where did you keep

5 these labels?

6           A     In my drawer sometimes, other times I

7 kept them in my file.

8           Q     Did you ever --

9           A     In my filing cabinet.

10          Q     Excuse me. I am sorry for interrupting

11 you. You also stated, during testimony to Mr.

12 Latshaw, that you wouldn't lock your office during

13 your shift ordinarily?

14          A     Correct.

15          Q     The entire time that you were employed at

16 Bell Sports, did you ever have any problems with

17 people coming into your office and improperly

18 taking these labels?

19          A     Not to my knowledge, no.

20          Q     Now, who ordinarily went into the paint

21 room?

22          A     Just the painters and, of course, the

23 clean up crew person, Proemba, and occasionally a

24 QC person or supervisor might go in and talk to the

1 people.

2 Q And by QC person you mean?

3 A Quality control.

4 Q During the course of your employment at  
5 Bell, did you ever have -- were you ever made aware  
6 of problems of people just randomly wandering into  
7 this room?

8 A No.

9 Q Did you ever have any concerns that  
10 anyone other than Proemba or another of your  
11 employees would voluntarily go into that room and  
12 clean up?

13 A No.

14 Q Now, at some point the drums in the paint  
15 room would become full, correct?

16 A Correct.

17 Q Can you explain to us what happened at  
18 that point?

19 A At that point we would seal them up and  
20 take them out back to the storage area.

21 Q Okay. Did you -- how were they stored?

22 A Most of the -- sometimes on pallets.  
23 Sometimes just in the gravel area.

24 Q Did you try to segregate the hazardous

1 from --

2 A Oh, yes.

3 Q -- the nonhazardous drums?

4 A Yes. We had hazardous on one side of the  
5 storage area and nonhaz on the other.

6 Q How did you know which was the hazardous  
7 waste area and which was the nonhazardous waste  
8 area?

9 A Just by the labels on the drums.

10 Q And if you found a drum in the storage  
11 area that was not labeled, was there any sort of  
12 policy or procedure to deal with that drum?

13 A Yes, if it had some type of waste in it,  
14 we always called it hazardous, just to be safe.

15 Q Now, did you ever assist in loading drums  
16 on to a truck to be -- excuse me -- nonhazardous  
17 drums on to a truck to be taken to Waste Hauling  
18 Landfill?

19 A No.

20 Q Who was it that checked to -- who was it  
21 that loaded the drums on to the truck?

22 A It could have been Marlow most of the  
23 time and Staulter some of the time.

24 Q To the best of your knowledge, did Mr.

1 Marlow understand which drums were to be placed on  
2 to the truck?

3 A Yes.

4 Q Which drums were those?

5 A The nonhazardous.

6 Q You also stated, during Mr. Latshaw's  
7 examination, that you didn't check daily to insure  
8 that the labels were on the drums. Why is that?

9 A I might not get to that area that day.

10 Q Did you have a concern that the drums  
11 would not be labeled?

12 A No, not at all.

13 Q Why not?

14 A Because we were -- the people were  
15 trained and there never was a problem.

16 Q Okay. What size drums were these wastes  
17 put into?

18 A 55 gallon.

19 Q Do you know what color they were, the  
20 drums?

21 A No. They were mostly dark. They were  
22 black.

23 Q Do you recall ever using green drums?

24 A No.

1           Q     You also stated that Mr. Konter would  
2 sometimes help you fill out reports?

3           A     (Nodded head up and down.)

4           Q     Did you fill out a report relating to  
5 hazardous waste to be submitted to the IEPA?

6           A     Yes, uh-huh.

7           Q     Was there an annual report to be  
8 submitted to the IEPA?

9           A     Yes, uh-huh.

10           MR. TAYLOR:   Could you mark this as Bell  
11 Exhibit Number 5, please.

12                                 (Whereupon said document was  
13                                 duly marked for purposes of  
14                                 identification as Bell Exhibit  
15                                 5 as of this date.)

16           MR. LATSHAW:   How is this identified on  
17 your exhibit list?

18           MR. TAYLOR:   Do you have it there?

19           MR. LATSHAW:   Yes.   Is that it?

20           MR. TAYLOR:   Number 9.

21           Q     (By Mr. Taylor) I would like to hand to  
22 you what has been marked as Bell Number 5.   Do you  
23 recognize that document?

24           A     Yes.

1 Q Can you tell us what it is?

2 A It is a hazardous waste report.

3 Q Is this your signature at the bottom of  
4 page one of this document?

5 A Yes.

6 Q Now, can you describe to us in a little  
7 more detail what is indicated by this document?

8 A It describes the waste and the amount  
9 generated.

10 Q Which types of waste?

11 A Like spent solvents, styrene monomer.

12 HEARING OFFICER WALLACE: Styrene what?

13 THE WITNESS: Monomer.

14 HEARING OFFICER WALLACE: Thank you.

15 THE WITNESS: And spent thinner.

16 Q (By Mr. Taylor) Just for a clarification,  
17 was the styrene essentially the foam for the  
18 helmets?

19 A Was it what?

20 Q For the foam portion of the helmet?

21 MR. LATSHAW: I think I am going to have  
22 to interpose an objection to the witness testifying  
23 in detail about the document because, first, it is  
24 not in evidence. He can describe and identify what

1 it is for foundation purposes. Aside from that,  
2 the document speaks for itself, unless he needs to  
3 just explain language on it that might require  
4 clarification.

5 My second objection is that it was my  
6 understanding that exhibits had to be specifically  
7 identified on these lists of exhibits and this  
8 document, according to Counsel, is manifests and  
9 other records relating to Bell's waste disposal  
10 practices between 1990 and 1992, and are not  
11 supposed to describe this document.

12 MR. TAYLOR: This is clearly a document  
13 relating to Bell's waste disposal practices. In  
14 fact, it is a hazardous waste report that is  
15 required to be submitted to the Agency every year by  
16 law.

17 MR. LATSHAW: A list of exhibits, in my  
18 view, is a list of exhibits; this is Exhibit 1, 2,  
19 and 3. This is the exhibits referred to, so they  
20 are identifiable documents. You know, I think it  
21 is a bit ridiculous to suggest that we can just  
22 categorize whole pages of documents by general  
23 phrases and then use that as somehow maintaining  
24 that we have indicated what exhibits we intend to

1 introduce.

2 HEARING OFFICER WALLACE: Mr. Taylor, any  
3 further response?

4 MR. TAYLOR: It was my understanding that  
5 we needed to identify exhibits, and it was our  
6 understanding that this description would suffice.

7 HEARING OFFICER WALLACE: Well, was this  
8 document tendered in discovery?

9 MR. TAYLOR: It was not requested.

10 MR. LATSHAW: No.

11 HEARING OFFICER WALLACE: All right. The  
12 objection is upheld.

13 MR. TAYLOR: I would just simply like to  
14 point out that we have -- that's okay. Can I take  
15 this back?

16 HEARING OFFICER WALLACE: Yes.

17 Q (By Mr. Taylor) Mr. Riddle, did you  
18 submit annual hazardous waste reports to the  
19 Illinois Environmental Protection Agency?

20 A Yes.

21 Q Did you submit those reports each year?

22 A Yes.

23 Q Would those reports indicate the amount  
24 and type of hazardous waste that was generated each



1 year?

2 A Yes.

3 Q Did Mr. Konter assist you in preparing  
4 these reports?

5 A Yes.

6 Q Did you file such a report for the year  
7 of 1992?

8 A Yes.

9 Q And that report indicated the amount of  
10 hazardous waste generated that year?

11 A Yes.

12 Q And did that report also indicate the  
13 hazardous waste disposal facility that received  
14 that waste?

15 A Yes.

16 Q Do you recall the name of that disposal  
17 facility?

18 A Yes, it was Clayton.

19 Q Do you know where this Clayton facility  
20 is located?

21 A I don't recall.

22 Q Did Clayton come to the facility to pick  
23 up hazardous waste? Did they send a truck?

24 A I used a hazardous waste carrier that I

1 contacted.

2 Q Okay. Would you provide the carrier with  
3 the manifest?

4 A Yes.

5 Q For each shipment of hazardous waste to  
6 Clayton?

7 A Yes.

8 (Mr. Taylor and Mr. Nahmod  
9 confer briefly.)

10 Q (By Mr. Taylor) Mr. Riddle, I would like  
11 to refer you to the Waste Hauling Exhibit Number  
12 15, to the special waste stream disposal  
13 application that allegedly is attached to this  
14 report. Did you prepare this document?

15 A No.

16 Q Have you seen this document in the past?

17 A No.

18 Q Did you authorize the Clinton Landfill,  
19 Inc. to submit a special waste disposal permit for  
20 the receipt of special waste from Bell Sports?

21 A No.

22 Q In the fifth page back from there, in the  
23 letter from Bell Sports, or the memorandum --

24 A Oh, further back?

1 Q Yes.

2 A Okay.

3 Q Did you sign this letter of memorandum?

4 A No.

5 Q Do you ordinarily sign documents that you  
6 would send out?

7 A Yes.

8 Q Now, after the Waste Hauling Landfill --  
9 did you understand that the Waste Hauling Landfill  
10 closed or was shut down some time during 1992?

11 A Yes.

12 Q And you also understand that -- did Bell  
13 Sports continue to send special nonhazardous waste  
14 to a disposal facility after that point in time?

15 A No.

16 Q What was done with that waste material?

17 A At that point we started shipping all of  
18 our waste as hazardous.

19 Q Why is that?

20 A We weren't creating -- at that time we  
21 were not creating very much waste at all, and it  
22 gave us only one waste stream versus two.

23 Q And why weren't you generating much waste  
24 at that time?

1           A     We were not painting as many helmets at  
2     that time.

3           Q     Where did you send this material to?

4           A     Coleman Chemical picked it up.

5           Q     Okay. Do you know where they took it?

6           A     I don't recall exactly.

7           Q     Is Coleman Chemical a hazardous waste  
8     hauler?

9           A     Yes.

10          Q     Were they asked to take it to a hazardous  
11     waste facility?

12          A     Yes.

13          Q     Were drums that were marked nonhazardous  
14     waste sent off as hazardous waste?

15          A     No. We were -- in order to be able to do  
16     that I had to blend the two, the hazardous and the  
17     nonhazardous, to get enough BTUs in it to make it  
18     feasible to ship.

19          Q     Okay.

20          A     Well --

21          Q     You are also aware that the State has  
22     alleged that Bell Sports improperly handled waste  
23     at its facility?

24          A     Yes.

1 (Mr. Davis left the hearing  
2 room.)

3 Q (By Mr. Taylor) Do you recall if Bell  
4 Sports took any actions at its facility to address  
5 the State's concerns?

6 A Yes, we went through closure of that  
7 area.

8 Q What did that involve?

9 A ESE going in and doing all of the proper  
10 testing of the ground and submitting all of the  
11 proper paperwork and getting approval granted.

12 Q So ESE actually took some samples of the  
13 ground in the area?

14 A Yes.

15 Q Did they prepare some sort of report?

16 A Yes.

17 Q Was that submitted to IEPA?

18 A Yes.

19 Q Did IEPA approve that submittal?

20 A Yes.

21 Q Do you recall what the approval consisted  
22 of?

23 A No.

24 Q Did they tell you that you had to do any

1 additional work in the storage area?

2 A No, we didn't.

3 Q Now, did you have any direct knowledge  
4 that the violations alleged by the IEPA actually  
5 occurred?

6 A Prior to closure?

7 Q Yes, prior to closure.

8 A No.

9 Q All right. So why did you decide to  
10 close the storage area?

11 A Because when I made the decision to ship  
12 everything hazardous, that meant that everything  
13 out there was hazardous, and had been there over 90  
14 days and, therefore, the violations and, therefore,  
15 closure.

16 Q Okay. Did you do this closure  
17 voluntarily?

18 A Yes.

19 Q Did IEPA ask you to do this closure  
20 before you volunteered to do it?

21 A No.

22 Q Okay. Were you present at the facility  
23 when Mr. Zierath collected samples from drums in  
24 January of 1993?

1 A No.

2 Q I take it, then, that -- do you know  
3 which drums he collected the samples from?

4 A No.

5 Q Do you know whether he collected those  
6 samples from hazardous waste drums?

7 A I don't know.

8 Q Do you know whether he collected from  
9 solid waste drums?

10 A I don't know.

11 MR. TAYLOR: That's all for right now.

12 HEARING OFFICER WALLACE: Ms. Menotti?

13 CROSS EXAMINATION

14 BY MS. MENOTTI:

15 Q Mr. Riddle, regarding the storage of the  
16 wastes that were generated when you were still  
17 generating hazardous and nonhazardous waste  
18 separately, were both of those types of wastes  
19 stored in 55 gallon drums?

20 A Yes.

21 Q Were they stored in the same area of the  
22 facility, or did you keep them separate?

23 A They were stored in the same fenced in  
24 area.

1 Q And there were -- they were labeled, if I  
2 understand correctly, before you started putting  
3 materials in them so that you knew which was for  
4 which?

5 A Yes, yes.

6 Q Once you started -- once you found out  
7 that the Waste Hauling Landfill was closed and you  
8 started shipping everything as hazardous, am I  
9 understanding correctly that you combined both  
10 waste streams? You combined the paint sludge  
11 materials with the paint thinners or cleaning  
12 solutions or whatever?

13 A Yes.

14 (Mr. Davis entered the hearing  
15 room.)

16 Q (By Ms. Menotti) So the sludge material  
17 was still the same that had been generated before  
18 that was shipped under the special waste stream  
19 permit?

20 A Yes.

21 Q When this change occurred, did you notify  
22 the Illinois EPA of the change in your processes?

23 MR. TAYLOR: I would object to the  
24 characterization of "change in your processes."



1 Q (By Ms. Menotti) I am sorry. That you  
2 were no longer operating -- that you were no longer  
3 sending the paint sludge as special waste?

