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ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
Complainant,)
vs.) PCB 02-115
(Enforcement - Air, Water)
BLUE RIDGE CONSTRUCTION)
CORPORATION,)
an Illinois corporation,)
Respondent.)

The following is the transcript of a hearing held in the above-entitled matter, taken stenographically by Gale G. Everhart, CSR-RPR, a notary public within and for the County of Peoria and State of Illinois, before Bradley P. Halloran, Hearing Officer, at 324 Main Street, Peoria, Illinois, on the 3rd day of February, A.D. 2004, commencing at 9:16 a.m.

1 PRESENT:

2

HEARING TAKEN BEFORE:
3 ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph Street
4 James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601
5 (312) 814-8917
BY: MR. BRADLEY P. HALLORAN, ESQUIRE

6

7 APPEARANCES:

8

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12 On Behalf of the Complainant.

13

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Attorney at Law
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16 (309) 671-9600
On Behalf of the Respondent.

17

18 ALSO PRESENT:

19

Alex Gano

20

21

22

23

24

1	I N D E X	Page
2		
3	GREETING BY HEARING OFFICER	5
4		
5	OPENING STATEMENTS:	
6	BY MR. HASCHEMEYER	8
7	BY MR. KOHLHASE.	12
8	WITNESS FOR THE COMPLAINANT:	
9	DENNIS HANCOCK	
10	Direct Examination by Mr. Haschemeyer	12
11	Cross-Examination by Mr. Kohlase	19
12	Cont. Direct Examination by Mr. Haschemeyer	25
13	Cont. Cross-Examination by Mr. Kohlase	33
14	Redirect Examination by Mr. Haschemeyer	53
15	Recross-Examination by Mr. Kohlase	55
16	WITNESS FOR THE RESPONDENT:	
17	JOHN G. PALMER, SR.	
18	Direct Examination by Mr. Kohlase.	59
19	Cross-Examination by Mr. Haschemeyer.	68
20	Redirect Examination by Mr. Kohlase.	70
21	REBUTTAL WITNESS FOR THE COMPLAINANT:	
22	DENNIS HANCOCK	
23	Direct Examination by Mr. Kohlase.	72
24	WITNESS FOR THE RESPONDENT:	
25	JOHN G. PALMER, SR.	
26	Further Redirect Examination by Mr. Kohlase.	76
27	Recross-Examination by Mr. Haschemeyer.	78

1 COMPLAINANT'S EXHIBITS ADMITTED INTO EVIDENCE:

2 EXHIBIT 1 --

3 EXHIBIT 2 31

4 EXHIBIT 3 11

5 EXHIBIT 4 27

6 RESPONDENT'S EXHIBITS ADMITTED INTO EVIDENCE:

7 EXHIBIT 1 35

8 EXHIBIT 2 58

9 EXHIBIT 3 41

10 EXHIBIT 4 59

11 EXHIBIT 5 59

12 All exhibits were retained by Hearing Officer

13 Halloran.

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1 HEARING OFFICER HALLORAN: Good morning. My name
2 is Bradley Halloran. I am a hearing officer with the
3 Illinois Pollution Control Board. I'm also assigned to
4 this matter entitled PCB 02-115, People versus Blue
5 Ridge Construction Corporation.

6 It's 9:16 on February 3rd of the year 2004.
7 I want to note for the record there are no members of
8 the public here, correct? Raise your hand.

9 (No response.)

10 HEARING OFFICER HALLORAN: But if they were here,
11 they would be allowed to give public comment or public
12 statement. We are going to run this hearing pursuant to
13 Section 103.212 and Section 101 subpart F under the
14 Board's general provisions.

15 I note that this hearing is intended to
16 develop a record for review for the Illinois Pollution
17 Control Board. I will not be making the ultimate
18 decision in the case. That decision is left up to the
19 five members of the Pollution Control Board. They will
20 review the record, the transcript and also the
21 posthearing briefs and render a decision in this matter.
22 My job is to ensure an orderly hearing and clear record
23 and rule on any evidentiary matters that may arise.

24 After the hearing, the parties will be given

1 an opportunity to submit posthearing briefs if they
2 choose. These, too, will be considered by the Board. I
3 note that the Board granted Complainant's motion for
4 partial summary judgment on August 7th, 2003, and
5 directed this hearing be held on issues of penalties,
6 cost and attorney's fees. To that end the parties are
7 only to present testimony and evidence that are relevant
8 to the factors in causes that are set forth in Section
9 33(c) and 42(h) of the act.

10 I want to be a little more specific. If the
11 Complainant proves an alleged violation or violations
12 which it has, the Board considers the factors set forth
13 in Sections 33(c) and 42(h) of the act and fashion an
14 appropriate remedy for the violation. Specifically, the
15 Board considers Section 33(c) factors in determining
16 first what to order the respondent to do to correct the
17 ongoing violations, if any, and, second, whether to
18 order the respondent to pay a civil penalty. The
19 factors provided in Section 33(c) bear on the
20 reasonableness and circumstances surrounding the
21 violation such as character and degree of any resulting
22 interference with protecting public health, the
23 technical correctability and the economic reasonableness
24 of fines and whether the respondent has subsequently

1 eliminated the violation.

2 If after considering the Section 33(c)
3 factors the Board decides to impose a civil penalty on
4 the respondent, only then does the Board consider the
5 act Section 42(h) factors in determining the appropriate
6 amount of civil penalty. Section 42(h) sets forth
7 factors that may mitigate or aggravate the civil penalty
8 amount such as duration and gravity of the violation,
9 whether Respondent showed due diligence in attempting to
10 comply, any economic benefit that the respondent accrued
11 from delaying compliance and the need to deter further
12 violations by the respondent and others similarly
13 situated.

14 With that said, Mr. Haschemeyer, would you
15 please introduce yourself?

16 MR. HASCHEMEYER: Thank you, Mr. Hearing Officer.
17 My name is Delbert Haschemeyer. I am the assistant
18 attorney general representing the People of the State of
19 Illinois -- actually, Illinois Environmental Protection
20 Agency -- in this matter.

21 HEARING OFFICER HALLORAN: Thank you.

22 Mr. Kohlhase.

23 MR. KOHLHASE: My name is William R. Kohlhase. I'm
24 an attorney. I represent the respondent Blue Ridge

1 Construction Corporation.

2 HEARING OFFICER HALLORAN: Mr. Haschemeyer, do we
3 have any preliminary issues you want to talk about or do
4 you want to give an opening statement?

5 MR. HASCHEMEYER: Mr. Hearing Officer, I have no
6 preliminary matters, but I would like to make a brief
7 opening statement just to kind of place this matter in
8 context at least in terms of how I understand the
9 situation we are in. Mr. Hearing Officer, as you
10 referenced there was previously filed a motion for
11 summary judgment which was granted by the Court.

12 HEARING OFFICER HALLORAN: You may remain seated.

13 MR. HASCHEMEYER: That motion actually was a
14 partial motion for summary judgment. It left -- it
15 addressed and sought summary judgment relative to the
16 allegations in Count 1 which had to do with 9(a)
17 allegations. It addresses two allegations in Count 2
18 having to do with the lack of notice and the lack of
19 inspection, if my memory is correct, relative to the
20 NESHAP requirements to this particular situation. And
21 it addressed Count 3, which was open dumping,
22 and Count 4 which alleged a water pollution threat. It
23 did not address four allegations in Count 2 which, if my
24 memory is correct, are paragraphs 11, 12, 13 and 14 of

1 Count 2. And those allegations are specific NESHAP
2 allegations related to the project that the respondent
3 had undertaken.

4 Now at the time, that motion for summary
5 judgment didn't address this because to prove the
6 allegations in those four paragraphs it was necessary to
7 establish a threshold amount of asbestos-containing
8 material on the site. And in reviewing all the
9 documents in the file, it was felt that the documents
10 did not establish that to a level necessary to support a
11 motion for summary judgment. Consequently, those four
12 allegations still are on the table. It would be our
13 intention this morning to address those four
14 allegations.