4 A I don't think I did.

5 Q Okay. For what period of time were you  
6 sending the nonhazardous paint sludge to the Waste  
7 Hauling Landfill?

8 A I would have to look up the date. I  
9 really don't know.

10 Q Is there a document in front of you that  
11 would help refresh your memory?

12 A Yes.

13 Q Can you tell me which one it is? Would  
14 the waste manifest help you?

15 A The permit would.

16 Q The permit in the --

17 A This one here.

18 Q The permit in the document that is  
19 marked, I believe, as Waste Hauling Landfill  
20 Exhibit 15?

21 A This one here, isn't it?

22 Q That's the Waste Hauling Number Exhibit  
23 14. I am sorry.

24 A Go ahead?

1 Q Can you look at that document and tell me  
2 for what period of time you were shipping waste to  
3 the Waste Hauling Landfill?  
4 A May of 1990 we started.  
5 Q Okay. And --  
6 A Well --  
7 Q Did the same transporter come and pick up  
8 the waste to take to the Waste Hauling Landfill  
9 every time?  
10 A Yes.  
11 Q And that was Waste Hauling, Inc.?  
12 A Yes.  
13 Q Do you recall about how many shipments  
14 from 1990 to 1992 that you sent to the landfill?  
15 A No, I don't.  
16 Q Do you recall, at all, sending a shipment  
17 during April of 1992?  
18 A Yes.  
19 MS. MENOTTI: I don't have anything  
20 else.  
21 HEARING OFFICER WALLACE: Mr. Latshaw?  
22 MR. LATSHAW: Yes, thank you.  
23 In order for me to be clear, I don't know  
24 if Mr. Taylor was complete with both

1 cross-examination and direct of Mr. Riddle or  
2 whether we are just dealing with the first round of  
3 cross and then redirect, and then he is going to  
4 begin with his direct, I guess.

5 I am just trying to find out if you are  
6 done with the witness altogether.

7 MR. TAYLOR: It depends on what questions  
8 you ask.

9 MR. LATSHAW: Well, aside from finishing  
10 this round, are you --

11 MR. TAYLOR: Yes.

12 MR. LATSHAW: All right.

13 REDIRECT EXAMINATION

14 BY MR. LATSHAW:

15 Q Now, Mr. Riddle, I thought that you said  
16 that between June of 1992 and March of 1993 you  
17 were not painting any helmets?

18 MR. TAYLOR: Objection. It is a  
19 mischaracterization of his testimony.

20 Q (By Mr. Latshaw) Am I correct?

21 MR. TAYLOR: I will withdraw it.

22 THE WITNESS: Can you give me those dates  
23 again?

24 Q (By Mr. Latshaw) June of 1992 and March

1 of 1993, from the time that Mr. Zierath visited  
2 your offices and you received his letter in March  
3 of 1993, I thought that was the period of time you  
4 indicated that there was no painting of helmets  
5 going on. Did I hear that correctly?

6 A I don't know. I didn't know I indicated  
7 that, no.

8 Q So that is not correct?

9 A We painted helmets.

10 Q Okay. You painted helmets and there was  
11 no substantial change in the process that had been  
12 going on during that period in terms of the  
13 production or the production requirements and the  
14 painting?

15 A The amount of production might have been  
16 the only thing that changed.

17 Q Okay. I wonder if I could have you refer  
18 to WHL Exhibit 15 again, sir.

19 Can you indicate on the record why you  
20 filled out that pesticide, herbicide certification  
21 in October of 1992? There was no application that  
22 you are aware of for shipment of the paint sludge?

23 A I filled out that pesticide yearly per  
24 ESE, and it is sent in to the IEPA.

1           Q     So that is provided, you are saying,  
2 independent of any permit application; is that  
3 correct?

4           A     Yes.

5           Q     And you do that on an annual basis?

6           A     Yes.

7           Q     Is that in October of every year?

8           A     I don't recall.

9           Q     Okay. Now, Counsel asked you about the  
10 colors of these drums, and you said that they were  
11 mostly black but there were others; is that right?

12          A     Black is the only color that I recall.

13          Q     Okay. But there were other colors that  
14 you used; is that correct?

15          A     I know we used some yellow overpacks.  
16 That's the only one that I really remember. The  
17 yellow overpacks.

18          Q     You don't recall any other specific  
19 colors, though; is that correct?

20          A     No, I don't.

21          Q     Is it possible that they could have used  
22 other colors?

23          A     Yes, it is possible.

24          Q     Okay. Did you do the ordering for the

1 drums or did you, again, rely upon the purchasing  
2 group?

3 A The purchasing group did that.

4 Q Okay. Did you tell them which colors to  
5 buy?

6 A No, just the amount.

7 Q Okay. Was there ever a time when you ran  
8 out of labels, nonhazardous green labels, that you  
9 know of?

10 A Not that I recall, no.

11 Q All right. Now, Mr. Konter, was that his  
12 name, from ESE?

13 A Konter.

14 Q From your testimony I guess ESE and Mr.  
15 Konter or Mr. Konter decided how the two waste  
16 streams were to be structured and set up prior to  
17 1992?

18 A Yes.

19 Q All right. They would visit how often?

20 A Oh, 10 to 20 times a year.

21 Q Okay. During the course of their visits,  
22 would they then inspect the premises and watch the  
23 process?

24 A Yes.

1 Q Would they watch the process of the  
2 loading of the paint sludge and nonhazardous drums?  
3 A On to the truck?  
4 Q No, sir. First of all, the loading of  
5 the barrel itself in the paint facility?  
6 A No.  
7 Q Would they watch the loading of the  
8 trucks?  
9 A No.  
10 Q Would they watch the sealing of the  
11 drums?  
12 A Not the daily sealing of the drums, no.  
13 Q The drums were not actually sealed, were  
14 they, until they were stuck in the storage facility  
15 full?  
16 A Right.  
17 Q From the time that they were initially  
18 placed in the paint booth or paint room until they  
19 were taken to the storage facility and sealed, they  
20 were open; is that correct?  
21 A They were sealed when they left the paint  
22 room.  
23 Q All right. But up until the time they  
24 leave the paint room they were not sealed?

1           A     Correct.

2           Q     They had a lid on it, but they were not  
3     sealed?

4           A     Correct.

5                   MR. LATSHAW: All right. I think I am  
6     done with this witness, although I would like to  
7     move to admit WHL Exhibits 17 and 18.

8                   HEARING OFFICER WALLACE: Any objection,  
9     Ms. Menotti?

10                  MS. MENOTTI: Can I see Number 18? Thank  
11     you.

12                  Okay. We don't have any objections.

13                  HEARING OFFICER WALLACE: Mr. Taylor?

14                  MR. TAYLOR: Just a second. We are  
15     trying to make sure we have the numbers right.

16                  No objection.

17                  HEARING OFFICER WALLACE: WHL Exhibits 17  
18     and 18 are admitted into evidence.

19                                 (Whereupon said documents were  
20                                 admitted into evidence as WHL  
21                                 Exhibits 17 and 18 as of this  
22                                 date.)

23                  HEARING OFFICER WALLACE: Mr. Taylor,  
24     further questioning?



1           MR. TAYLOR: I have just a few  
2 additional.

3           HEARING OFFICER WALLACE: Recross,  
4 redirect?

5           MR. TAYLOR: Whichever.

6                           RE CROSS EXAMINATION

7                           BY MR. TAYLOR:

8           Q     Just for purposes of clarification, Mr.  
9 Konter or other representatives of ESE at some  
10 point went into the paint room, correct?

11          A     Oh, yeah.

12          Q     And the drums would have been visible at  
13 that time, correct?

14          A     Yes.

15          Q     Okay. And they had the opportunity to  
16 look into the drums?

17          A     Yes.

18          Q     And, in fact, on different occasions,  
19 they actually took samples of the nonhazardous  
20 material?

21          A     Yes.

22                   MR. TAYLOR: Okay. Thank you. No  
23 further questions.

24           HEARING OFFICER WALLACE: Ms. Menotti?

1 MS. MENOTTI: Nothing else.

2 EXAMINATION

3 BY HEARING OFFICER WALLACE:

4 Q All right. Mr. Riddle, I am going to  
5 have some clarifying questions, I hope, for the  
6 record.

7 You are not now employed by Bell Helmets?

8 A No, sir.

9 Q Bell Sports?

10 A No.

11 Q All right.

12 A Self-employed.

13 Q You are self-employed? Do you have any  
14 affiliation or relationship with Bell?

15 A No.

16 Q Your first employment with Bell was back  
17 in the 1970s; is that correct?

18 A Yes.

19 Q And you worked for ten years and left for  
20 two years?

21 A Approximately a year and a half, two.

22 Q And then came back?

23 A Uh-huh.

24 Q On WHL Exhibit 15, which is the RCRA

1 inspection report, I have it right here, you were  
2 saying that you have never seen this permit  
3 application; is that correct?

4 A That's correct.

5 Q All right. And then you would not know  
6 why your name was put in down here as the  
7 generator?

8 A No.

9 Q Was Clinton -- you said you never had any  
10 contact with Clinton Landfill?

11 A Not at all.

12 Q You also say you never prepared or saw  
13 this memo that is dated October 22, 1992?

14 A I did not prepare that.

15 Q Have you seen it prior to today?

16 A Not that I recall.

17 Q All right. The Agency fella is gone, but  
18 all these pages have the number 924702, on all  
19 these several pages, which would indicate that that  
20 is part of an application. You have never seen any  
21 of those pages?

22 A Can I see them?

23 Q I should rephrase that. I mean, you have  
24 never seen this as an application packet?

1           A     No, no.

2           Q     Okay.  Some of the ESE reports you may  
3 have seen?

4           A     Yes.

5           Q     Okay.  Now, at the very beginning of your  
6 testimony you said that the conveyor brings the  
7 helmets in, they are sprayed, and the sludge hits  
8 the water and then drops down to --

9           A     The overspray hits.

10          Q     The overspray of the paint hits a wall of  
11 water at the back of the painting booth?

12          A     Uh-huh.

13          Q     Yes?

14          A     Yes.

15          Q     And then the sludge then drops to a tray  
16 like feature in the booth itself at the floor of  
17 the booth?

18          A     Yes.

19          Q     And then there is an escape hatch at the  
20 back or the side?

21          A     The back.

22          Q     At the back, which your employee,  
23 Proemba, would scoop out the sludge?

24          A     Correct.

1           Q     How big is the tray at the bottom of the  
2 booth that sludge accumulated in?

3           A     Just where the sludge is, it is probably  
4 five foot by three feet, approximately.

5           Q     Is it an actual tray depression in the  
6 booth or what? How would you describe where the  
7 sludge falls on the bottom of the booth?

8           A     It has a -- it is an angled piece of  
9 metal that helps -- that throws all the sludge into  
10 one area, with the angle, to the back of the booth,  
11 and there is a couple of feet, three feet of water  
12 in it.

13          Q     What does the water do? What is its  
14 purpose in the booth?

15          A     It keeps the overspray from -- once it  
16 hits the water it grabs it. The water hangs on to  
17 the overspray.

18          Q     All right. So without any diagrams here,  
19 the paint is sprayed horizontally or at an angle to  
20 the helmet?

21          A     Horizontally.

22          Q     And then the overspray then hits the  
23 water which is flowing --

24          A     Behind the helmet.

1 Q Behind the helmet. Then the water is to  
2 catch the spray and drop it down?

3 A Yes.

4 Q All right. Now, in your fenced area,  
5 when you loaded the barrels on the truck, were they  
6 put on a pallet and then loaded or were they always  
7 put on pallets before being put into the truck?

8 A No. The nonhazardous?

9 Q Yes.

10 A No, they were not.

11 Q Some were and some were not?

12 A No, we didn't load them on the truck with  
13 pallets. They were set up with the forklift, one  
14 drum at a time.

15 Q And then rolled off of the forklift into  
16 the truck?

17 A It was on a flatbed, so we could load it  
18 from the side.

19 Q Well, if I remember correctly, if you  
20 have the drum sitting on the forklift prongs you  
21 have to tip the barrel off with the prongs, do you  
22 not?

23 A Well, we had barrel grabbers and you can  
24 just grab it.

1 Q Oh, okay. So you never used the  
2 pallets? You just used a flatbed truck and stuck  
3 the drums on the flatbed?

4 A Correct.

5 Q Now, in response to Bell Number 4, the  
6 green placard, is it your recollection that this  
7 was being used in the spring of 1992 or it is just  
8 similar to what is being used?

9 A It is similar. I don't remember that  
10 exactly. It is similar as in green and white and  
11 it says nonhaz on it.

12 Q All right. Now, the yellow hazardous  
13 waste one, you are sure that that is the one that  
14 was being used, at least in the spring of 1992?

15 A Yes.

16 HEARING OFFICER WALLACE: All right.  
17 Thank you, Mr. Riddle.

18 Anything else of Mr. Riddle?

19 MR. LATSHAW: No.

20 MR. TAYLOR: No.

21 HEARING OFFICER WALLACE: No?

22 MR. TAYLOR: We would like to restate I  
23 guess our objection to the ruling that the 1992  
24 annual hazardous waste report could not be

1 submitted.

2 HEARING OFFICER WALLACE: All right. So  
3 noted.

4 All right. Mr. Riddle, thank you. You  
5 may step down.

6 (The witness left the stand.)

7 HEARING OFFICER WALLACE: Let's take a  
8 five or six minute break.

9 (Whereupon a short recess was  
10 taken.)

11 HEARING OFFICER WALLACE: Back on the  
12 record.

13 (Whereupon the witness was  
14 sworn by the Hearing Officer.)

15 HEARING OFFICER WALLACE: You may  
16 proceed.

17 MR. LATSHAW: I will proceed.

18 HEARING OFFICER WALLACE: Thank you.

19 J E R R Y E. C A M F I E L D, SR.

20 Having been first duly sworn by the Hearing  
21 Officer, saith as follows:

22 DIRECT EXAMINATION

23 BY MR. LATSHAW:

24 Q Jerry, on the record, could you indicate



1 your full name, please.

2 A Jerry E. Camfield, Sr.

3 Q Jerry, you are or were, I guess, the  
4 owner of a corporation that used to operate a  
5 landfill in Macon County; is that correct?

6 A That's correct.

7 Q Approximately when did you start  
8 operating that landfill for that company?

9 A In May of 1980.

10 Q Now, the exact name of the corporation  
11 that are named as respondents here are Waste  
12 Hauling, Inc. and Waste Hauling Landfill, Inc. You  
13 are familiar with those corporations; is that  
14 correct?

15 A Yes.

16 Q You are the sole shareholder of those; is  
17 that correct?

18 A Yes.

19 Q You are the only officer and director?

20 A That's correct.

21 Q Now, from the time that this landfill  
22 began to operate under your direction, you  
23 periodically received visits, I guess, from  
24 representatives of the Illinois Environmental

1 Protection Agency; is that correct?

2 A That's correct.

3 Q During any of those visits, do you recall  
4 any conversations with representatives of the EPA  
5 in their inspections about this matter of a berm?

6 A Yes.

7 Q Can you describe what this berm is, first  
8 of all?

9 A Well, there is a berm that is on the  
10 north side and it wrapped around and proceeded  
11 south on both the east and west sides almost to the  
12 south border.

13 Q All right.

14 A It was tapered from the south, north. In  
15 other words, there was more berm on the north than  
16 actually on the south side.

17 Q Now, the property on which the landfill  
18 sits is approximately how much acreage, if you  
19 know?

20 A The total acreage is about 50 acres.

21 Q Now, there are actually two principal  
22 fill areas; is that correct?

23 A There are actually three.

24 Q All right. We have referred or heard

1 testimony in this case between an old and a new  
2 area?

3 A That's correct.

4 Q Can you describe what those are?

5 A Well, the old area is two areas that were  
6 filled prior to 1980. I believe they were ceased  
7 somewhere in early 1979. They are east of the  
8 creek that runs through the property. The creek  
9 runs kind of from the southeast to the northwest at  
10 an angle.

11 Q Now, would the new area then, the  
12 so-called new area, be on the west side of that  
13 creek?

14 A That's correct.

15 Q That's the area you described with regard  
16 to this berm; is that correct?

17 A That's correct.

18 Q All right. Now, during the course of any  
19 inspections, did any representatives of the EPA ask  
20 you or indicate to you or suggest to you or in any  
21 manner tell you to raise this berm?

22 A That's correct. It is also noted on the  
23 reports.

24 Q Now, what did you understand that to

1 mean?

2 A Raise the berm higher than what it was at  
3 that time.

4 Q Was there -- did you understand that  
5 there was any reason to raise the berm as far as  
6 you knew?

7 A No. Other than the fact that it -- they  
8 had decided that it wasn't the way it should be and  
9 I was to raise it.

10 Q What process would you engage in in order  
11 to comply with that? What did you do?

12 A We done just that. We started hauling  
13 dirt in and raising the berm.

14 Q What relationship, if any, was there  
15 between this berm and the fill portion of the  
16 landfill?

17 A Well, it is outside the fill. The berm  
18 is what is outside of the garbage that is hauled in  
19 there.

20 Q Well, as the berm was raised what would  
21 happen to the fill area?

22 A It would go up.

23 Q All right. Was there a reason for that?  
24 In your mind, was there some reason why that

1 occurred?

2 A Well, in my mind, when the berm was  
3 raised then you had to shape the garbage and the  
4 top cover when you applied it so that there  
5 wouldn't be water going into the fill. It had to  
6 run off when you got to the final stages of it.

7 Q The final stages, meaning?

8 A Closure.

9 Q Closure. Okay. So, apparently, the fill  
10 did -- did the fill then rise?

11 A Yes.

12 Q Did the fill area rise along with the  
13 berm, then?

14 A Yes.

15 Q After you would raise this berm area, the  
16 fill would rise, also?

17 A Yes. I would build up to the berm on an  
18 angle and taper so that when we put the final cover  
19 on it, the water would not settle down in the fill,  
20 it would run off the side.

21 Q When you say settle down in the fill, do  
22 you mean --

23 A Well, if it is flat --

24 Q Where it is flat --

1           A     If it is flat, it is going to either lay  
2     there or eventually it is going to wind up in the  
3     fill.

4                   HEARING OFFICER WALLACE:  Mr.  --

5                   THE WITNESS:  Because it is going to soak  
6     through the -- yes?

7                   HEARING OFFICER WALLACE:  I am sorry.  
8     Finish your question.  But wait for Mr. Latshaw to  
9     finish his question before you --

10                  THE WITNESS:  Oh, okay.

11                  HEARING OFFICER WALLACE:  -- start  
12     answering, please.

13                  THE WITNESS:  All right.

14           Q     (By Mr. Latshaw) Now, I guess I  
15     understand that -- I presume that you are just  
16     raising, sort of building a mound there, then, is  
17     that what, in effect, was happening?

18           A     Yes.

19           Q     The berm was on the north side of the  
20     property?

21           A     Yes.

22           Q     Was the existing contours of the  
23     property, before any fill was put there, would it  
24     generally fall from the south to the north?

1           A     Yes.

2           Q     Okay.  It was higher at the south than it  
3 was at the north?

4           A     Yes.

5           Q     All right.  So the berm was built on the  
6 north side?

7           A     Yes.

8           Q     To contain the flow I guess, right?

9           A     Yes.

10          Q     Okay.  Now, after you had raised the  
11 berm, did any inspector subsequently come out to  
12 talk to you about this berm?

13          A     We had periodic inspections, yes.

14          Q     Did each one talk about this berm, as far  
15 as you recall?

16          A     I don't know how many particular ones  
17 that inspected it, you know, mentioned it.

18          Q     Did somebody talk about height at some  
19 point in time?

20          A     Yes.  They started talking about height  
21 in about 1986, 1987, somewhere along in there.

22          Q     Was that the first time you had heard  
23 anything about height in connection with the berm?

24          A     Yes.

1 Q Do you recall who it was that you had  
2 this discussion with, as a representative of the  
3 EPA?

4 A I don't recall the person's name, no.

5 Q Did you make any inquiry of any  
6 representative of the EPA about how these two were  
7 going to be related?

8 A Yes. I contacted the engineer, my  
9 engineer, and we discussed it.

10 Q All right. There was at some point in  
11 time an aerial survey map or drawing generated. Do  
12 you recall that?

13 A Yes.

14 Q Okay. Was that generated at or about the  
15 same time that the discussions about the height  
16 were begun?

17 A Yes.

18 Q And that aerial survey was generated as a  
19 result of your discussions with Mr. Krimmel?

20 A That's correct.

21 Q Now, an administrative citation was  
22 served on you at one time. Do you recall that?

23 A Yes.

24 Q And that citation had to do with, among



1 other things, height, overweight; is that correct?

2 A That is correct.

3 Q You paid a penalty on that administrative  
4 citation. Do you recall that?

5 A Yes.

6 Q Do you recall how much you paid?

7 A \$2,500.00.

8 Q Okay. Do you recall approximately when  
9 that was?

10 A 1989, 1990, somewhere along in there.

11 Q Okay. I am not going to have this  
12 marked, but I am going to hand you what appears to  
13 be a copy of a check made out to the amount of --  
14 made out to the Illinois Environmental Protection  
15 Agency signed by --

16 MR. TAYLOR: Is this on the exhibit  
17 list?

18 MR. LATSHAW: Yes. I am not having it  
19 entered. I am just having him refresh his  
20 recollection.

21 Q (By Mr. Latshaw) Does that refresh the  
22 recollection as to the date when this sum may have  
23 been paid?

24 A Yes.

1 Q And what is your recollection of the  
2 date?

3 A 02-22-91.

4 Q Now, you also recall that in May of 1992,  
5 as a result of a Circuit Court proceeding, your  
6 landfill was closed by an order of Court; is that  
7 correct?

8 A That's correct.

9 Q And you were required to do certain  
10 things at that time; is that right?

11 A That's right.

12 Q Did you undertake to do any kind of  
13 closure efforts following that order?

14 A Yes.

15 Q And could you indicate on the record what  
16 efforts you did undertake at that time?

17 A Well, we was ordered to cover the entire  
18 landfill, and finish the -- I call it the cut off  
19 wall around the old landfill, which is the area  
20 east of this particular creek. It was a lot of  
21 dirt moving and final cover and whatever put on the  
22 fill.

23 Q You stopped receiving any waste; isn't  
24 that correct?

1           A     That's correct.

2           Q     How much cover did you put on the  
3 landfill, the new area, that is?

4           A     It will vary from, in my recollection, a  
5 foot to three foot different places trying to come  
6 up with a contour.

7           Q     How long a process was this? How long  
8 did it take you?

9           A     Well, we worked on it all summer long.  
10 It was the latter part of September, October,  
11 somewhere along in there when we got done.

12          Q     Did Mr. Krimmel participate in this  
13 process in some manner, do you recall?

14          A     Yes, he -- we talked about it and, you  
15 know, what we was to do, and what the Court -- he  
16 told me exactly what they wanted me to do.

17          Q     Did he go out and probe any portion of  
18 the landfill while you were there or do you know?

19          A     Yes.

20          Q     Did he -- you understood what he was  
21 trying to do?

22          A     Yes, establishing the depth of the dirt  
23 we put on top.

24          Q     Where did you get the dirt that you did

1 use to cover?

2 A We used a clay type dirt that he  
3 instructed that that is what we was supposed to  
4 use. We got it from an area just west of the  
5 landfill.

6 Q This was adjacent property that you -- I  
7 guess you owned that also at the time?

8 A Uh-huh.

9 HEARING OFFICER WALLACE: Yes?

10 THE WITNESS: Yes. Excuse me.

11 Q (By Mr. Latshaw) You need to answer  
12 clearly yes or no.

13 A Okay.

14 Q Now, I guess I have asked this, but let  
15 me be specific. You haven't accepted any waste in  
16 any form since May of 1992 in that landfill; is  
17 that also correct?

18 A That is correct.

19 Q Now, you are familiar with Bell Sports, I  
20 guess; is that right?

21 A Yes.

22 Q And you were present when Mr. Riddle  
23 testified just a moment ago. Do you know Mr.  
24 Riddle?

1           A     Yes.

2           Q     You had been -- is that the gentleman you  
3 dealt with at Bell Sports during the time that your  
4 company was hauling paint sludge out of there?

5           A     Yes.

6           Q     Now, did you at any time actually visit  
7 the Bell Sports facility in connection with your  
8 agreement to haul this stuff?

9           A     Yes.

10          Q     Do you know approximately when that was?

11          A     Well, it -- well, I hauled loads from the  
12 original permit, which I believe was in 1986, 1987,  
13 somewhere along in there, up --

14          Q     I am sorry.  If you are not finished, I  
15 did not mean to interrupt you.

16          A     Up through the last one.  I didn't haul  
17 the last one.  I had hauled various loads.

18          Q     Well, what I was getting at, did you  
19 personally drive the truck over there on any  
20 occasions and pick up a load of waste?

21          A     Yes.

22          Q     Do you know about how many times you did,  
23 if you can recall?

24          A     I am going to say five or six times.

1 Q Do you know -- would this be in the early  
2 period, you said 1986, 1987?

3 A Yes, it would be in the earlier period.  
4 I don't remember without looking at the documents  
5 as to --

6 Q Sure. Did you visit and see the area  
7 where the paint sludge is generated, the paint  
8 booth area?

9 A Yes.

10 Q All right. How many times did you visit  
11 that area when you were over there?

12 A A couple times.

13 Q Did Mr. Riddle give you a tour or did you  
14 just kind of wonder through?

15 A Well, the first time I actually got a  
16 tour, but after that it was, you know, wherever I  
17 wanted to go. There was no --

18 Q No one ever restricted your movements  
19 there?

20 A No.

21 Q If you walked into the plant?

22 A No.

23 Q Now, did you examine the area where the  
24 barrels that were used to place the paint sludge,

1 and I guess there was another barrel that was  
2 supposed to be hazardous waste, did you see that  
3 area, did you see those two barrels?

4 A I seen the areas.

5 Q Do you remember seeing the barrels?

6 A Yes, I seen barrels in the area, yes.

7 Q All right. Did you look in the barrels,  
8 by any chance?

9 A No. The barrels were sealed, that I  
10 seen. Are you talking about --

11 Q I am talking about the barrels in the  
12 paint area.

13 A Oh, in the paint area. Yes, I seen the  
14 barrels there also.

15 Q Well, what -- did you open the lids and  
16 look at them?

17 A Yes.

18 Q Did you look inside?

19 A Yes.

20 Q All right. What did you see, if you  
21 recall?

22 A Paint sludge.

23 Q All right.

24 A In one of them and then it looked and

1 smelled like thinner in the other one.

2 Q Thinner, paint thinner?

3 A Uh-huh.

4 Q You need to answer yes or no in order for  
5 the record to be clear.

6 A Okay.

7 Q Was that a yes or a no?

8 A Yes.

9 Q Now, did -- aside from opening and  
10 looking in, you didn't do anything else or did  
11 you? You didn't stick your hand in there or  
12 anything like that?

13 A No.

14 Q Did you notice any labels on any of the  
15 barrels or those two barrels?

16 A I can't honestly say that I seen any  
17 labels or didn't see any labels.

18 Q All right. Did you witness the painting  
19 operation?

20 A I seen a small portion of it, yes.

21 Q Okay. Is it generally correct, then,  
22 that there was a waterfall and paint was sprayed  
23 and then the paint would hit the waterfall and go  
24 into some container?



1           A     That's correct.

2           Q     Did you observe anyone else near those  
3 two barrels the day that you happened to be there?

4           A     The day I was there, there was only the  
5 painter in there.

6           Q     Okay. How long were you in there, if you  
7 recall?

8           A     Just to step in and step out, just to  
9 look at what was going on and back out.

10          Q     Okay. I guess the door that went into  
11 the paint room was not obstructed or locked to  
12 prevent you from going in?