15 Now these allegations contained in those four
16 paragraphs were answered by the respondent in his
17 answer. And he responded in essence or in substance
18 admitted the factual allegations contained in those
19 paragraphs but denied the remainder of the paragraphs
20 for the allegations of specific violations. So what
21 remains to be addressed in terms of the factual issue is
22 the issue or question of how much asbestos-containing
23 material was on the site.

24 Relative to the 33(c) factors and the 42(h)

1 factors as a foundation or basis for the motion for
2 partial summary judgment, the parties entered into what
3 I would term as a comprehensive stipulation of facts.
4 That stipulation of facts is now part of the record.
5 And I think, in general, it contains all the relevant
6 facts relevant to the particular situation as discovered
7 by EPA and generated by the respondent and then all the
8 subsequent actions that occurred thereafter.

9 And at this point in time, Mr. Hearing
10 Officer, I would ask the hearing officer or the Board to
11 either incorporate that stipulation of facts by
12 reference which is already a part of the Board's record,
13 or if the hearing officer and the Board would prefer,
14 grant me leave to send a copy of that to the hearing
15 officer or to whomever the hearing officer directs
16 within a week or the next few days. Unfortunately, I do
17 not have it with me at the moment, but I do have it
18 actually in a car that's parked in my driveway, and I
19 would be glad to send that to you as early or as soon as
20 I possibly can.

21 HEARING OFFICER HALLORAN: Mr. Kohlhase, any
22 objection to --

23 MR. KOHLHASE: No disagreement with anything that
24 was stated by Counsel. As a matter of expediency, I do

1 have the stipulation with me that was attached to the
2 motion. If you would like it submitted now, I will give
3 another copy to Mr. Haschemeyer in due course.

4 HEARING OFFICER HALLORAN: That would be terrific.
5 I think it would make the record a little cleaner, and I
6 would mark it Hearing Officer Exhibit 1.

7 Mr. Haschemeyer, any objection?

8 MR. HASCHEMEYER: No, Your Honor. The only
9 suggestion I might have, because I already have two
10 exhibits, one marked as Complainant's Exhibit 1 and the
11 other marked as Complainant's Exhibit 2, we can maybe
12 have that marked as Joint Exhibit 1 or have it marked as
13 Exhibit 3. And I state for the record I appreciate
14 Mr. Kohlhase's comments.

15 HEARING OFFICER HALLORAN: We will mark it
16 Complainant's Exhibit Number 3.

17 Mr. Haschemeyer, are you finished with your
18 opening?

19 MR. HASCHEMEYER: I'm finished.

20 HEARING OFFICER HALLORAN: Okay. Thank you.

21 MR. KOHLHASE: Here is the stipulation.

22 HEARING OFFICER HALLORAN: Thank you, sir. I'm
23 going to mark the stipulation as Complainant's Exhibit
24 Number 3 and admit it into evidence.

1 A Dennis Hancock.

2 Q Mr. Hancock, are you employed?

3 A Yes.

4 Q Where you are you employed?

5 A With the Illinois EPA.

6 Q In what position are you employed,
7 Mr. Hancock?

8 A I'm an inspector to inspect contractors on
9 asbestos demolition and renovation.

10 Q How long have you been so employed?

11 A Five years now.

12 Q Could you describe for me your duties and
13 responsibilities in that capacity as an inspector?

14 A As the inspector I inspect the contractors to
15 make sure that they are within procedures of the NESHAP
16 regulations.

17 HEARING OFFICER HALLORAN: Sir, I'm sorry, could
18 you keep your voice up?

19 THE WITNESS: A little bit higher?

20 Q When you say within procedures for NESHAP
21 regulations, are there particular NESHAP regulations
22 that you specialize in so to speak?

23 A Under demolition or renovation where there is
24 asbestos work, that would be enclosures, negative air

1 machines, water, glove bags, whichever method pertains
2 to that type of --

3 Q So would it be fair to say that your duties
4 and responsibilities are primarily in the area of
5 inspecting sites of facilities that may have asbestos
6 materials?

7 A Right.

8 Q Do you have -- Mr. Hancock, do you have any
9 particular training or licenses or anything relative
10 that qualifies you for inspecting asbestos situations?

11 A I have asbestos inspector license through
12 EPH. I have supervisor -- asbestos supervisor license
13 through Illinois Department of Public Health, and I also
14 have a worker's license through Illinois Department of
15 Public Health.

16 Q If you recall, Mr. Hancock, did you have
17 occasion to inspect a facility known as the Bartonville
18 Mental Health Facility?

19 A Yes, I did.

20 Q Do you recall when that was?

21 A I believe it was around May 17th of 2000.

22 Q May 17th of when?

23 A 2000.

24 Q Do you recall how it came to be that you

1 inspected that place?

2 A A phone call came into our office regarding
3 dust at the demolition site.

4 Q So you went out and inspected this facility.
5 Could you describe for me what you saw or your
6 observations when you arrived?

7 A When I arrived, I observed two gentlemen that
8 were using cutting torches to cut the pipes that were
9 laying on the ground. It appeared suspect material was
10 on the pipes at that time.

11 Q What else -- is that all you observed or is
12 there more?

13 A The building was demolished. The wall had
14 been taken out. It was to be considered a load-bearing
15 structure under demolition. The welders had paper
16 respirators on, and they were working on the pipes that
17 were laying on the ground trying to cut the pipes.

18 Q When you observed the pipes, did the pipes
19 appear to have any kind of coating or anything of that
20 nature?

21 A Yes. It appeared to be suspect material
22 which we called mag block.

23 Q You say you observed what appeared to be
24 suspect material. What is suspect material; what is

1 that?

2 A Suspect material is anything that -- there is
3 usually a list that is put out that would describe any
4 suspect insulation material. It could be pipe
5 insulation. It could be a tape, any type of asbestos
6 type tape, blown-in insulation. It can be mastic tape.
7 It can be floor tile. There is a list of what would be
8 considered suspect material.

9 Q So if I understand what you are saying
10 correctly, Mr. Hancock -- is what you are saying is that
11 suspect material is material that is suspect of having
12 asbestos in it?

13 A Right. Asbestos containing.

14 Q I'm going to hand you what has been marked
15 for identification as Complainant's Exhibit Number 1 and
16 ask you to examine that.

17 (Witness complies.)

18 Q Can you tell me what that is?

19 A This is a memorandum put out to describe a
20 little more clearly of exactly what I found at the site.

21 Q Who prepared that memorandum?

22 A I did.

23 Q When you say this describes more particularly
24 what you found at the site, in what respect does it do

1 that?

2 A It came into a little more detail. When I
3 was at the site, I paced the site as an estimate to
4 determine the amount for the threshold. And this kind
5 of clears up what I did find, the lineal feet of height,
6 the sections of pipe, the width of the building.

7 Q Is this something you would normally do in
8 the course of an inspection of a site or a facility in
9 which you might anticipate or observe suspect material?

10 A Yes.

11 Q Would the document that you prepared, your
12 document or something similar to that, normally be
13 prepared as part of your inspection?

14 A As part of the inspection, yes.

15 Q What happens to the document after you
16 prepared it?

17 A Once it's inspected, it gets turned in to
18 Springfield.

19 Q So you send this document to Springfield?

20 A Right.

21 Q Do you retain a copy of it?

22 A I retain a copy of it.

23 Q So once -- the copy that you retain, what
24 happens to it?

1 A I keep it in a file.

2 Q It's kept in a file in your office?

3 A Right.

4 Q Do you maintain it there as a record of your
5 activities?

6 A Yes.

7 Q Does this document at all relate to the
8 facility, the Bartonville Mental Health Facility that
9 you inspected back in May of 2000?

10 A Yes.

11 MR. HASCHEMEYER: Mr. Hearing Officer, at this
12 point in time I would offer what has been marked for
13 identification as Exhibit Number 1 into evidence.

14 HEARING OFFICER HALLORAN: Mr. Kohlhasse?

15 MR. KOHLHASE: Objection. Hearsay. And I would
16 like to cross-examine before you consider admissibility
17 of that document.

18 HEARING OFFICER HALLORAN: So we will hold off on
19 this.

20 MR. HASCHEMEYER: If I may, Mr. Hearing Officer,
21 I'm offering this as a business record created and
22 maintained by an agency employee in the normal course of
23 his responsibilities and maintained as a business record
24 of the agency which is by definition an exception to the

1 hearsay rule.

2 HEARING OFFICER HALLORAN: So noted.

3 MR. KOHLHASE: It might help if I cross now,
4 subject to your approval.

5 MR. HALLORAN: Sure.

6 CROSS-EXAMINATION

7 BY MR. KOHLHASE:

8 Q Mr. Hancock, I'm handing you what has been
9 marked Respondent's Exhibit Number 1. Would you please
10 tell the hearing officer what this is.

11 A This is my inspection report.

12 Q Is it an inspection report dated May 17th,
13 2000?

14 A Yes.

15 Q And it relates to the site in Bartonville
16 that we are talking about?

17 A Yes.

18 Q This document, Respondent's Exhibit 1, does
19 not include the document or the information marked
20 Complainant's Exhibit 1, does it?

21 A No.

22 Q When is the last time that you visited the
23 site that is the subject of Respondent's Exhibit 1?

24 A The first time was May 17th. Then I

1 met -- to the best of my knowledge it was within two
2 weeks after that, I met with the contractor that came
3 out to do the inspection to the best of my knowledge.

4 Q So that was two weeks after May 17th, 2000?

5 A Yes.

6 Q When is the last time after that that you
7 visited the site?

8 A During the cleanup I went out there to
9 observe the process being done.

10 Q When was that?

11 A That would have been, to the best of my
12 knowledge, in June.

13 Q Of 2001?

14 A Of 2001.

15 Q Is that the last time you were at the site?

16 A Yes.

17 Q Was the agency's work in connection with this
18 matter and your work completed in June of 2001?

19 A I believe the clearance sampling was what
20 they were waiting for. Once that passed, it was
21 completed.

22 Q That happened in 2001?

23 A I'm not sure on that date. I would have to
24 look back on my clearance files. At the end of the

1 thing I get a complete -- project completion and that
2 tells you when the samples were cleared.

3 Q In any event your work was done in June 2001
4 in terms of site visits?

5 A Yes.

6 Q When did you prepare Complainant's Exhibit 1?

7 A The one I was just looking at here?

8 Q Yes.

9 A That was -- I'm not even sure exact date. I
10 don't have it.

11 Q Please take a look at what we have marked
12 Respondent's Exhibit 2.

13 A Okay.

14 Q Is that another copy of Complainant's Exhibit
15 1?

16 A Yes.

17 Q Except the difference is it has a stamp on
18 it, does it not?

19 A Right.

20 Q That says, "Received, Division of Legal
21 Counsel, October 2, 2003, Environmental Protection
22 Agency"?

23 A Yes.

24 Q Does looking at that refresh your

1 recollection as to your preparation of Complainant's
2 Exhibit 1, that is, the timing?

3 A Yes.

4 Q When did you prepare it?

5 A It would have been the same day. I prepared
6 it per request of Del and Dennis Brown.

7 Q So on October 3, 2003 at the request of
8 Mr. Brown you prepared Complainant's Exhibit 1, correct?

9 A Yes.

10 Q It was prepared for purposes of use in this
11 litigation, was it not?

12 A For clearance of what I did see at the site.

13 Q Was that for purposes of use in this
14 litigation?

15 MR. HASCHEMEYER: Objection. Irrelevant.

16 HEARING OFFICER HALLORAN: Overruled.

17 A Yes.

18 MR. KOHLHASE: That's all I believe that I need to
19 pursue at this time. Mr. Hearing Officer, I believe
20 what this shows is this is just a hearsay document
21 prepared for use here. It was not part of the
22 inspection. It was something that was just prepared in
23 October more than two years after he visited the site.
24 It's in no way a document prepared in the ordinary

1 course of his activities as a government official;
2 rather it's just a hearsay document prepared for this
3 case.

4 HEARING OFFICER HALLORAN: Mr. Haschemeyer.

5 MR. HASCHEMEYER: Your Honor, the witness has
6 testified that this is a document that's prepared in the
7 normal course of the business of his responsibilities as
8 an inspector of sites containing suspected
9 asbestos-containing material. The fact -- and we
10 concede that the document was prepared some time after
11 the inspection, and it was prepared perhaps at the
12 request of Agency counsel and even perhaps for the
13 purpose of supporting this particular case. But all of
14 those factors do not go to either the accuracy of the
15 document, nor do they go to the fact that this document
16 typically would have been prepared in the normal course
17 of business as it was in this case. Now that may go to
18 the weight of the document, but it doesn't go to its
19 admissibility. The document, as testified to by the
20 witness here, accurately contains his assessment of the
21 situation of the site at the facility. And the fact
22 that it was contained to or prepared later does not
23 address that accuracy issue. As far as the witness's
24 testimony is concerned, the record is concerned, that

1 document accurately defines the amount of
2 asbestos-containing material that he observed at the
3 site based on his observations.

4 HEARING OFFICER HALLORAN: Okay. With all due
5 respect, Mr. Haschemeyer, I do have problems -- I think
6 it does not affect the weight, only the admissibility.
7 I find fault with the argument there. I don't find any
8 time -- reasonable time thereafter his inspections were
9 finished. It was two years later. Things like personal
10 knowledge may affect the weight but not admissibility.
11 The timing, it's my understanding, does not. So I'm
12 going to sustain Mr. Kohlhase's objection, and I will
13 take it with the case as an offer of proof if you so
14 choose.

15 MR. HASCHEMEYER: Mr. Hearing Officer, if I may.

16 (Pause in proceedings.)

17 MR. HASCHEMEYER: Mr. Hearing Officer, may I have
18 this marked as Complainant's Exhibit Number 4?

19 (Pause in proceedings.)

20 MR. HASCHEMEYER: Just for the record, Your Honor,
21 I will be handing Mr. Hancock what has been marked as
22 Complainant's Exhibit 4 and would note for the record
23 that that is a copy of the last pages, the last page, an
24 engineering drawing of what is identified as Exhibit G

1 to the stipulation of facts that has been entered by
2 agreement as part of the record.

3 CONTINUED DIRECT EXAMINATION

4 BY MR. HASCHEMEYER:

5 Q Mr. Hancock, I'm going to hand you what has
6 been marked as Complainant's Exhibit 4 for
7 identification and ask you to examine that. Can you
8 tell me what that is?

9 A Yes.

10 Q What is that?

11 A This was a drawing drawn up by Clark
12 Engineering for the process of cleanup to show where the
13 asbestos location was for cleanup.

14 Q This is a drawing prepared by Clark
15 Engineering for the cleanup for where?

16 A At the Bartonville Mental Health Center.

17 Q Bartonville Mental Health Center.

18 Do you know, was Clark Engineering retained
19 by the respondent in this matter?

20 A Yes. As far as I know.

21 Q They were retained after your initial
22 inspection to address the cleanup of the site?

23 A Yes.

24 Q What is that a drawing of?

1 A This is the building showing the location
2 where samples were taken and where the asbestos was
3 found.

4 Q In examining that drawing, is that drawing to
5 scale; can you tell me?

6 A Yes.

7 Q Can you examine that drawing based on your
8 experience and your duties and responsibilities as an
9 agency inspector of asbestos suspected sites or sites
10 containing that material, can you form an estimate of
11 the amount of asbestos containing material at the
12 Bartonville Mental Health Facility?

13 A By using their scale, yes. On the far north
14 wall there were two pipes that were coming out. At the
15 time of the inspection, I talked with the workers that
16 were there. They explained that it was the length of
17 the whole building which is 160 feet.

18 MR. KOHLHASE: Objection.

19 THE COURT: Mr. Kohlase?

20 MR. KOHLHASE: Objection to his hearsay testimony
21 concerning some unidentified workers who said something
22 to him.