13          A     No, no.

14          Q     Okay. Now, on the occasions that you  
15 actually then would pick up barrels, when you were  
16 there to drive the truck, would Mr. Riddle be there  
17 to meet you?

18          A     No. I always -- there was always  
19 somebody running around back there, and I told them  
20 I was there to get barrels and they got ahold of  
21 whoever to load them.

22          Q     Well, did you recall seeing Mr. Riddle at  
23 any time on the visits that you actually picked up  
24 the barrels?

1           A     Yes, sometimes I would go through the  
2 plant and he would be in his office, yes.

3           Q     You knew where that office was?

4           A     Yes.

5           Q     What would he do or did he accompany,  
6 then, you back outside or did he just stay in his  
7 office and talk to you?

8           A     No, we would just sit there and talk and  
9 then after a period of time he would hand me some  
10 papers and I would go out and wait for him to  
11 finish loading the truck.

12          Q     Well, you know what a manifest is?

13          A     Yes.

14          Q     That is what he would hand you, I  
15 presume?

16          A     Yes.

17          Q     Would he sign it at that time when he  
18 handed it to you?

19          A     Yes, it was signed when I got it.

20          Q     Okay.

21          A     Because I had to sign it and he had to  
22 retain two copies.

23          Q     He would pull some copies then, right?

24          A     Right.

1 Q So while the truck was being loaded, both  
2 you and Mr. Riddle sometimes would be in his  
3 office?

4 A That's correct.

5 Q How many people -- on that occasion, how  
6 many people were loading the truck?

7 A Two.

8 Q Did you examine the labels, then? Let's  
9 assume you went back outside. Did you examine the  
10 labels on the truck at the time that they were  
11 loading or --

12 A Yes, I would look to make sure that there  
13 were labels on them.

14 Q Okay. Do you know what color labels Bell  
15 used as hazardous waste, at least before today?

16 A Yes, I remember those being green.

17 Q For nonhazardous or hazardous?

18 A For nonhazardous.

19 Q Do you remember yellow?

20 A Yes, I remember the yellow labels being  
21 on hazardous material. I have seen that both at  
22 Bell and other places, too.

23 Q Okay. What do you remember the label  
24 being for nonhazardous, color-wise?

1           A     Green.

2           Q     At Bell?

3           A     Uh-huh.

4                    HEARING OFFICER WALLACE:    Yes?

5                    THE WITNESS:    Yes.

6           Q     (By Mr. Latshaw) Do you remember there

7     being any other color of any type?

8           A     I believe I have seen blue nonhazardous

9     labels.

10          Q     Do you think that might have been at Bell

11     or somewhere else?

12          A     I don't know.  All I know is that I have

13     seen blue and green nonhazardous labels, as my

14     recollection.  As to where...

15          Q     Okay.  What type of truck was used by

16     Waste Hauling, Inc. to pick up the barrels at Bell?

17          A     It was a semi truck with a flatbed

18     trailer.

19          Q     The same flatbed trailer all the time?

20          A     Yes.

21          Q     You would not -- the times that you were

22     there you would not always stay there while they

23     loaded them; is that right?

24          A     No.

1           Q     Okay.  How many times that you were  
2     there, doing -- picking up the drums, how many  
3     times was Mr. Riddle outside observing the loading  
4     with you?

5           A     I don't ever remember Nick being out  
6     there when they was loading.

7           Q     Now, you had a special waste permit for  
8     the purpose of loading or hauling and disposing  
9     special waste paint sludge from Bell Sports; is  
10    that correct?

11          A     That's correct.

12          Q     Did you at any time receive hazardous  
13    waste, to your knowledge, from Bell Sports?

14          A     No, I did not.

15          Q     Did you ever receive or transport paint  
16    sludge from Bell Sports without a signed manifest?

17          A     No, I did not.

18                                 (Mr. Latshaw and Mr. Van Ness  
19                                 confer briefly.)

20          Q     (By Mr. Latshaw) Mr. Camfield, Jerry, do  
21    you recall on the occasions that you picked up the  
22    special waste drums, what color they were?

23          A     They were various colors.

24          Q     Do you recall any?

1           A     I remember black and white.  There could  
2     have been other colors, but I don't remember.

3           Q     Now, do you recall the occasion when the  
4     State Police were at your landfill in April of  
5     1992?

6           A     Yes.

7           Q     And that's to give you a search warrant?

8           A     Yes.

9           Q     Were you present at that time?

10          A     No.

11          Q     You were not?

12          A     Not when they got there.

13          Q     Brad Brown was not there either?

14          A     No.

15          Q     Where were you?

16          A     In hearings in the Macon County Circuit  
17     Court.

18          Q     With regard to the EPA?

19          A     That's correct.

20          Q     All right.  Did you go out there later?

21          A     Yes.

22          Q     What did you observe?

23          A     I observed a lot of people running around  
24     in white suits, a backhoe, a roll-off truck with a

1 container from out-of-state, and they had dug up a  
2 bunch of barrels and had them laying around all  
3 over the ground.

4 Q Do you know how many they dug up?

5 A I was told later 53.

6 Q Now, did you examine the place or the  
7 hole or whatever was left where they removed the  
8 barrels? Did you go up and look at it?

9 A Yes.

10 Q What did you see?

11 A A hole where they dug up a bunch of  
12 garbage.

13 Q All right. Did you notice anything  
14 unusual?

15 A No, I can't say that I seen anything --

16 Q I guess unusual in the sense of a  
17 landfill. Did you notice any strong odors?

18 A No. I can't say that I observed strong  
19 odors, because when you are around that type of  
20 material all of the time, you have odors all the  
21 time.

22 Q I am referring to did you happen to  
23 notice any strong odors of any solvent or paint  
24 thinner or something of that nature in a general

1 way?

2 A I don't remember smelling it, no.

3 Q When the barrels had been exhumed, do you  
4 know where they were placed? Were they put in some  
5 particular area?

6 A Before the day was over they put them in  
7 this roll-off container and then covered them up  
8 with a tarp.

9 Q Did they cover the hole up?

10 A No.

11 Q I guess that was left to you?

12 A All three of them.

13 Q There were three holes?

14 A That's correct.

15 Q Where were the other two?

16 A Farther west and a little bit south of  
17 where the -- of the one where they got the barrels  
18 out of.

19 Q All of the barrels -- do you know which  
20 one all of the barrels came from?

21 A I was told they come out of the one  
22 basically on top of the fill.

23 Q Okay.

24 A That's where they was closest to.



1 (Mr. Latshaw and Mr. Van Ness  
2 confer briefly.)

3 Q (By Mr. Latshaw) At some point in time,  
4 after April of 1992, were you informed, by any  
5 representative of the IEPA, that as a result of  
6 their search or taking of barrels in April of 1992  
7 that they were claiming that you had received  
8 hazardous waste? Do you remember when that was?

9 A I believe the first I heard about it was  
10 in a meeting that Bob Krimmel and myself came over  
11 to the EPA office with several EPA people. I  
12 believe that was in March, April of 1993.

13 Q Do you know who was present?

14 A Well, I know some of them. Mr. Childs  
15 was there. The gentleman that testified earlier  
16 today. I am terrible on names. I can't remember  
17 names. Lee Smith, I believe, was there. There was  
18 a lot of people that I didn't know or I had never  
19 met before.

20 Q By the fella that testified earlier, do  
21 you mean the fella with the beard?

22 A Yes.

23 Q Mr. Zierath?

24 A Yes.

1 Q Is that the first time that you had heard  
2 any assertion or allegations that you had received  
3 hazardous waste?

4 A Yes.

5 Q Okay.

6 A Other than the newspaper.

7 MR. LATSHAW: I have no further questions  
8 of this witness.

9 HEARING OFFICER WALLACE: All right. Mr.  
10 Taylor?

11 MR. TAYLOR: Can we go off the record a  
12 minute?

13 HEARING OFFICER WALLACE: Yes. Off the  
14 record.

15 (Discussion off the record.)

16 HEARING OFFICER WALLACE: Back on the  
17 record.

18 Start your cross, then.

19 MR. TAYLOR: Why don't we just do the  
20 whole thing.

21 HEARING OFFICER WALLACE: All right. I  
22 would note for the record that Mr. Taylor may be  
23 asking questions of a direct nature to expedite the  
24 proceedings. There is no objection from Waste

1 Hauling.

2 CROSS EXAMINATION

3 BY MR. TAYLOR:

4 Q For clarification purposes, Mr. Camfield,  
5 you stated on direct that to your knowledge you  
6 have not received any hazardous waste from Bell  
7 Sports?

8 A That's correct.

9 Q Also, you stated that you were at Bell's  
10 facility five or six times, approximately?

11 A Approximately, yes, that many times.

12 Q The drums in the storage area, those  
13 drums were labeled, correct?

14 A Not always.

15 Q The drums in the back storage area?

16 A Not always.

17 Q Did you walk through and inspect those  
18 drums?

19 A No, I watched them put labels on when  
20 they loaded them on the truck.

21 Q Okay. Which labels were being placed on  
22 those drums, the nonhazardous green ones?

23 A The nonhazardous.

24 Q Were you concerned at that point that you

1 were receiving hazardous waste?

2 A I had no reason to believe so.

3 Q Okay. You had actually seen the paint  
4 room, correct?

5 A Uh-huh.

6 HEARING OFFICER WALLACE: Yes?

7 THE WITNESS: Yes.

8 Q (By Mr. Taylor) And you had seen the two  
9 separate drums in the paint room?

10 A Yes.

11 Q And when you went in the paint room --  
12 how many times were you there?

13 A I was in there a couple of times.

14 Q Did you go in there specifically looking  
15 for labels?

16 A No. Mr. Riddle was showing me how the  
17 operation worked, and where the product came from.

18 Q Okay. And you also stated that you had  
19 relatively free access when you were inside this  
20 facility?

21 A Yes.

22 Q You didn't dump any material into those  
23 drums, did you?

24 A Pardon?

1 Q You didn't dump materials into those  
2 drums in the paint room, did you?

3 A I don't believe so.

4 Q You are the actual certified operator for  
5 Waste Hauling Landfill when it was operating,  
6 weren't you?

7 A No.

8 Q Who was?

9 A Brad Brown.

10 Q So Brad Brown received some type of  
11 official training on the --

12 A Yes, he got a certification from the EPA.

13 Q Do you know when that was?

14 A Not without digging up records and  
15 finding out when it happened.

16 Q Okay. Have you ever been certified to be  
17 an operator of a landfill?

18 A No.

19 Q I would like to talk to you for a few  
20 minutes about the way waste is received at the  
21 facility. I take it you were not there every day  
22 when the facility was operating?

23 A Not all the time, no.

24 Q But you were there sometimes when it was

1 operating?

2 A That's correct.

3 Q Can you describe for me, if a truck came,  
4 where would it go, which direction would it be  
5 headed?

6 A Well, the lane runs -- from the township  
7 road it runs straight north to the landfill.

8 Q So the truck comes in to the north?

9 A Uh-huh.

10 Q Is there a staging area anywhere?

11 A The only staging area would be where we  
12 would happen to be dumping at that particular time.

13 Q Would the truck go directly to an open  
14 area of the landfill?

15 A Yes.

16 Q They would dump all of the materials that  
17 they had at that one time?

18 A Yes.

19 Q You wouldn't have a truck come to the  
20 facility and dump half of its materials and then go  
21 back down the hill and wait for a while, would it?

22 A No.

23 Q You are aware that in this proceeding  
24 that there has been an allegation that Bell gave

1 hazardous waste to you or one of your drivers; is  
2 that correct?

3 A That's correct.

4 Q That shipment was April 9, 1992; is that  
5 your understanding?

6 A That's my understanding, yes.

7 Q All right. Were you at the landfill on  
8 that day?

9 A I don't recall being there, no.

10 Q Okay. Did you attain any sort of a map  
11 of where each shipment of waste was disposed of?

12 A No.

13 Q Or a plot plan?

14 A No.

15 Q Did you keep any sort of a record of the  
16 material received on any particular day? And by  
17 you, for clarification, I mean you or anybody that  
18 worked for you?

19 A Yes, there were records kept of what came  
20 out there every day.

21 Q Would it be accurate to call these waste  
22 in sheets?

23 A Yes, you could call them that, yes.

24 Q Those sheets would indicate how much was

1 received in cubic yards?

2 A That's correct.

3 Q On any particular day?

4 A That's correct.

5 MR. TAYLOR: Would you mark this Bell  
6 Exhibit Number 6, please.

7 (Whereupon said document was  
8 duly marked for purposes of  
9 identification as Bell Exhibit  
10 6 as of this date.)

11 Q (By Mr. Taylor) Sir, I would like to show  
12 you what has been marked as Bell Number 6.

13 A Okay.

14 Q This is a series of documents. If you  
15 don't mind, could you flip through them.

16 A (Witness complied.)

17 Q Do you recognize these sheets?

18 A Yes.

19 Q Can you tell us what they are?

20 A Well, they are the daily sheets that we  
21 kept to keep track of the yardage of waste that  
22 went in the landfill.

23 Q Are these the types of quote, unquote,  
24 waste in sheets that we were talking about just a



1 second ago?

2 A Yes, you can call them that.

3 Q I would like to refer you to the sheet  
4 with the date 04-09-92.

5 A Okay.

6 Q About halfway down on this page, you see  
7 Bell Sports with the number 22 after it?

8 A Uh-huh.

9 HEARING OFFICER WALLACE: Yes?

10 THE WITNESS: Yes.

11 Q (By Mr. Taylor) Can you tell us what the  
12 number 22 means?

13 A It is the translation of up to 22 yards.

14 Q So the shipment from Bell Sports  
15 consisted of 22 cubic yards?

16 A Yes.

17 Q Do you see the first entry, WHI 30?

18 A Uh-huh, yes.

19 Q Can you explain to me what WHI 30 is?

20 A Waste Hauling, Incorporated, 30 yards.

21 Q What does that mean?

22 A The 30, is that what you are asking?

23 Q Let me clarify. Is this a reference to a  
24 particular truck?

1           A     Yes.

2           Q     Did you number your trucks?

3           A     Yes.

4           Q     Okay.  And then presumably they were --

5     in the amount column is a 16 reference, so there

6     was 16 cubic yards on this truck?

7           A     Yes.

8           Q     Are all the WHI trucks your trucks?

9           A     Yes.

10          Q     Okay.  After the WHI listing you start to

11     see things like PPG.  Is that one of your trucks or

12     is that someone else's truck?

13          A     That's someone else's load.  That's

14     customer PPG.

15          Q     Did that arrive on one of your trucks?

16          A     Yes.

17          Q     Okay.  Were there any -- are there any

18     loads here that arrived on something other than one

19     of your trucks?

20          A     You have got three loads down at the

21     bottom; McKinney Disposal, Cash Brown, Newmeyer

22     (spelled phonetically) Roofing.

23          Q     So those were delivered by someone else?

24          A     Uh-huh, yes.

1 Q There is no reference on this sheet as to  
2 the type of container that the material was in, is  
3 there?

4 A On the Bell Sports load?

5 Q On any particular load.

6 A On the Bell Sports load there is.

7 Q Where is the --

8 A There is a permit number, which would  
9 refer to a manifest.

10 Q But does that tell you whether the  
11 shipment was in drums or in a roll-off container?

12 A Not without getting another piece of  
13 paper with that number on it.

14 Q Okay. So, for example, underneath Bell  
15 Sports there is the Staley's carbon. Do you know  
16 if that was in drums or a roll-off container?

17 A I know, yes, because I know how it was  
18 hauled.

19 Q How was it hauled?

20 A It was hauled in a bulk container.

21 Q Can you go down this list -- do you have  
22 a good enough recollection to tell what each and  
23 every shipment was in, whether it was drums or a  
24 roll-off container or any other type?

1           A     Yes, I could tell you.

2           Q     Okay. Which ones of these shipments were  
3 in drums?

4           A     The only load this date that come in in  
5 drums was Bell Sports.

6           Q     Okay. What was the total amount of waste  
7 received on this day?

8           A     The total down at the bottom says 860  
9 yards. It doesn't say yards, but I know that is  
10 what it means.

11          Q     Can we refer to the previous page which  
12 was April 8, 1992?

13          A     Yes.

14          Q     What was the total amount of waste  
15 received on the 8th?

16          A     On that day it was 915.

17          Q     Based on your recollection of reviewing  
18 that list, can you tell whether any of these  
19 shipments were drums?

20          A     I don't see any loads that would have  
21 come in in drums.

22          Q     What other manufacturers or generators  
23 did you receive drum shipments from?

24          A     One time we hauled some barrels from the

1 factory in Mattoon that come in drums. What else  
2 came in drums? I can't think of any others right  
3 off of the top of my head.

4 Q Were you -- is it correct to say that you  
5 weren't at the landfill each day?

6 A I was there most every day at some time  
7 or another.

8 Q Were you there throughout the time that  
9 the facility was opened each day?

10 A Only there, no. I would make a visit to  
11 see what was going on.

12 Q How much time, on average, would you  
13 spend during this visit?

14 A I was probably around there an hour a  
15 day.

16 Q How much --

17 A On average.

18 Q I am sorry about that.

19 A That's all right.

20 Q Your answer was you were there about an  
21 hour?

22 A On an average.

23 Q Now, is this a document -- are these  
24 documents which were dated from around the 1st of

1 April through April 17th, are these the type of  
2 records that you keep in the ordinary course of  
3 business?

4 A Yes.

5 Q Okay. Did you, in fact, keep them in the  
6 ordinary course of business?

7 A Yes.

8 Q Can you explain to us how it is that if  
9 you were there at the landfill on average about an  
10 hour a day, how you know the type of container that  
11 was delivered for each shipment to the facility?

12 A How I know what is in every one of these  
13 containers?

14 Q Right.

15 A I have hauled every one of them at one  
16 time or another.

17 Q If someone happened to put waste in drums  
18 that they were putting into roll-off boxes at the  
19 time you were hauling, would you know that?

20 A If I was driving the truck?

21 Q If you were not driving the truck?

22 A If I am not driving the truck? Someone  
23 could slip something in, yes.

24 Q Okay.

1           A     Anything is possible.

2           Q     You didn't keep records of what each  
3 delivery -- what type of container it was, did you?

4           A     I don't understand what you are talking  
5 about, the type of container.

6           Q     Well, is there another document other  
7 than these waste in sheets that would say, for  
8 example, Staley's spiller aid, roll-off container?

9           A     Yes.

10          Q     There is? What document would that be?

11          A     Well, there is a load ticket that each  
12 driver makes out.

13          Q     And you have retained each of those load  
14 tickets?

15          A     I am sure we have got them somewhere.

16          Q     Okay. Who signed manifested shipments of  
17 waste when they were delivered to your facility,  
18 say, in 1992?

19          A     For whom?

20          Q     What, different people signed the  
21 manifest based on who the generator was?

22          A     I don't know which signature you are  
23 looking for, sir.

24          Q     Was there a requirement to sign for

1 someone at the landfill, one of your employees, to  
2 sign a manifest when the shipment was delivered?

3 A Yes, the operator of the tractor could  
4 sign it, the supervisor could sign it.

5 Q Who would those people be?

6 A Well, Brad Brown could have signed it and  
7 did sign a lot of them.

8 Q Okay.

9 A Back in that period of time we had a  
10 fella by the name of Chuck Cornwall that was an  
11 operator, and he could have signed for it.

12 Q When were they signed?

13 A They were signed at the office.

14 Q And when would the -- how would the  
15 manifest get to the office?

16 A The landfill or the driver of the truck  
17 would bring it to the office.

18 Q Do the drivers stop at the office before  
19 they go to the landfill?

20 A No.

21 Q So a shipment would arrive and be  
22 disposed of before the manifest was signed?

23 A Yes.

24 Q Okay. That was your normal operating



1 procedure?

2 A Yes.

3 Q Was it your normal operating procedure to  
4 inspect the incoming shipments of waste?

5 A We knew what the permit allowed to be  
6 unloaded, yes.

7 Q Was it someone's job to look at each and  
8 every shipment as it came in to make some attempt  
9 to determine what it was?

10 A No, the driver primarily knew -- had  
11 hauled it enough that they knew what was supposed  
12 to be in the load when they picked it up.

13 Q Did you sample these incoming streams?

14 A No.

15 Q Did you maintain a written emergency plan  
16 in the event that --

17 A No, it was not required.

18 Q So the reason you didn't was because it  
19 was not required?

20 A Yes.

21 Q Is that the same reason you didn't  
22 sample?

23 A That's correct.

24 Q Did you have any written employee

1 training manuals concerning the types of waste that  
2 you were allowed to receive?

3 A No, I don't believe so.

4 Q Now, when was it that you first learned  
5 that you allegedly had received hazardous waste?

6 A It was in a newspaper article that was in  
7 the newspaper, and I don't always believe what I  
8 read in the newspaper. But I don't, you know --

9 Q That's understandable. Do you know when  
10 the --

11 A The article was --

12 Q -- article was written?

13 A I don't remember.

14 Q Was it around the time that you learned  
15 from the Agency that you had supposedly received  
16 hazardous waste?

17 A No, the speculation was made just prior  
18 to the closing of the landfill.

19 Q So is that around --

20 A That was in -- it would have been in  
21 April. Maybe it was further than that. In 1992,  
22 is that when the search warrants were issued?

23 Q Well, unfortunately, I can't answer  
24 questions for you.

1           A     Okay.  I believe it was approximately at  
2     the same time that the search warrant to dig up the  
3     landfill was issued.

4           Q     Okay.  At some point during the day, when  
5     the search warrants were being executed, you came  
6     to the facility?

7           A     That's correct.

8           Q     Was that later in the day?

9           A     It was about lunchtime.

10          Q     Had you been in court that day?

11          A     That's correct.

12          Q     So you were in court in the morning and  
13     then came to the facility around lunch?

14          A     Uh-huh.  Yes.

15          Q     You saw people in white suits walking  
16     around?

17          A     That's correct.

18          Q     You saw them with the backhoe?

19          A     That's correct.

20          Q     There was a roll-off container there?

21          A     That's right.

22          Q     I assume that at some point they put the  
23     barrels into the roll-off container?

24          A     That's correct.

1 Q Did they ask you where to leave that  
2 roll-off container at your facility, or did they  
3 just leave it somewhere?  
4 A No, they asked me where I wanted them to  
5 put it.  
6 Q Where did you tell them to put it?  
7 A On the north side.  
8 Q Is that out of the way?  
9 A It was out of the way for me, yes.  
10 Q It was covered with a tarp?  
11 A That's correct.  
12 Q Now, between the day that they were  
13 there, in April 1992, and March or April of 1993,  
14 when you had the meeting with the IEPA --  
15 A Okay.  
16 Q Did you call them to ask them whether  
17 that material was hazardous waste?  
18 A No, I did not.  
19 Q Did anybody that worked for you call them  
20 and ask them that question?  
21 A Not to my knowledge.  
22 Q Why is that?  
23 A Why didn't I call?  
24 Q Yes.

1           A     I never personally talked to the Agency,  
2 other than the inspectors and the engineer or the  
3 attorneys talked to them.

4           Q     Why did you not ask your engineer or your  
5 attorney to call them and ask?

6           MR. LATSHAW: I will object on relevancy  
7 grounds. I am not sure what relevance it is  
8 whether he called them. There is no foundation for  
9 it to begin with. Why should he.

10          HEARING OFFICER WALLACE: Do you care to  
11 respond?

12          MR. TAYLOR: Frankly, it goes to the  
13 damage mitigation.

14          HEARING OFFICER WALLACE: All right.  
15 Overruled.

16          Mr. Camfield?

17          THE WITNESS: Repeat the question,  
18 please.

19          MR. TAYLOR: Would you mind if we asked  
20 the court reporter to read it back?

21          HEARING OFFICER WALLACE: Would you read  
22 the question back.

23                                 (Whereupon the requested  
24                                 portion of the record was read

1 back by the Reporter.)

2 THE WITNESS: In the conversation with my  
3 attorney and engineer, I let both professionals do  
4 their job as to the way they see fit.

5 Q (By Mr. Taylor) Were you advised not to  
6 contact the Agency, then?

7 MR. LATSHAW: I will object to any  
8 testimony as to what he was advised.

9 HEARING OFFICER WALLACE: Sustained.

10 Q (By Mr. Taylor) After the drums were  
11 removed, this hole was open?

12 A That's correct.

13 Q And the Agency left it that way?

14 A That's correct.

15 Q Did you do any additional excavation in  
16 that hole to see what else was there?

17 A No, I did not.

18 Q You had an opportunity to look at it,  
19 didn't you?

20 A Yes, I looked at it.

21 Q Did you see any additional drums in the  
22 hole?

23 A Not to my recollection.

24 Q Between 1992 and today, have you made an

1 attempt to remove any hazardous waste from the  
2 facility?

3 A No, I haven't done anything.

4 Q Have you collected or asked anyone to  
5 collect samples from inside the landfill?

6 A Actually bore into the landfill?

7 Q Yes.

8 A No.

9 Q Are you aware of any groundwater data  
10 that shows a contamination problem from the  
11 facility?

12 A No.

13 Q You also stated on direct that you read  
14 the inspection reports that you receive from the  
15 Agency; is that correct?

16 A Yes.

17 Q Did you always read those inspection  
18 reports?

19 A Yes.

20 Q Do you recall receiving a report some  
21 time around April 26th of 1990?

22 A Off the top of my head I don't remember  
23 receiving a report.

24 Q If I showed you a copy of that report,

1 would you recognize it?

2 A Yes.

3 MR. LATSHAW: Which one is that? What is  
4 the date of that?

5 MR. TAYLOR: The April 26, 1990 report.

6 MR. VAN NESS: 1990?

7 MR. TAYLOR: Yes.

8 MR. LATSHAW: I think it is Exhibit 5.

9 MR. TAYLOR: I believe it is People's  
10 Number 5.

11 HEARING OFFICER WALLACE: He has it.  
12 Let's continue.

13 Q (By Mr. Taylor) Do you recognize that  
14 document, Mr. Camfield?

15 A Yes, I have seen it before.

16 Q I would like you to turn to page 12 from  
17 the front. I believe they are not numbered, so you  
18 will have to count them. It appears we have  
19 different copies. I am sorry. I found the page  
20 that I had asked you to look at. Is that page  
21 numbered?

22 A Not that I see.

23 Q Is there a paragraph 16 on that page?

24 A Yes.



1 Q Do you recall reading that paragraph when  
2 you received this report?

3 A Yes.

4 Q Did you understand it at the time?

5 A Yes.

6 Q The first sentence, the first full  
7 sentence of this paragraph states as follows:  
8 Hazardous waste solvent contaminated degreaser  
9 filters were accepted from DK Manufacturing; is  
10 that correct?

11 A That's what it says, yes.

12 Q Do you know when those filters supposedly  
13 were accepted at the landfill?

14 A I don't know the exact date.

15 Q DK was a customer of yours; is that  
16 correct?

17 A That's correct.

18 Q You received waste from them over a  
19 period of time, correct?

20 A That's correct.

21 Q In fact, you received waste from them  
22 between mid 1988 until 1990; is that correct?

23 A That's correct.

24 Q What did you do after you received this

1 inspection report which alleges that you had  
2 received hazardous waste from DK Manufacturing?

3 A It had already been done. I didn't do  
4 anything after this. It had already been taken  
5 care of.

6 Q What had already been taken care of?

7 A The problem with the filters.

8 Q When you say it had been taken care of,  
9 what do you mean?

10 A It was taken care of the day they were  
11 dumped at the landfill. They were picked up and  
12 taken back to DK.

13 Q How did you know you had received them?

14 A We had an inspector there.

15 Q You had an inspector?

16 A An EPA inspector, yes.

17 Q When was that?

18 A Like I said before, I don't remember the  
19 exact date without digging through the records.

20 Q Was this -- was the date of this report  
21 the first day that you had learned of this  
22 allegation?

23 A No.

24 Q Was it the date that this inspector was

1 at the facility that wrote this report?