23 HEARING OFFICER HALLORAN: Mr. Haschemeyer?

24 MR. HASCHEMEYER: I'll ask another question.

1 HEARING OFFICER HALLORAN: Thank you. Sustained.

2 Q Mr. Hancock, in viewing this facility, were
3 you able to ascertain, based on your observations of the
4 pipes and the portions of pipes and where they were
5 located, where the pipes had existed prior to the
6 demolition?

7 A Yes.

8 Q Could you tell what the distance of those
9 pipes were?

10 A I walked and measured it off as about 160
11 feet, is what I figured.

12 Q Could you also ascertain whether or not there
13 was any asbestos-containing tile materials there?

14 A There was tile material there, but it came
15 back negative. The insulation came back positive.

16 Q The insulation came back positive?

17 A Right.

18 Q Were you able --

19 MR. HASCHEMEYER: Your Honor, just for the record,
20 I offer into evidence Complainant's Exhibit Number 4.

21 MR. KOHLHASE: No objection.

22 HEARING OFFICER HALLORAN: Complainant's Exhibit
23 Number 4 is admitted into evidence.

24 Q I hand you what has been marked for

1 identification as Complainant's Exhibit Number 2,
2 Mr. Hancock, and ask you to examine that.

3 (Witness complies.)

4 Q Can you tell me what that is?

5 A Yes.

6 Q What is it?

7 A This is a notification for demolition and
8 renovation that is to be sent in prior to any demolition
9 or renovation work being done.

10 Q You say this is a notification that is to be
11 sent in. Where is it to be sent?

12 A Illinois EPA in Springfield.

13 Q Is that required to be sent in by anything?

14 A It's under the Clean Air Federal NESHAP
15 regulations stating that ten working days prior to the
16 start of the project it has to be submitted to the
17 Illinois EPA.

18 Q So would the regulations require, the federal
19 regulations then require that this notification be sent
20 to EPA, Illinois EPA, ten days before demolition and
21 renovation?

22 A Right. Ten working days.

23 Q That is a record received by the agency in
24 the normal course of business?

1 A Right.

2 Q What happens when that notification comes in,
3 if you know?

4 A It gets put into the computer up in
5 Springfield. And they in turn send it out to the field
6 offices where we are.

7 Q So you receive a copy of that in the field
8 office?

9 A Yes.

10 Q What do you do with it then?

11 A We usually go up and try to schedule the
12 inspection on these projects when they come in.

13 Q Did you then do that when this notification
14 came in, go and inspect?

15 A This one came in as a cleanup from Century
16 when they submitted it for cleanup. There was none for
17 the original demolition.

18 Q Can you tell me in examining that document
19 who prepared it?

20 A This was prepared by Terry McIntire. He is
21 from Century.

22 Q Who is Century?

23 A Century is an asbestos contractor.

24 Q Is that a company you deal with frequently?

1 A Yes, it is.

2 Q They are in the business of cleaning up
3 asbestos materials?

4 A Right.

5 Q What happens to that piece of paper other
6 than you are going out and inspect it? What do you do
7 when it comes to your office?

8 A When it comes to my office, we review it for
9 the start date and go out to the site during that time.
10 And we make sure that things are being done according to
11 the plans that were drawn up. What they have to do is
12 submit a cleanup plan.

13 Q What happens to the piece of paper after you
14 have done your inspection?

15 A It goes into my file.

16 Q Do you maintain it in your file?

17 A Yes.

18 Q As a record of your operations and a record
19 of the agency, an official record of the agency?

20 A Yes.

21 Q Is that a true and accurate copy of the
22 notification that you received from the Bartonville
23 site?

24 A Yes.

1 MR. HASCHEMEYER: Your Honor, at this point in time
2 I would offer what has been marked as Complainant's
3 Exhibit Number 2 into evidence as an official business
4 record of the agency.

5 MR. KOHLHASE: No objection.

6 HEARING OFFICER HALLORAN: Thank you.
7 Complainant's Exhibit Number 2 is admitted into
8 evidence.

9 Q Calling your attention to Complainant's
10 Exhibit Number 2, Mr. Hancock, can you tell me, does
11 that exhibit state the amount of asbestos-containing
12 material there at the site?

13 A It has an estimate of 1,000 cubic feet of
14 volume.

15 Q So that document indicates that there is
16 1,000 cubic feet of asbestos-containing material at the
17 site?

18 A Containing material. (Witness nodding head
19 up and down.)

20 Q Can you, just for the record if you know, can
21 you translate that into cubic meters? I think it's
22 35 --

23 A It's 35.3 cubic meters is our threshold.

24 Q 35 cubic feet?

1 A Cubic feet is a cubic meter.

2 Q So to convert that you would divide 35.3
3 into --

4 A Right. Into that.

5 Q -- 1,000?

6 A That would be -- I'm doing the math right
7 now.

8 Q It would be well in excess of 1 cubic?

9 A It would be in excess of 1 cubic meter which
10 is required.

11 Q Just as an aside, a couple of questions.
12 Mr. Hancock, when you first observed -- arrived at this
13 site back in April of -- if my memory is correct, you
14 said April of 2000, I think you testified that you
15 observed an individual wearing a mask?

16 A A paper respirator, yes.

17 Q A paper respirator.

18 Based upon your knowledge and training and
19 your experience as an asbestos inspector, can you tell
20 me whether or not that paper respirator is effective at
21 all in protecting somebody in working with
22 asbestos-containing material?

23 MR. KOHLHASE: Objection. It's beyond the scope of
24 what we agreed the hearing was going to be about. We

1 said we were relying on the stipulation with respect to
2 the statutory factors. This doesn't have anything to do
3 with the quantity, and I think it's beyond the scope of
4 the hearing.

5 MR. HASCHEMEYER: I withdraw the question. No more
6 questions.

7 HEARING OFFICER HALLORAN: Mr. Kohlhase, your
8 witness.

9 MR. KOHLHASE: Thank you, Mr. Hearing Officer.

10 CONTINUED CROSS-EXAMINATION

11 BY MR. KOHLHASE:

12 Q Mr. Hancock, please take a look at
13 Respondent's Exhibit Number 1. Do you still have that?
14 Just to refresh on that, that's your inspection report
15 dated May 17th of 2000, with respect to the site that we
16 are talking about here today, correct?

17 A Yes.

18 MR. KOHLHASE: We offer Respondent's Exhibit 1 at
19 this time.

20 MR. HASCHEMEYER: Your Honor, I guess I'm a little
21 bit puzzled. If I understand him, Mr. Kohlhase is
22 cross-examining Mr. Hancock on an exhibit that has not
23 been admitted into evidence and he refers to
24 Respondent's Exhibit Number 1.

1 HEARING OFFICER HALLORAN: I don't have a copy of
2 it either. I don't know exactly what's --

3 (Pause in proceedings.)

4 HEARING OFFICER HALLORAN: Mr. Haschemeyer, your
5 objection again?

6 MR. HASCHEMEYER: My objection was I understand
7 Mr. Kohlhase to be cross-examining Mr. Hancock relative
8 to what he refers to as Complainant's Exhibit Number 1
9 which is not admitted into evidence.

10 HEARING OFFICER HALLORAN: Respondent's Exhibit 1.

11 MR. HASCHEMEYER: Respondent's Exhibit 1. What is
12 the question?

13 MR. KOHLHASE: I simply am offering Respondent's
14 Exhibit Number 1 which is an inspection memorandum for
15 this site.

16 HEARING OFFICER HALLORAN: This is in the record,
17 correct?

18 MR. HASCHEMEYER: That's right. I have no
19 objection to it.

20 HEARING OFFICER HALLORAN: Okay. You have
21 objection with protocol?

22 MR. HASCHEMEYER: I'm trying to -- I beg the
23 Hearing Officer's pardon, I'm trying to recall what the
24 question is. At the time I understood the question to

1 be directed to Mr. Hancock relative to Complainant's
2 Exhibit 1, but perhaps I misunderstood.

3 HEARING OFFICER HALLORAN: Mr. Kohlhase, could you
4 restate it, or should I have Gale read it back?

5 MR. KOHLHASE: My memory -- which is getting
6 shorter all the time -- is that there is no question
7 pending. I just had him identify Respondent's Exhibit
8 1, and I offered it into evidence because I want to ask
9 him questions with respect to what it shows is the
10 quantity.

11 HEARING OFFICER HALLORAN: I thought that's what
12 your question was.

13 Mr. Haschemeyer, any problem with that?

14 MR. HASCHEMEYER: At this point in time, no.

15 HEARING OFFICER HALLORAN: You may proceed,
16 Mr. Kohlhase.

17 MR. KOHLHASE: Then I will again offer Respondent's
18 Exhibit Number 1.

19 HEARING OFFICER HALLORAN: Any objection?

20 MR. HASCHEMEYER: I have no objection.

21 HEARING OFFICER HALLORAN: Respondent's Exhibit
22 Number 1 is admitted.

23 BY MR. KOHLHASE:

24 Q Mr. Hancock, Respondent's Exhibit 1 includes

1 the observations that you made on your initial
2 inspection and also the results of your samples of
3 suspected asbestos-containing material that were tested,
4 does it not?

5 A Yes.

6 Q You had seven samples tested, and at the
7 bottom of page 2 of Respondent's Exhibit 1 and the top
8 of page 3 it relates the results of those tests, does it
9 not? No. I'm sorry. On the last page it relates the
10 test results, does it not?

11 A Yes.

12 Q Is it fair to say that the only
13 asbestos-containing materials were found to be
14 associated with the insulation for the piping?

15 A No, sir. The insulation on the piping, there
16 was insulation that was a -- almost like a blown-in type
17 insulation that came back positive. And the other one
18 was the aircell which is a brown corrugated cardboard.

19 Q Which tests are those?

20 A The off white in color, number 1, would be
21 the -- that was on the ground. That would have been a
22 mag block.

23 Q That's pipe insulation?

24 A That's pipe insulation. The second one was

1 material and demolition on the first pipe section which
2 was another pipe insulation.

3 Q That's number 2?

4 A Right. And number 3 was white color material
5 lying on the ground which appeared dry. That was more
6 of the insulation.

7 Q Pipe insulation?

8 A Pipe insulation. The next one was the
9 aircell from the broken pipe.

10 Q I'm sorry. I didn't understand that word.

11 A Aircell. It's corrugated cardboard. It's
12 asbestos-containing.

13 Q That was associated with the pipe also?

14 A That was the pipe. The next sample was a
15 mineral wool type insulation which would have been
16 number 5. I believe that did come back, just a trace of
17 it of chrysotile.

18 Q Focusing on number 5 for a second, when you
19 use the word trace, does that mean less than one percent
20 asbestos?

21 A That one they usually send you a lab report
22 on that, and we didn't do a trace count on that one. In
23 other words, it can be less than one percent, but they
24 have to do point counting in order to get it to a higher

1 count, to find the exact count.

2 Q If it's more than one percent, it's not
3 considered trace, is it?

4 A If it's more than one percent, it is -- it's
5 not considered trace.

6 Q Therefore it says trace, does it not?

7 A Right.

8 Q And, therefore, it's less than one percent,
9 correct?

10 A Right. Yes.

11 Q That's not considered to be a finding of
12 asbestos, is it?

13 A No.

14 Q Then number 6, what was that?

15 A Number 6 that was a terrazzo. It was a tile
16 that was on the floor itself in the center of the
17 building. That came back, "No asbestos detected."

18 Q What was number 7?

19 A Number 7 was a pipe that was on the west wall
20 and that was the corrugated cardboard aircell again.

21 Q So having reviewed your test results, would
22 it be fair to say that the only asbestos that was found
23 as a result of your inspection was associated with
24 pipes?

1 A With pipe insulation, yes.

2 Q Mr. Hancock, I'm handing you what's been
3 marked Respondent's Exhibit 3. Is that a document that
4 was submitted to you by Respondent in connection with
5 this matter?

6 (Pause in proceedings.)

7 A To the best of my knowledge, yes.

8 Q This is something that your agency requires
9 when a situation like this arises so that there is
10 testing work done to determine the extent of any
11 environmental contamination?

12 A Yes.

13 Q This is a document that was prepared by
14 Bodine Environmental Services, Inc., is it not?

15 A Yes, it is.

16 Q Did you review and rely on this document in
17 connection with your work in dealing with this site?

18 A Right. We looked at this to find out exactly
19 where the aesthetic contamination is also after our
20 initial inspection.

21 MR. KOHLHASE: We will offer Respondent's
22 Exhibit 3.

23 MR. HASCHEMEYER: Objection. Lack of foundation.

24 HEARING OFFICER HALLORAN: Mr. Kohlhase?

1 MR. HASCHEMEYER: And hearsay.

2 HEARING OFFICER HALLORAN: Mr. Kohlhasse?

3 MR. KOHLHASE: It's comparable to Complainant's
4 Exhibit 2, a document that was required to be prepared
5 and submitted and maintained by the agency. Based on
6 the very same rationale that was used by Mr. Haschemeyer
7 to get Complainant's Exhibit 2 admitted, this should be
8 admitted.

9 MR. HASCHEMEYER: Mr. Hearing Officer, this
10 document on its face indicates it's addressed to
11 Mr. Palmer. It's apparently a document maintained
12 perhaps by the respondent, but there is indication that
13 it's been maintained by the agency or is, in fact, a
14 part of the file of the agency. And, consequently, this
15 witness is incapable of providing foundation.

16 HEARING OFFICER HALLORAN: I thought Mr. Hancock
17 did say he kept it in his records.

18 Mr. Hancock, did you or did you not state
19 that this is somewhere in your file and you keep it in
20 your records and you do rely on it, or you did rely on
21 it?

22 THE WITNESS: Yes. I did say that. I said --

23 MR. HASCHEMEYER: I withdraw my objection.

24 HEARING OFFICER HALLORAN: Thank you. Respondent's

1 Exhibit Number 3?

2 MR. KOHLHASE: Number 3, Mr. Hearing Officer.

3 HEARING OFFICER HALLORAN: Is admitted.

4 BY MR. KOHLHASE:

5 Q Directing your attention, Mr. Hancock, to the
6 fifth page of Exhibit 3, has the summary of asbestos
7 bulk sampling results, does it not?

8 A Which page was that again, sir?

9 Q It's the fifth page of -- considering the
10 total exhibit and just the way it's set up, it happens
11 to be marked page 2 at the bottom. At the top it says
12 "1.0 Asbestos Bulk Sampling Results." This summarizes
13 the results of testing that was done at various points
14 in the site on various materials, does it not?

15 A Yes. This would have been taken from the
16 material that was in the ravine.

17 Q Please explain to the hearing officer what
18 you mean by material "in the ravine."

19 A The demolition, bricks, et cetera, roofing
20 material, that was demolished in the building had been
21 pushed over into the ravine to the east of the building.
22 They take soil samples from the edge of the building
23 over to that ravine and any suspect material inside the
24 ravine.

1 Q Just to clarify, on this particular page of
2 Respondent's Exhibit 3 there are also samples from
3 within the building, aren't there? When it says, for
4 example, in parentheses, "After the wall plaster, smooth
5 white building," that was in the building, was it not?

6 A To the best of my knowledge it was concrete,
7 but that might have been in the bathroom area or
8 something that they might have taken it from.

9 Q Directing your attention to another copy of
10 Complainant's Exhibit 4 which is the Clark Engineers
11 drawing, it's got some numbers on there, B hyphen 1, B
12 hyphen 2, so on. Mr. Hancock, those B-1 through 5
13 points there, do they relate to the soil-boring samples
14 on page 5 of Exhibit 3 -- I'm sorry, Respondent's
15 Exhibit 3?