2 A The date he was there.

3 Q That was April 26, 1990?

4 A That's the date on this report, yes.

5 Q So it was this inspector that told you  
6 that he thought that that shipment from DK had  
7 hazardous waste in it?

8 A Yes.

9 Q You had received a shipment from DK on  
10 that day?

11 A He watched it being dumped.

12 Q Then your people removed -- was it dumped  
13 or did you catch it before it was dumped?

14 A It was dumped. It was in a closed  
15 container. There was no way to see it until it was  
16 dumped.

17 Q Did you -- I assume, then, that you  
18 picked it back up somehow?

19 A That's correct.

20 Q With some equipment?

21 A I didn't pick it back up. The help at  
22 the landfill, under the supervision of Brown, got  
23 it picked back up and put back in the container and  
24 we took it back to DK.

1 Q Then whose container was it?  
2 A It was my container.  
3 Q And you shipped that back to DK?  
4 A Yes, we furnish the container. They fill  
5 it. We bring it and empty it and take it back.  
6 Q Did DK provide -- give you back that  
7 container at some point in time?  
8 A Give it back to me? It is mine to start  
9 with. I furnish the container. They fill it. I  
10 take it and empty it.  
11 Q But presumably they had to remove the  
12 waste from that container, correct, when you  
13 shipped it back?  
14 A The filters?  
15 Q Yes.  
16 A The waste?  
17 Q Yes.  
18 A It was removed when it went back there.  
19 Q Then you received your container back  
20 that same day?  
21 A No, after that the filters were taken out  
22 of the containers and it was sat in front of the  
23 compactor again and they proceeded to put regular  
24 rubbish back in it. It was all done on my

1 equipment, my truck. It was my container.

2 Q I am sorry. I am confused. At the  
3 landfill someone refilled your container with DK's  
4 waste, correct?

5 A Just the filters that wasn't supposed to  
6 be in it.

7 Q Just the filters?

8 A That's correct.

9 Q Did they use any equipment to remove  
10 those filters?

11 A Not to my knowledge.

12 Q They were put back into the container and  
13 then driven back to DK?

14 A That's right.

15 Q Was that shipment to DK manifested by  
16 you?

17 A No.

18 Q And DK then removed the filters from the  
19 container?

20 A That's correct.

21 Q Did you decontaminate the container?

22 A No.

23 Q Now, after this event did you start  
24 inspecting the incoming waste streams?

1           A     From DK.

2           Q     From DK. Did you start inspecting  
3 incoming waste streams from anyone else?

4           A     Nothing more than what is generally  
5 done.

6           Q     Did you see these filters?

7           A     No, I did not.

8           Q     Okay. For purposes of clarification, you  
9 removed one shipment of filters from DK from the  
10 landfill?

11                   MR. LATSHAW: I will object to the  
12 characterization. The testimony is that there was  
13 a filter in a general waste container, as set forth  
14 in paragraph 16, that Counsel alluded and caused  
15 the witness to refer to.

16                   HEARING OFFICER WALLACE: Actually, I am  
17 sorry, I think both of you are mischaracterizing  
18 what he said. He has not testified how many  
19 filters there were.

20                   MR. TAYLOR: I apologize if I was  
21 mischaracterizing.

22           Q     (By Mr. Taylor) My question to you is if  
23 DK had sent you a shipment the previous month you  
24 didn't dig that shipment up, did you?

1           A     I believe we emptied the DK container  
2 approximately once a week.

3           Q     It is only the one shipment that was  
4 identified by --

5           A     Townsend.

6           Q     -- Mr. Townsend that you removed from the  
7 landfill, however many filters it was, and sent it  
8 back to DK?

9           A     That's correct.

10           MR. LATSHAW:  Objection.  I think Counsel  
11 is assuming facts not in evidence, that there were  
12 filters in every other load, which there is no  
13 basis whatsoever to suggest that.  There is no  
14 evidence of that at all.  It is assuming facts not  
15 in evidence.

16           MR. TAYLOR:  I asked him whether he dug  
17 up other shipments from DK.

18           MR. LATSHAW:  Shipments of what?

19           MR. TAYLOR:  Anything.

20           HEARING OFFICER WALLACE:  The objection  
21 is overruled.

22                                 (Mr. Taylor and Mr. Nahmod  
23                                 confer briefly.)

24           Q     (By Mr. Taylor) Just a couple more

1 questions. The roll-off box that the Agency put  
2 this waste material in --

3 A Okay.

4 Q -- did you maintain that roll-off box,  
5 meaning did you maintain the tarp on top of it?

6 A No, I did not.

7 Q And how long did that roll-off box stay  
8 there?

9 A It was there from the time they left it  
10 until last fall sometime.

11 MR. TAYLOR: Thank you.

12 HEARING OFFICER WALLACE: Ms. Menotti?

13 MR. DAVIS: I will handle this inquiry.

14 HEARING OFFICER WALLACE: Mr. Davis?

15 MR. DAVIS: Thank you.

16 CROSS EXAMINATION

17 BY MR. DAVIS:

18 Q Mr. Camfield, the way we understand it,  
19 and correct me if I am wrong, is that your company,  
20 Waste Hauling, Inc., began to operate the landfill  
21 back in May of 1980; is this correct so far?

22 A Yes.

23 Q Okay. And at some point in time, sir,  
24 you had formed a new company called Waste Hauling



1 Landfill, Inc., did you not?

2 A That's correct.

3 Q And approximately what point in time, if  
4 any, did this new company take over operation of  
5 the landfill?

6 A Without referring to documents, I can't  
7 give you a date.

8 Q Would it have been approximately 1991?

9 A Like I say, I need to refer to  
10 documents. I don't have those in front of me.

11 Q As to your companies, is it true that you  
12 now have a managing company that you own that  
13 handles these other companies?

14 MR. LATSHAW: Objection. Beyond the  
15 scope of direct.

16 MR. DAVIS: Well, this is  
17 cross-examination. This is the president of the  
18 corporate defendants, plural, and I am trying to  
19 cross based upon two different sets of direct  
20 examination. So whether it may be slightly beyond  
21 the scope, I encourage the Hearing Officer to  
22 acknowledge that this is cross-examination, by the  
23 prosecuting party, of the defendant.

24 MR. LATSHAW: If I may respond?

1 HEARING OFFICER WALLACE: All right.

2 MR. LATSHAW: I understood Mr. Davis to  
3 indicate, during our discussions off the record,  
4 that he was only going to cross-examine Mr.  
5 Camfield based upon my direct testimony, and was  
6 not under subpoena from him.

7 Cross-examination, as far as I am  
8 concerned, has to be limited to the scope of direct  
9 examination, and may not be used to explore new  
10 areas that were not gone into by direct  
11 examination.

12 Mr. Taylor nor myself went into any other  
13 corporate entity or any other business owned or  
14 operated by -- or whether he has any interest in it  
15 or not by Mr. Camfield. It was limited strictly to  
16 the two entities that are the subject of this  
17 proceeding. I think Mr. Davis is going to be  
18 limited to cross-examination on that basis.

19 HEARING OFFICER WALLACE: All right.

20 MR. DAVIS: I don't recall having a  
21 conversation with Mr. Latshaw on this topic.

22 HEARING OFFICER WALLACE: Be that as it  
23 may, the objection is sustained.

24 MR. DAVIS: You are going to preclude my

1 cross-examination, Mr. Hearing Officer, on this  
2 topic?

3 HEARING OFFICER WALLACE: On this other  
4 entity.

5 MR. DAVIS: On the relationship of the  
6 corporate entities, so that the Board has no basis  
7 for comprehension?

8 HEARING OFFICER WALLACE: That's correct.

9 MR. DAVIS: All right.

10 HEARING OFFICER WALLACE: This is the  
11 very first time we have ever heard of a corporate  
12 entity, and it is on cross-examination, so it is  
13 beyond the scope of the direct.

14 Q (By Mr. Davis) Mr. Camfield, when your  
15 attorney, Mr. Latshaw, referred to "company" in the  
16 singular, as operating the landfill, which company  
17 was he talking about?

18 A I don't have the answer to that  
19 question. You will have to ask Mr. Latshaw.

20 Q Sir, you will have to answer my  
21 question.

22 MR. DAVIS: I ask the Hearing Officer to  
23 direct the witness to answer my question.

24 HEARING OFFICER WALLACE: Could you

1 answer his question, Mr. Camfield?

2 THE WITNESS: I don't know what he is  
3 referring to, Mr. Hearing Officer.

4 HEARING OFFICER WALLACE: All right.  
5 Continue, Mr. Davis.

6 Q (By Mr. Davis) At what point in time did  
7 Waste Hauling Landfill, Inc. begin operation of the  
8 landfill?

9 A There again, I would have to get the  
10 records to find out exactly when it was. I don't  
11 have them in front of me, sir.

12 Q Okay. Mr. Camfield, how much did you  
13 charge, as far as a tipping fee, to have people,  
14 including your own hauling company, dispose of  
15 waste at your landfill?

16 A What was the tipping fee?

17 Q Yes.

18 A It changed at various times to various  
19 different customers, depending on the product that  
20 came in.

21 Q How much did Waste Hauling Landfill, Inc.  
22 charge Waste Hauling, Inc. to tip?

23 A There was a standard fee and without  
24 looking at records at that time, I can't tell you

1 the exact amount. But they was charged the same  
2 exact amount that another hauler coming in was  
3 charged.

4 Q What was the most expensive tipping fee  
5 that your companies charged?

6 MR. LATSHAW: I think I am going to have  
7 to object. I think this is getting pretty far  
8 afield from the scope of direct examination.

9 MR. DAVIS: And I would encourage the  
10 Hearing Officer, once again, to acknowledge that  
11 this is cross-examination.

12 HEARING OFFICER WALLACE: And I would  
13 encourage the representative for the People to not  
14 be so sarcastic in its responses.

15 The objection is sustained.

16 Q (By Mr. Davis) Mr. Camfield, let's focus  
17 on the issue regarding the berms. I believe you  
18 testified that it is your understanding that a berm  
19 was required, is it not?

20 A That's correct.

21 Q How was it required?

22 A It was part of the plan.

23 Q And was this plan the plan that was  
24 approved by the permits?

1           A     That was my understanding, yes.

2           Q     In essence, this is part of your  
3 operational requirements, would it not be?

4           A     That was my understanding, that there had  
5 to be a berm on the north side, yes.

6           Q     What type of berm was this?

7           A     Earth.

8           Q     And what was its intended purpose?

9           A     It is to retain the solid waste from just  
10 taking off and running, I guess.

11          Q     Have you heard of this type of berm  
12 referred to as a containment berm?

13          A     Yes.

14          Q     Would it also play a role in controlling  
15 runoff from the fill area?

16          A     I don't know how it would control  
17 runoff.

18          Q     Have you spoken to Mr. Krimmel regarding  
19 the purposes of the containment berm?

20          A     We have discussed the berm, yes.

21          Q     Did he explain to you the purposes of the  
22 containment berm?

23          A     It is containment of solid waste inside  
24 of it.

1 Q Did he refer to any other objective  
2 purposes of the containment berm?

3 A No, not to my recollection.

4 Q Does the permit require that the berm be  
5 higher than the fill area?

6 A Not to my recollection.

7 Q What does the permit require regarding  
8 the height of the berm in relation to the fill  
9 area?

10 A It is containment. It is to contain the  
11 solid waste inside that berm.

12 Q And is there any requirement regarding  
13 the height of the berm in relation to the fill  
14 area?

15 A I don't understand what it is you are  
16 trying to get me to say, sir.

17 Q Well, I am -- let me ask you a better  
18 question, then. Does the permit require the berm  
19 to be higher than the fill area; yes or no?

20 A I don't believe so.

21 Q Okay. What did the EPA inspectors say to  
22 you regarding their desire or their perceived need  
23 for you to have your berm higher than your fill  
24 area?

1           A     They simply said that the berm needed to  
2     be higher.

3           Q     Did they explain why?

4           A     No.

5           Q     Okay. Did the Illinois EPA inspectors  
6     ever advise you to raise the fill area so that it  
7     was higher than the containment berm?

8           A     No, I can't remember them doing that.

9           Q     I believe you testified on direct that  
10    you had a concern regarding water on the fill  
11    area?

12          A     That's correct.

13          Q     Okay. What was that concern?

14          A     The concern is that I didn't want the top  
15    of it flat so that the water would stand on it and  
16    penetrate into the fill.

17          Q     Is this the reason why you would raise  
18    the fill area, so that it was higher than the berm?

19          A     I would round off the top of it so that  
20    the water would run off of the fill.

21          Q     And by doing these actions did you intend  
22    for the fill area to be higher than the containment  
23    berm?

24          A     Well, that would be the contention of it,



1 yes.

2 Q Was this your objective in doing these  
3 things?

4 A Yes.

5 Q Okay. What was the maximum permitted  
6 elevation of your landfill?

7 A I don't remember the figure, sir.

8 Q At what point in time did your landfill  
9 exceed the maximum permitted elevation?

10 A I don't remember, sir.

11 Q At what point in time did you decide to  
12 seek local siting approval?

13 A That decision was made in 1987, 1988,  
14 somewhere along in there.

15 Q And what did you seek to have approved as  
16 far as local siting?

17 A Expansion.

18 Q Can you describe your expansion plans?

19 A It was an expansion plan that would  
20 engulf the fill that we was using at that  
21 particular time.

22 Q Would it have obtained a higher elevation  
23 than you presently had?

24 A Yes.

1           Q     Okay.  In your siting application to the  
2     Macon County Board, did you indicate that your  
3     landfill had gone beyond the maximum permitted  
4     elevation already?

5           A     I didn't prepare those documents, sir.

6           Q     Did you sign those documents, sir?

7           A     Yes.

8           Q     Did you read those documents?

9           A     No, I didn't read every word that was in  
10    the documents.

11          Q     Did the document indicate the present  
12    height of your landfill at that time?

13          A     Yes.

14          Q     Okay.  Now, to be fair, so that the  
15    record is clear, did your siting approval  
16    application also seek an expansion to the site, to  
17    the west side, I believe, to --

18          A     Yes.

19          Q     -- increase?  Okay.

20          A     Well, yes.

21          Q     Can you elaborate on that?  Am I mistaken  
22    on the direction or the nature of expansion?

23          A     Well, it would have expanded a small  
24    distance east, some distance north, some distance

1 south, and an extreme amount of distance west.

2 Q When did the Macon County Board deny your  
3 siting application?

4 A I believe it was in November, December of  
5 1990, I believe. I am not 100 percent positive on  
6 the date.

7 Q Did you try to get that decision changed  
8 on any appeal?

9 A Yes, we did.

10 Q Was, in fact, an appeal taken to the  
11 Pollution Control Board?

12 A Yes.

13 Q Did the Board deny your appeal?

14 A Yes.

15 Q And about this time did the Attorney  
16 General's office file a complaint against you?

17 A Yes.

18 Q Now, you have indicated that on February  
19 22nd, 1991 you paid a \$2,500.00 payment to settle  
20 an administrative citation?

21 A Yes.

22 Q Okay. Now, this administrative citation  
23 was actually issued the previous year, 1990, was it  
24 not?

1           A     Without looking at documents, sir, I  
2     don't know.

3           Q     Was it based upon the April 1990  
4     inspection that we have been discussing a few  
5     minutes ago?

6           A     I can't honestly answer that question,  
7     sir.

8           Q     Did this payment in February of 1991, in  
9     your understanding, Mr. Camfield, allow you to keep  
10    going higher with your landfill?

11          A     No.

12          Q     Okay. Did you ever tell Mr. Krimmel that  
13    you planned to keep operating even though you were  
14    too high, and even though the Macon County Board  
15    had denied your siting approval application?

16                MR. LATSHAW: Objection. I am not sure  
17    that -- if this is impeachment, I am not sure that  
18    there is any prior testimony to talk about. I am  
19    not sure -- it is also a relevancy question. I am  
20    not sure exactly what this is all relevant to.

21                HEARING OFFICER WALLACE: Overruled. Go  
22    ahead and answer the question.

23                THE WITNESS: Would you repeat the  
24    question?

1 Q Certainly. Did you ever tell Mr. Krimmel  
2 that you planned to keep on operating even though  
3 your landfill was too high and even though the  
4 Macon County Board had denied your siting approval  
5 application?

6 A No, I did not.

7 Q Did you tell Mr. Krimmel that you  
8 intended to keep on operating until the new  
9 regulations came into effect in the fall of 1992?

10 A I had discussed with Mr. Krimmel that we  
11 needed to -- a decision was made that we needed to  
12 close in September. I believe that was the date  
13 that it had to be closed before you jumped into  
14 Subtitle D.

15 Q Did you speak to your attorney, Mr.  
16 Darrell Statzer, about anything that Mr. Richardson  
17 or myself may have told him about hazardous waste  
18 disposal?

19 A I don't remember discussing anything with  
20 Mr. Statzer about that.

21 Q Okay. You have indicated that you did  
22 read something in the newspaper about hazardous  
23 waste disposal, did you not?

24 A That's right.

1 Q Okay. You have also indicated, Mr.  
2 Camfield, that months later, in the spring of 1993,  
3 that you had a meeting with the Illinois EPA at  
4 which this was discussed?

5 A That's when I first found out that --

6 Q Okay.

7 A -- they was going to classify it as a  
8 hazardous waste facility.

9 Q Did you find out from any other source in  
10 between the newspaper article, in I think you said  
11 April of 1992, and the meeting with the Illinois  
12 EPA, approximately a year later, regarding the  
13 hazardous waste disposal?

14 A The meeting I referred to was the first  
15 time I heard it.

16 Q Okay. Now, at that meeting, in the  
17 spring of 1993, were you advised that you needed to  
18 address closure of the landfill?

19 A That's the reason I went to the meeting.

20 Q Right. And what were you advised?

21 A I was told at that time that the EPA had  
22 classified it a hazardous fill and that's the way I  
23 had to close it.

24 Q Were you advised that the closure plan

1 had to address the hazardous waste disposal?

2 A That's what they told me.

3 Q Were you advised at that meeting, sir,  
4 that the closure plan needed to address the  
5 overfill situation?

6 A The only thing I remember about that  
7 meeting was the fact that they decided to make it a  
8 hazardous fill. After that, I don't remember too  
9 much of what was said.

10 Q What have you done since that meeting in  
11 the spring of 1993, to address closure, hazardous  
12 waste, and overfill?

13 A We have tried to negotiate and find out  
14 what is needed to be done.

15 Q And have you found out what needs to be  
16 done?

17 A No, I have not.

18 Q Have you attended other meetings since  
19 the spring of 1993 regarding your landfill?

20 A I don't believe I have personally, no.

21 Q Have your legal or technical  
22 representatives attended?

23 A Yes.

24 Q Have you spoken to them about what they

1 learned from the Illinois EPA?

2 A Yes. They have told me what they thought  
3 they have figured out.

4 Q Have you been advised through your legal  
5 and technical representatives that you either need  
6 to move the overfill or have it sited?

7 A No, that has not been discussed.

8 Q Okay.

9 A The possibility of it has.

10 Q And what were you told?

11 MR. LATSHAW: Objection to what he was  
12 told in regards to legal counsel. I am not sure if  
13 this is a technical or a legal question, but I am  
14 not sure, also, what relevance this is. It is a  
15 little bit beyond the scope of direct, I believe,  
16 as well.

17 MR. DAVIS: If I may respond?

18 HEARING OFFICER WALLACE: Please.

19 MR. DAVIS: I believe there could be a  
20 privilege situation. That is certainly not my  
21 intent. I believe that as far as relevancy, we  
22 have a situation where these problems have existed  
23 for several years, and that it is a due diligence  
24 type of consideration that the Board must undertake



1 so, therefore, the record should contain some  
2 evidence.

3 My angle is, of course, to point out the  
4 lack of due diligence. The respondent could  
5 certainly tell us the things that have been  
6 undertaken as far as due diligence, but basically  
7 we are talking about an issue that they have  
8 raised.

9 They have indicated that they don't know  
10 what they need to do, and have suggested that the  
11 Illinois EPA has been remiss in advising them of  
12 these serious violations and so forth. So I think  
13 it is a legitimate inquiry.

14 HEARING OFFICER WALLACE: All right. To  
15 the extent that you are asking privileged  
16 information, if there is an attorney-client  
17 privilege, if you are asking for technical  
18 information, the objection is overruled.

19 Q (By Mr. Davis) Let me rephrase my  
20 question so that we can focus on that, Mr.  
21 Camfield.

22 A All right.

23 Q Has Mr. Krimmel relayed to you what needs  
24 to be done?

1           A     Mr. Krimmel has put some figures together  
2 as to what it would cost to move an extreme amount  
3 of solid waste.

4           Q     By an extreme amount, what do you  
5 consider, or what is your understanding as far as  
6 your landfill as to an extreme amount?

7           A     To the tune of 9 or 10 million dollars  
8 worth.

9           Q     What sort of quantity of overfill does  
10 this translate to?

11          A     I didn't understand the quantity part of  
12 it.

13          Q     Okay. Have you made any decision whether  
14 or not to seek siting approval, then, as an  
15 alternative to relocation of the waste?

16          A     To be quite frank with you, sir, I don't  
17 have the \$100,000.00 it takes to take it in front  
18 of the Macon County Board.

19          Q     When you say you don't have the  
20 \$100,000.00, are you talking about you, yourself as  
21 an individual, or one of your companies?

22          A     The companies.

23          Q     Which company?

24          A     Either one of them.

1           Q     Is Waste Hauling, Inc. still a going  
2 concern?  
3           A     It is still operating.  
4           Q     Can you describe its operations?  
5           A     It is the hauling of industrial waste.  
6           Q     To which landfill does it haul?  
7           A     The Macon County Landfill.  
8           Q     Do you hold any interest in the Macon  
9 County Landfill?  
10          A     I am a small stockholder.  
11          Q     You are a voting stockholder?  
12          A     That's correct.  
13          Q     And how many other voting stockholders  
14 are there?  
15          A     Probably 25 or 30.  
16          Q     Does each own an equal share?  
17          A     It is my understanding that they do.  
18          Q     Does your company, Waste Hauling, Inc.,  
19 receive a special rate for disposal at Macon County  
20 Landfill?  
21          A     No.  
22          Q     If you don't have \$100,000.00, then what  
23 do you intend to do as far as the violations that  
24 we have been talking about?

1           A     That decision has not been made yet,  
2     sir.

3           Q     Have you spoken with Mr. Krimmel as far  
4     as prioritizing all of the different things that  
5     need to be done?

6           A     When we went to the March meeting in 1993  
7     we had a plan --

8           Q     Okay.

9           A     -- that we was going to present, and  
10    after what we was told, that was the end of it.

11          Q     What about the August 1996 meeting? Did  
12    you learn enough from that meeting, through your  
13    representatives, to prioritize compliance measures?

14          A     August of when, sir?

15          Q     I believe it was last year, August of  
16    1996.

17          A     I haven't learned enough to make any kind  
18    of decision on what has to be done.

19          Q     Well, let's explore that here. You don't  
20    have a closure plan; is this correct?

21          A     That's correct.

22          Q     Okay. Therefore, you don't have  
23    financial assurance; is this correct?

24          A     That's correct.

1           MR. LATSHAW:  Objection.  This is all  
2 beyond the scope of direct.

3           MR. DAVIS:  Once again, in all sincerity,  
4 Mr. Hearing Officer, this is cross-examination of  
5 the party defendant.

6           HEARING OFFICER WALLACE:  Well, this  
7 appears to be more closely related to direct than  
8 the other, so continue.

9           MR. DAVIS:  Thank you.

10          Q     (By Mr. Davis) You don't have financial  
11 assurance, correct?

12          A     That's right.

13          Q     You don't have groundwater monitoring  
14 wells, correct?

15          A     We have a well, yes.

16          Q     Okay.  Have these wells been monitored?

17          A     Yes.

18          Q     What is the most recent data that you  
19 have?

20          A     I don't keep that information.  Mr.  
21 Krimmel does.

22          Q     Okay.  I believe on direct you did  
23 testify, sir, that the groundwater monitoring  
24 hadn't shown any problems.  Is this your

1 understanding from talking to Mr. Krimmel?

2 A That's right.

3 Q Is it your understanding that the  
4 monitoring is being done on a regular basis?

5 A Yes.

6 Q Let me jump back just for a second to the  
7 financial assurance. We believe that at one point  
8 in time you had a surety bond posted; is that  
9 correct?

10 A That's correct.

11 Q It expired?

12 A That's correct.

13 Q Can you explain why it was not continued,  
14 in effect?

15 A It expired. I didn't catch it. The EPA  
16 didn't catch it.

17 Q Okay. Continuing on with the list of  
18 compliance measures, I believe on direct you did  
19 mention that it is your understanding that one to  
20 three feet of cover was applied to the landfill; is  
21 this correct?

22 A Uh-huh.

23 HEARING OFFICER WALLACE: Yes?

24 THE WITNESS: Yes. Excuse me.

1           Q     (By Mr. Davis) What attempts have been  
2 made, if any, to maintain this cover, Mr. Camfield?

3           A     I haven't done anything there.

4           Q     Okay. It was put on basically in the  
5 summer and early fall of 1992?

6           A     That's correct.

7           Q     To comply with the judge's order?

8           A     That's correct.

9           Q     Nothing has been done since the fall of  
10 1992 to maintain it?

11          A     That is correct.

12          Q     You may have heard about the evidence of  
13 erosion problems at the landfill. My question to  
14 you, sir, what efforts, if any, do you intend to  
15 take in spending whatever money you have to take  
16 care of those problems?

17          A     I don't understand what you are asking  
18 me, sir.

19          Q     Okay. Let me back up. We have heard  
20 about the application to cover four and a half  
21 years ago.

22          A     Okay.

23          Q     We heard from you, sir, that you have  
24 made no efforts to maintain it; is this correct,

1 sir?

2 A That's correct.

3 Q I am representing to you, sir, that we  
4 have -- this group has heard evidence regarding  
5 erosion problems at the landfill.

6 My question is; what efforts, if any, do  
7 you intend to take to correct those erosion  
8 problems?

9 MR. LATSHAW: I am objecting to this. It  
10 is becoming inquisitorial. He didn't hear that  
11 testimony from this witness. And if he wishes to  
12 make this witness his witness, then he can issue a  
13 subpoena and he can do so.

14 But it is beyond the scope of this  
15 witness' direct examination. It certainly is  
16 relevant and related to all of the testimony we  
17 have heard from Mr. Krimmel, and it is starting to  
18 sound a little cumulative, but it certainly is  
19 beyond the scope of this witness' direct  
20 examination from us.

21 MR. DAVIS: Well, it is appropriate, Mr.  
22 Wallace, for the attorney doing the  
23 cross-examination to represent to the witness what  
24 evidence has been received. And I don't think



1 there is a dispute regarding my representation as  
2 to that.

3 I think it is appropriate, as I have  
4 stated earlier, in the cross-examination of a party  
5 defendant, especially with the Board's statutorily  
6 mandated consideration of certain criteria, to  
7 focus on these types of things for due diligence,  
8 for economic benefit accrual, regarding the  
9 severity of the violations, and on and on.

10 I am not being sarcastic. I don't want  
11 to make this man my witness. He is here now. He  
12 is under oath. I am crossing him. I think it is a  
13 perfectly legitimate inquiry. It may be striking a  
14 bit deep.

15 HEARING OFFICER WALLACE: The objection  
16 is overruled. Continue.

17 Q (By Mr. Davis) Okay. My question to you  
18 sir, once again, is we have heard about these  
19 erosion problems. What do you intend to do with  
20 your financial resources, whatever they may be, to  
21 address the erosion problems?