16 MR. HASCHEMEYER: Mr. Hearing Officer, I'm going to
17 object to this whole line of questioning. I don't think
18 an adequate foundation has been laid for this witness to
19 testify to samples and analysis conducted by a third
20 party. Now the document is going to speak for itself
21 and it says whatever it says. But no foundation that
22 this witness has to testify as to the accuracy or lack
23 of accuracy of those results.

24 MR. KOHLHASE: I'm not asking him to testify to

1 accuracy. I do have a point which I'm trying to get to.
2 As soon as we get through with this question, I want to
3 get back to the ten-day notice.

4 HEARING OFFICER HALLORAN: Objection overruled. I
5 will allow you a little latitude. But, again,
6 Mr. Hancock did testify that he did take a look at this
7 document and relied on it for his future course of
8 action.

9 Mr. Hancock, you may answer if you are able.
10 If you remember the question.

11 THE WITNESS: Could you go to the question one more
12 time?

13 Q The B-1 through 5 points that are shown on
14 Complainant's Exhibit 4 are those same points that are
15 referenced as B-1 through 5 on the fifth page of
16 Respondent's Exhibit 3, correct?

17 A To the best of my knowledge the only one that
18 would match up would be B-5 because the rest of them he
19 has got collapsed roofing and there wasn't no roofing in
20 those areas that those soil samples were taken. The
21 only one would be the backfill debris which is 5 over
22 here by the backfill. 4, 3, 2 and 1 say "Collapsed
23 roofing." Well, this was just plain dirt. They were
24 just taking soil samples. There was no collapsed

1 roofing there.

2 Q You were present in June of 2001 when the
3 site was cleaned up, were you not?

4 A Yes. Not the entire time, but, yes.

5 Q We already talked about the fact that the
6 only asbestos that was found here was all associated
7 with pipe insulation or that one pipe filter that you
8 mentioned, right?

9 A With the pipe insulation, yes.

10 Q There was not 1,000 cubic feet or anything
11 even remotely like that of pipe insulation at this site,
12 was there?

13 A The 1,000 cubic feet is what the inspector
14 that did the survey after us came up with their amount.
15 They measure what they have throughout the building here
16 (indicating). There was a pipe sticking out of the
17 ravine where the debris was. There was still white
18 material on that. It was collected, and the rest of it
19 was considered the cleanup because the soil was
20 contaminated in that ravine.

21 Q When you say "the rest of it," what do you
22 mean the rest of it?

23 A The bricks, et cetera, that was all in the
24 ravine there, was cleaned up. They did soil samples and

1 his results came back positive for asbestos. So that's
2 what we included in the 1,000.

3 Q What tests are you referring to that showed
4 that there was asbestos outside the building?

5 A That would be the soil-boring samples.

6 Q Those were done by Bodine on behalf of the
7 respondent, were they not?

8 A To the best of my knowledge, yes.

9 Q That's what's included in Respondent's
10 Exhibit 3, correct? That's Exhibit 3 you have in your
11 hand.

12 A The soil-boring samples were taken -- on the
13 drawing of Mark Otten from Clark Engineering, that
14 doesn't show the soil-boring samples. They have to take
15 samples down below the ravine to determine if there is
16 any runoff from the contamination. That's where they
17 came back with soil samples that had to be cleaned up.
18 Once all the material was taken up, the bricks, the
19 roofing, the lumber and all that was cleaned out, they
20 do a soil sample. It came back positive for asbestos.
21 They had to take two inches of soil out. They retested.
22 It came back positive for asbestos so they had to clean
23 up more.

24 Q What tests are you referring to?

1 A Soil-boring tests.

2 Q Those are done by Bodine?

3 A I believe it was Bodine. To the best of my
4 knowledge it was.

5 Q With respect to Exhibit 3, can you point out
6 for the hearing officer where it is there is a finding
7 that there was any asbestos outside of the building?

8 MR. HASCHEMEYER: I'm going to object to the
9 relevance of that. As I understand the testimony of
10 Mr. Hancock, it may well be these soil samples that
11 Mr. Kohlhase is asking Mr. Hancock about are samples
12 that were taken after the cleanup and after the scraping
13 of the soil and, consequently, they are not relevant to
14 anything that I know of other than the fact that the
15 place was cleaned up. And we are not asserting that
16 cleanup was ineffective. Insofar as we know and so far
17 as the record reflects, the site was adequately cleaned
18 up. And I think that's what Mr. Hancock is testifying
19 that these samples show.

20 HEARING OFFICER HALLORAN: Mr. Kohlhase?

21 MR. KOHLHASE: I'm not sure if that was testimony
22 or objection. The nature of the objection is not
23 entirely clear to me.

24 MR. HASCHEMEYER: The objection was relevance.

1 MR. KOHLHASE: With respect to the issue that we
2 are addressing on quantity, my understanding is that
3 Complainant is relying on this ten-day notice that was
4 filled out by Century that said that there was 1,000
5 cubic feet of RACM. What I am trying to focus on, given
6 the fact that the only asbestos found was associated
7 with pipe insulation, is the fact that there was dumping
8 in the ravine. That material was hauled out. That's
9 the 1,000 cubic feet. Where are the test results that
10 say that that was RACM outside the building? And he
11 said that Bodine is the one that did it. I'm saying
12 where does it say in Exhibit 3 that they did that and
13 they found that?

14 HEARING OFFICER HALLORAN: I'm going to overrule
15 your objection, Mr. Haschemeyer. You can do what you
16 want on redirect if you so choose.

17 Mr. Hancock, if you can answer the question,
18 please do so.

19 THE WITNESS: Would you go over the question one
20 more time?

21 Q My understanding of your testimony,
22 Mr. Hancock, is that there was a determination made on
23 the basis of tests by Bodine that there was asbestos and
24 debris outside the building. What I'm asking you is,

1 with respect to Respondent's Exhibit 3, could you advise
2 the hearing officer where it is that that is
3 established?

4 A Based on -- to the best of my knowledge and
5 my inspection, mine were all inside the building that
6 was demolished. It was pipe insulation. The amount of
7 lineal footage there hit the threshold by measuring it.
8 That's where I came up with my threshold under the
9 NESHAP. The material that was inside the ravine was not
10 able to be tested due to the fact it was raining; it was
11 unsafe. The samples were taken after Bodine and, I
12 believe, Clark Engineering were on site. They removed
13 the building debris from the ravine, tested the soil,
14 and that came back positive for asbestos.

15 So as far as the pipe insulation inside the
16 debris and the ravine, no, I did not see any pipe in
17 there. I saw one pipe in the ravine with the white
18 insulation on it. That's --

19 Q I understand the answer that you just gave.
20 Just one more time, is there anything in Exhibit 3,
21 Respondent's Exhibit 3, that shows that there was
22 asbestos outside the building?

23 A Not in this one. That would have been
24 another sample.

1 Q Mr. Hancock, what assumptions did you make
2 concerning the condition of the building that you were
3 looking at prior to the time that Respondent commenced
4 work? In particular, did you think that it had a roof
5 on it?

6 A When I arrived at the site?

7 Q Prior to that time. What I'm trying to focus
8 you on are the assumptions that you made as to the
9 condition of the building prior to your arrival at the
10 site.

11 MR. HASCHEMEYER: Objection. Mr. Hearing Officer,
12 this is outside the scope the same as one of my
13 questions was outside the scope. I think this is
14 outside the scope. He is asking him about the condition
15 of the building before his inspection.

16 MR. KOHLHASE: This relates to what was there
17 especially in terms of pipe. And he has testified that
18 there was pipe there, and we are going to have more
19 testimony on what was really there. I think that the
20 point that we are going to get towards, Mr. Hearing
21 Officer, is there are certain assumptions that were made
22 about what was there before Respondent started the work.
23 I'm only interested in quantity issues. I'm not sure
24 how it relates to anything other than that.

1 HEARING OFFICER HALLORAN: Mr. Haschemeyer.

2 MR. HASCHEMEYER: I understand what Mr. Kohlhasse is
3 saying. I guess I'm having some difficulty
4 understanding the condition of the building, how that is
5 relevant to what existed at the site when Mr. Hancock
6 first inspected it in April of 2000.

7 HEARING OFFICER HALLORAN: You know, I think it may
8 be relevant, and I will allow the latitude. And if
9 Mr. Hancock can answer it, he may do so.

10 A I wouldn't know what the condition of the
11 building was until I got there.

12 Q In terms of the lineal feet of pipe that were
13 present on your inspection on May 17th of 2000, how did
14 you -- how much pipe did you determine was there and how
15 did you determine that?

16 A I determined it by walking the distance as an
17 estimate. I didn't have a tape measure or anything with
18 me at the time. So it was my lineal footage that I
19 walked around both sides of the building to determine
20 the square foot of the building. And then once we got
21 the drawings back, I compared what I had to what the
22 drawings were and they were pretty close as far as
23 actual footage.

24 Q If I'm understanding you, sir, correctly, you

1 are saying you walked the building dimensions. Did you
2 measure any pipe?

3 A The pipe was walked off as well as the ones
4 that were laying on the ground. I did not walk the
5 pipes that were out of the wall because they were
6 already cut out of the wall. I got pictures showing
7 where the three sections of pipe were coming out of the
8 wall. And there were two pieces of pipe laying on the
9 ground. I could measure those.

10 Q How much did they -- how long were they?

11 A I would have to look back in my notes.

12 Q Did you include it in your report?

13 A I believe I did, but I'm not positive. Let
14 me check and make sure.

15 Q That's Respondent's Exhibit 1.

16 (Pause in proceedings.)

17 A In my report I had that there was a large
18 amount of insulation material laying on the floor.

19 Q So the answer to my question is you did not
20 include anything in your report concerning the length of
21 pipe?

22 A No. Not in this report, no.

23 Q Was there pipe that you saw but you didn't
24 measure?

1 A No. The pipe on the ground I walked because
2 I want to find out square footage before I do my report.
3 In order to consider under NESHAP we look to make sure
4 that we have threshold amount. But the two sections of
5 pipe were on the floor. The rest of it was hanging from
6 the ceiling. There was some in the far corner. I'm
7 trying to remember exactly offhand. I have my photos
8 over there, but I don't know if that --

9 Q When you say the far corner, please take a
10 look at Complainant's Exhibit Number 4, and --

11 A Right. That would be the far -- it would be
12 this corner here. There were pipes that were hanging.
13 There was pipes hanging here. These were the pipes that
14 were laying on the ground (indicating).

15 Q What was the total length that you measured?

16 A I measured 160 lineal feet. I believe to the
17 best of my knowledge that's what it was.

18 Q This was an 80-foot square building?

19 A Uh-huh. There was two sections of pipe.

20 Q So you are saying that there were two
21 sections of pipe. 2 times 80 is 160?

22 A Right.

23 Q You didn't really measure that, that's your
24 judgment?

1 A That was a walk -- distance of 80 feet and
2 one side you will see where the pipe was cut off, and
3 you will see it on the other side of the building.
4 That's the length of the building was 80 feet.

5 Q Was the pipe in the building when you were
6 there?

7 A Not all of it. There was some of it in the
8 ravine.

9 Q Did you measure any pipe in the ravine?

10 A No. That was unstable. We weren't able to
11 walk down into that area.

12 Q So you don't know how much pipe was in the
13 ravine?

14 A It was stuck in there. And to take an
15 accurate measurement, I couldn't do it, in that ravine.

16 MR. KOHLHASE: Nothing further.

17 HEARING OFFICER HALLORAN: Thank you, Mr. Kohlhase.

18 Mr. Haschemeyer, redirect?

19 REDIRECT EXAMINATION

20 BY MR. HASCHEMEYER:

21 Q If I understand your testimony correctly,
22 Mr. Hancock, you testified that looking at the scale of
23 the building based on the drawing by Clark Engineering
24 would indicate that the distance of the pipe or the

1 dimensions of the building would be 80 square feet; is
2 that correct?

3 A Yes, I believe so.

4 Q So your calculation that there was 160 linear
5 feet was based on your estimate is also corroborated
6 then by the drawings, the engineering drawings?

7 A Yes.

8 MR. KOHLHASE: Objection. Argument.

9 HEARING OFFICER HALLORAN: I'm sorry. Gale, could
10 you please read back the question?

11 COURT REPORTER: Sure. "So your calculation that
12 there was 160 linear feet was based on your estimate is
13 also corroborated then by the drawings, the engineering
14 drawings?"

15 HEARING OFFICER HALLORAN: Objection overruled.

16 Q Go ahead and answer, Mr. Hancock.

17 A The question you just asked about?

18 Q Yes.

19 A Whether it's corroborated?

20 Q Right.

21 A Yes.

22 Q Mr. Hancock, as you recall, you testified
23 with regard to notification that the notification
24 indicated that there was, I believe, 1,000 cubic feet of

1 asbestos-containing material on the site?

2 A Okay.

3 Q Would it be your understanding that that
4 1,000 cubic feet is a description of the
5 asbestos-contaminated material which would include the
6 asbestos from the pipe and all the other construction
7 debris?

8 A Yes.

9 MR. KOHLHASE: Objection. Leading.

10 HEARING OFFICER HALLORAN: Mr. Haschemeyer?

11 MR. HASCHEMEYER: Your Honor --

12 HEARING OFFICER HALLORAN: Well, I have the answer.
13 Objection overruled.

14 Mr. Hancock?

15 A Yes.

16 MR. HASCHEMEYER: I have no further questions.

17 HEARING OFFICER HALLORAN: Thank you.

18 Mr. Kohlhase.

19 RECROSS-EXAMINATION

20 BY MR. KOHLHASE:

21 Q With respect to the last question that was
22 asked concerning Complainant's Exhibit 2, that's the
23 ten-day notice?

24 A Yes.

1 Q You didn't prepare that notice, did you?

2 A What?

3 Q You didn't prepare that notice, did you?

4 A No. I don't prepare those.

5 Q You don't know what the person who prepared
6 it was thinking, do you?

7 A As far as what he has got, he went by his
8 measurements and what he estimated. He sends out an
9 inspector and a designer. And this designer comes up
10 with the estimate.

11 Q You didn't prepare the document, and you
12 don't know in connection with that document what the
13 thinking was that went into the preparation of that
14 document, do you?

15 A No.

16 MR. KOHLHASE: Nothing further.

17 HEARING OFFICER HALLORAN: Any re-redirect,
18 Mr. Haschemeyer?

19 MR. HASCHEMEYER: One further question.

20 (Brief pause in proceedings.)

21 MR. HASCHEMEYER: I have no further questions.

22 HEARING OFFICER HALLORAN: You may step down, sir.
23 Thank you very much.

24 Before we go too much further I am going to

1 need Respondent's Number 1 and 3. I think they are over
2 here. Here is a copy of your 1 and 3 I think you let
3 him use. I'm sorry, this is yours, too, Mr. Kohlhase.

4 Mr. Kohlhase, again, we are in housekeeping
5 mode. Gale handed me Respondent's Exhibit Number 2,
6 this memorandum. That's already in as an offer of proof
7 as Complainant's Exhibit Number 1.

8 MR. KOHLHASE: It's not identical, Mr. Hearing
9 Officer, in that --

10 HEARING OFFICER HALLORAN: I realize it's time
11 stamped October 3rd, 2003.

12 MR. KOHLHASE: It was used only to refresh
13 Mr. Hancock's recollection which it did. Whether or not
14 Mr. Haschemeyer wants it to be part of the record I
15 don't know. I don't need it to be part of the record.

16 HEARING OFFICER HALLORAN: Okay. So you are not
17 offering it?

18 MR. KOHLHASE: I am not offering it.

19 HEARING OFFICER HALLORAN: Mr. Haschemeyer, would
20 you like this asbestos inspection memorandum written by
21 Mr. Hancock, dated October 3rd, 2003 -- Mr. Kohlhase
22 isn't offering it, but if you want it in, he is obliged
23 to offer it.