22 A When this hearing is over, I intend to  
23 get with the professionals that I hired and find  
24 out what I need to do.

1 Q Why are you waiting for the hearing to be  
2 over?

3 A I have no idea what is going to be  
4 required out of this hearing.

5 Q Are you telling the Pollution Control  
6 Board that you are willing to wait until they send  
7 you an order?

8 A I have got to find out what is going to  
9 happen.

10 Q Well, is there any uncertainty in your  
11 mind, sir, regarding this hazardous waste  
12 situation?

13 A Any --

14 Q Any uncertainty?

15 A Uncertainty in what way?

16 Q As far as how it impacts the closure  
17 activities that will be required of you?

18 A Yes, there is uncertainty.

19 Q Does this uncertainty translate to  
20 certain other fundamental matters, such as  
21 maintenance of cover?

22 A The uncertainty has got the whole  
23 situation confused as to what is going to be  
24 required; what, when and where.

1 Q Do you feel that the erosion problems at  
2 your landfill may be causing any problems with  
3 leachate?

4 A No.

5 Q Do you agree, sir, that leachate during  
6 the operation of the landfill was a problem?

7 MR. LATSHAW: I am renewing my objection  
8 going back two months ago, three months ago, to  
9 this leachate business that -- I am just renewing  
10 it for the record. I have a continuing objection  
11 to the testimony about it. I am just renewing it.

12 HEARING OFFICER WALLACE: All right. So  
13 noted.

14 Mr. Camfield?

15 THE WITNESS: Which leachate problem are  
16 you referring to, sir?

17 Q (By Mr. Davis) The one that the judge  
18 shut your landfill down for.

19 A That had to do with the old fill.

20 Q Okay. Do you feel, sir, that there is  
21 any need to take any action at your landfill at the  
22 present time to prevent leachate problems?

23 A I don't think I have a leachate problem,  
24 actually.

1 Q Okay. Now, you have testified, Mr.  
2 Camfield, that on April 9, 1992, Waste Hauling  
3 Landfill accepted a load of drums from Bell Sports;  
4 isn't this true?

5 A That's correct.

6 Q To your knowledge, did this load contain  
7 any hazardous wastes?

8 A No, sir.

9 Q Then why are you claiming in a  
10 cross-claim against Bell that it did contain  
11 hazardous waste?

12 MR. LATSHAW: I will object to the  
13 question as calling for a legal conclusion, and it  
14 is, I think, a bit argumentative with this  
15 witness.

16 MR. DAVIS: Well, my response would be  
17 that what people put in legal pleadings should be  
18 discussed with clients. We have a situation where  
19 Mr. Camfield has not fully informed himself of the  
20 facts regarding his landfill, and I am now turning  
21 my attention to whether he has fully informed  
22 himself as to the facts that are pleaded in this  
23 litigation.

24 HEARING OFFICER WALLACE: The objection

1 is sustained.

2 MR. DAVIS: I have no other  
3 cross-examination. Thank you.

4 HEARING OFFICER WALLACE: Redirect?

5 MR. LATSHAW: Yes, sir. Thank you.

6 REDIRECT EXAMINATION

7 BY MR. LATSHAW:

8 Q Jerry, I would like to call your  
9 attention to People's Exhibits 10 and 11, if we can  
10 find those somewhere. Those both purport to be  
11 inspection reports of the EPA in 1992, in the  
12 summer; is that correct?

13 A Yes, according to the dates, yes.

14 Q Do you recall inspectors being out at the  
15 landfill on, I guess it would have been in July and  
16 then again in September of 1992?

17 A Yes.

18 Q Did you have any contact with those two  
19 gentlemen, whoever they might have been, whoever is  
20 reflected on those inspection reports?

21 A Yes, I talked to them.

22 Q Did either one of them mention to you  
23 that the Illinois EPA suspected that you had  
24 received hazardous wastes during either of those

1 visits?

2 A I don't remember the conversation.

3 Q I believe Counsel had also asked you, on  
4 behalf of Bell, with regard to some type of filters  
5 from DK Manufacturing. Do you know what kind of  
6 filters those might have been? Do you have any  
7 idea what they were?

8 A No, I don't have knowledge of the exact  
9 origin or where they came from.

10 Q Do you know what they are? Do you have  
11 some idea what they are?

12 A Just a filter material. It was my  
13 understanding that they were like a two by two and  
14 a half foot filter type thing and that there was a  
15 series of them in a wall. That was my  
16 understanding of what they were.

17 Q Okay. Now, these, apparently, had turned  
18 up into the general waste container that you  
19 contracted with DK to move?

20 A That's correct.

21 (Mr. Davis left the hearing  
22 room.)

23 Q (By Mr. Latshaw) Now, this container, was  
24 that -- was that the only type of agreement that

1 you had with DK Manufacturing, was to move a  
2 general waste container?

3 A Yes.

4 Q And that was, of course, your container I  
5 think you indicated?

6 A Right.

7 Q You did not have any agreement or obtain  
8 any special waste permit for the purpose of moving  
9 any other waste from DK Manufacturing, then?

10 A Not that I recollect.

11 Q Okay. The only occasion that you know of  
12 that any of these filters would have appeared in  
13 your landfill was on the particular day that you  
14 were there in the presence of an inspector who  
15 noticed it at that time; is that correct?

16 A That's correct.

17 Q How many filters were there on that day.  
18 Do you have any recollection?

19 A No, I do not.

20 (Mr. Davis entered the hearing  
21 room.)

22 Q (By Mr. Latshaw) All right. Could it  
23 have been one?

24 A I really don't have a recollection as to

1 how many.

2 Q Okay. Had you seen any of those before  
3 that day?

4 A No.

5 Q Had you been there when DK had -- when  
6 the DK container had come in before that day?

7 A I have dumped the container myself.

8 Q All right. Did you notice any filters in  
9 those containers?

10 A No, I did not. No.

11 Q All right. Now, were there ever any  
12 tests done that you know of, that you became aware  
13 of, with regard to what, in fact, those filters  
14 were classified in terms of hazardous versus  
15 nonhazardous?

16 A Other than what is in the report is the  
17 only thing I know about.

18 Q All right. No one ever showed you any  
19 test results?

20 A No.

21 Q So when Counsel asked you whether you had  
22 decontaminated the container after you had removed  
23 the -- after you took the filters back to DK, were  
24 you aware of any need to decontaminate the



1 container without evidence that it has been  
2 contaminated?

3 A It was my understanding that it was all  
4 dry. It was just the filter.

5 Q Did the inspector indicate to you at that  
6 time and place that the container had been  
7 contaminated?

8 A No.

9 MR. LATSHAW: I have nothing further.  
10 Thank you.

11 HEARING OFFICER WALLACE: Mr. Taylor?

12 MR. TAYLOR: Just a couple things.

13 RE CROSS EXAMINATION

14 BY MR. TAYLOR:

15 Q Sir, do you know what the difference is  
16 between a listed hazardous waste and a  
17 characteristic hazardous waste?

18 A No, I do not.

19 Q What was the volume of the DK containers  
20 that you picked up?

21 A That is a 40 cubic yard box.

22 Q Was that -- how often did you pick that  
23 up? Was that once a week?

24 A Probably. Without looking at records, I

1 don't know how often it was picked up. They went  
2 through different schedules.

3 Q But it was relatively frequent?

4 A Yes.

5 Q Okay. So when you say you didn't see any  
6 filters in a shipment that you hauled, that could  
7 have been a 40 cubic yard shipment?

8 A The same as the one that the filters were  
9 in.

10 Q Right. How large are the filters?

11 A Two by two and a half or something like  
12 that.

13 Q Are they thick?

14 A No, they are just so thick (indicating).  
15 That's all I remember.

16 HEARING OFFICER WALLACE: Let the record  
17 reflect that --

18 THE WITNESS: The record. Oh, okay.  
19 Maybe two inches thick. Two by two and a half.

20 Q (By Mr. Taylor) Okay. Were they  
21 pliable? Do you know what I mean by pliable?

22 A Yes.

23 Q Were they?

24 A Yes.

1 Q Okay. To your knowledge, did anyone else  
2 pick up DK's general waste? And by general waste I  
3 mean their trash, whatever would have been in these  
4 40 cubic yard containers from the period of mid  
5 1988 through 1990?

6 A Did another driver do it?

7 Q No. Let me be more specific.

8 A Okay.

9 Q Did -- was another hauling and disposal  
10 company dealing with their waste?

11 A No.

12 Q So as far as you know, you were their  
13 exclusive general waste disposal provider?

14 A That's correct.

15 MR. TAYLOR: That is all I have.

16 We move to enter Bell Number 6, which was  
17 the waste in daily sheets.

18 HEARING OFFICER WALLACE: Any objection?

19 MS. MENOTTI: No.

20 HEARING OFFICER WALLACE: Any objection?

21 MR. LATSHAW: No objection.

22 HEARING OFFICER WALLACE: Bell Exhibit

23 Number 6 is admitted.

24 (Whereupon said document was

1 admitted into evidence as Bell  
2 Exhibit 6 as of this date.)

3 MR. TAYLOR: For purposes of  
4 clarification, it is my understanding that we also  
5 entered in the two labels.

6 HEARING OFFICER WALLACE: Yes, the two  
7 labels were admitted. And to clear something up,  
8 while I am thinking about it, Number 5 was  
9 technically not moved, I don't believe. But if you  
10 want to make it an issue, then you can move it. I  
11 will deny admission and then you can do whatever  
12 you want.

13 MR. TAYLOR: All right. We would then  
14 move to enter Bell Number 5.

15 HEARING OFFICER WALLACE: All right.  
16 That being an annual report, and it is not  
17 admitted.

18 MR. DAVIS: Mr. Wallace, I have no  
19 recross of Mr. Camfield.

20 HEARING OFFICER WALLACE: All right. You  
21 were through, Mr. Taylor?

22 MR. TAYLOR: Yes, I am through.

23 HEARING OFFICER WALLACE: All right.  
24 Thank you, Mr. Davis.

1 Mr. Camfield, you may step down.

2 THE WITNESS: All right.

3 (The witness left the stand.)

4 HEARING OFFICER WALLACE: Mr. Van Ness?

5 MR. LATSHAW: I think we rest. And in  
6 case we haven't, I will move to admit all of the  
7 exhibits. For 22 years that's been haunting me.

8 HEARING OFFICER WALLACE: All right. I  
9 think I am still reserving ruling on Exhibit Number  
10 5, but I think everything else has been admitted.

11 We will adjourn for the day, but do you  
12 anticipate -- well, actually, do you anticipate  
13 witnesses tomorrow?

14 MR. TAYLOR: Two, I believe.

15 HEARING OFFICER WALLACE: All right.

16 MR. LATSHAW: Do you need Mr. Camfield?

17 MR. TAYLOR: No, we are done with Mr.  
18 Camfield.

19 MS. MENOTTI: I don't know if you want  
20 this on or off the record. I know that you are  
21 expecting Mr. Townsend to testify tomorrow. He is  
22 not under subpoena, and he is not available to  
23 testify until tomorrow afternoon.

24 MR. TAYLOR: He is under subpoena.

1 MS. MENOTTI: He never received his  
2 subpoena for this round of the hearing.

3 MR. NAHMOD: Well, all witnesses were  
4 under subpoena.

5 MS. MENOTTI: He received one for the  
6 first hearing in March, and the second hearing in  
7 April. He can't appear tomorrow morning.

8 MR. TAYLOR: You said he is available in  
9 the afternoon?

10 MS. MENOTTI: He will be available in the  
11 afternoon.

12 MR. DAVIS: Who was your other, Zierath?

13 MR. DAVIS: Because he asked me. He said  
14 he was under subpoena from you, and he asked me to  
15 check and --

16 MR. TAYLOR: We are done with Mr.  
17 Zierath.

18 MR. DAVIS: All right.

19 MR. TAYLOR: The other witness will be a  
20 gentleman named Robert Miller from Bell Sports.

21 HEARING OFFICER WALLACE: All right. In  
22 any event, we can get started with one witness  
23 tomorrow morning, and then Mr. Townsend will be  
24 available at what time?

1 MS. MENOTTI: He has a doctor's  
2 appointment and he should be available some time  
3 early afternoon, is the message that I got.

4 HEARING OFFICER WALLACE: Is that like  
5 1:00 or 1:30.

6 MS. MENOTTI: That's what I assume.

7 MR. TAYLOR: Just so everyone knows, I  
8 don't expect Mr. Miller to take very long. I can't  
9 represent any cross-examinations, but I suspect  
10 that there will be a significant break in between  
11 witnesses.

12 HEARING OFFICER WALLACE: Off the  
13 record.

14 (Discussion off the record.)

15 HEARING OFFICER WALLACE: Back on the  
16 record.

17 We will adjourn until tomorrow morning at  
18 10:00.

19 (WHL Exhibits 14 through 18 and  
20 Bell Exhibits 3 through 6 were  
21 retained by Hearing Officer  
22 Wallace.)

23  
24

1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4 I, DARLENE M. NIEMEYER, a Notary Public  
5 in and for the County of Montgomery, State of  
6 Illinois, DO HEREBY CERTIFY that the foregoing 271  
7 pages comprise a true, complete and correct  
8 transcript of the proceedings held on the 19th of  
9 May A.D., 1997, at the Office of the Attorney  
10 General, Conference Room, 500 South Second Street,  
11 Springfield, Illinois, in the case of People of the  
12 State of Illinois v. Waste Hauling Landfill, Inc.  
13 and Waste Hauling, Inc., in proceedings held before  
14 the Honorable Michael L. Wallace, Hearing Officer,  
15 and recorded in machine shorthand by me.

16 IN WITNESS WHEREOF I have hereunto set my  
17 hand and affixed my Notarial Seal this 30th day of  
18 May A.D., 1997.

19

20

21 Notary Public and  
22 Certified Shorthand Reporter and  
Registered Professional Reporter

23 CSR License No. 084-003677  
My Commission Expires: 03-02-99

24