24 MR. HASCHEMEYER: Yeah. I would like it in.

1 HEARING OFFICER HALLORAN: You would like it in?

2 MR. KOHLHASE: I'm offering it only for the purpose
3 of showing when it was prepared, not for the purpose of
4 establishing the substance of what's included in the
5 text of the document.

6 HEARING OFFICER HALLORAN: No objection.
7 Respondent's Exhibit Number 2 is admitted into evidence.

8 (Whereupon, a recess was taken.)

9 HEARING OFFICER HALLORAN: We are back on the
10 record. We took a few minutes break. Mr. Haschemeyer,
11 the complainant, he has rested his case in chief. And
12 Mr. Kohlhase is on.

13 MR. KOHLHASE: Your Honor, the respondent calls
14 John G. Palmer, Sr.

15 (Witness sworn.)

16 MR. KOHLHASE: Mr. Hearing Officer, just to get the
17 housekeeping out of the way, I want to offer the
18 Respondent's Exhibit 4 which is identical to
19 Complainant's Exhibit 4. The reason that I'm offering
20 it is that I'm going to ask Mr. Palmer to mark on it
21 during his testimony.

22 HEARING OFFICER HALLORAN: Mr. Haschemeyer?

23 MR. HASCHEMEYER: No objection.

24 MR. KOHLHASE: I'm also offering as Respondent's

1 Exhibit 5 a series of photographs that were taken by
2 Mr. Hancock and attached as an exhibit to his report.
3 That's in evidence as Exhibit 1, as Respondent's Exhibit
4 1. That report does not have the attachments.

5 MR. HASCHEMEYER: No objection.

6 HEARING OFFICER HALLORAN: Okay. Respondent's
7 Exhibit Number 4 and Number 5 are admitted into
8 evidence.

9 JOHN G. PALMER, SR.,
10 called as a witness, after being first duly sworn, was
11 examined and testified upon his oath as follows:

12 DIRECT EXAMINATION

13 BY MR. KOHLHASE:

14 Q Please state your name.

15 A John G. Palmer, Senior.

16 Q What's your employment?

17 A I'm an iron worker by trade.

18 Q What company are you affiliated with?

19 A Blue Ridge Construction Corporation.

20 Q That's the respondent in this case?

21 A Yes, it is.

22 Q Where does Blue Ridge Construction

23 Corporation maintain an office?

24 A In the Bartonville, Illinois, Industrial

1 Park.

2 Q Where is that office in that industrial park
3 compared to the property and the building that we have
4 been talking about today?

5 A It is approximately one block east.

6 Q When did you -- or when did Blue Ridge
7 Construction establish an office in the Bartonville
8 Industrial Park?

9 A We purchased the property and built a
10 building in 1995.

11 Q Have you been continuously affiliated with
12 Blue Ridge since that time?

13 A Yes, I have.

14 Q When is the first time that you personally
15 had anything to do with this site that we are talking
16 about here today?

17 A As far as the purchase?

18 Q Yes.

19 A That would have been -- the purchase, we
20 purchased it in -- I believe it was April of 2000.

21 Q Then in May of 2000 Blue Ridge did some work
22 on the property?

23 A Yes.

24 Q Based on your -- well, let's take a look at

1 the first page of Respondent's Exhibit 5. What does
2 that show?

3 A This is our crane in the picture. And the
4 section of wall that was taken out in that one area
5 right there that you can see behind where the wall is
6 removed is considered the dining hall.

7 Q When you say the dining hall, please take a
8 look at Respondent's Exhibit 4. Can you outline in blue
9 what the dining hall is?

10 HEARING OFFICER HALLORAN: Is that Complainant's
11 Exhibit Number 4?

12 MR. KOHLHASE: Respondent's Exhibit Number 4. It's
13 the same except for now he is going to start marking on
14 it, Mr. Hearing Officer.

15 HEARING OFFICER HALLORAN: Thank you.

16 A The dining hall is the area where all the
17 asbestos pipe insulation is indicated. That square
18 right there (indicating).

19 Q Prior to the time that Blue Ridge commenced
20 its work with respect to the dining hall in May of 2000,
21 what, if any, pipes were running across the span of that
22 dining hall building?

23 A There were no pipes spanning the building at
24 all.

1 Q Where there any 80-foot lengths of pipe there
2 at all?

3 A No.

4 MR. HASCHEMEYER: Objection. Lack of foundation.

5 HEARING OFFICER HALLORAN: Mr. Kohlhase?

6 MR. KOHLHASE: I can certainly ask more foundation
7 questions. He has already established his familiarity
8 with the building. I would be happy to ask more.

9 HEARING OFFICER HALLORAN: In light of
10 Mr. Haschemeyer's objection.

11 Q Mr. Palmer, before April of 2000, had you
12 ever looked at the dining hall building?

13 A In curiosity we walked through it. All the
14 buildings were open to the general public to walk
15 through.

16 Q Perhaps it would be a little digression but
17 explain for the hearing officer what we are talking
18 about here. When you say "all the buildings were open,"
19 what's down there?

20 A What buildings at that time that were left by
21 the State of Illinois Mental Health Facility, none of
22 them were ever boarded up or closed. And over the
23 period of 25 or 30 years -- I'm not sure what it
24 was -- vandalism and theft had pretty much taken place

1 in all the buildings that were not occupied. And they
2 were just dilapidated, and anybody at any time could
3 walk through any of the buildings.

4 Q This building, for example, that we are
5 talking about, the dining hall.

6 A Yes.

7 Q Could you and did you walk into it?

8 A Yes.

9 Q In fact, you ultimately were involved in
10 personally purchasing the property, weren't you?

11 A Yes.

12 Q Did you look at the dining hall building
13 before you purchased it?

14 A Yes.

15 Q By the way, did it have a roof on it when you
16 were looking at it?

17 A No. Probably 40 percent of the roof had
18 collapsed in the dining hall.

19 Q So, again, with respect to the dining hall
20 property, there has been some testimony that you heard
21 while you were sitting here that it was basically 80
22 foot square. Were there any pipes spanning that square
23 in April of 2000?

24 A No, there was not.

1 Q In Exhibit 5 we have a number of photographs.
2 You already described the first one as showing your
3 crane. What I would like you to do is go to the next
4 page. It's identified as frame 12, and describe for the
5 hearing officer what that shows and then mark on
6 Respondent's Exhibit 4 where that is by identifying it
7 as number 12.

8 A Number 12 is in the dining hall. There is
9 two pieces of pipe there, and they are located -- this
10 is frame 12. Number 12.

11 Q Put a number 12.

12 A (Witness complies.)

13 Q Please go to frame number 13.

14 A Frame number 13 is also the same location.

15 Q So it's the same as number 12?

16 A Yes, it is.

17 Q Please go to the next frame. It's frame
18 number 14.

19 A Frame number 14 is also the same location.

20 Q Number 15?

21 A 15 is the same location.

22 Q Number 16?

23 A 16 is over on the furthest north end of -- on
24 the drawing, the bakery building.

1 Q Please tell the hearing officer what the
2 bakery building is.

3 A The bakery building is the kitchen area for
4 the state hospital. It had -- this whole area above the
5 dining hall was a kitchen with large ovens and hoods and
6 everything like that.

7 Q And on the Respondent's Exhibit Number 4 part
8 of the structure that's the bakery building actually has
9 lettering on it that says, "Former State Mental Hospital
10 Bakery Building," does it not?

11 A That might. I don't know.

12 Q Right here.

13 A Yes. Yes.

14 Q Now the dining hall -- let me back up. Were
15 you doing any work in the bakery building?

16 A No.

17 Q Please go to frame 17.

18 A Number 17.

19 Q What does that show and where is it?

20 A That shows -- what that was, it was an apron
21 wall around the stainless steel hoods that were in the
22 bakery.

23 Q Can you mark number 17, where that is
24 located?

1 A (Witness complies.)

2 Q Please take a look at frame 18. What is that

3 and where is it?

4 A 18 are some water valves, and they are

5 located on the east wall in the bakery building.

6 Approximately right there (marking).

7 Q Please go to frame 19. What is that?

8 A 19 shows a penetration in the wall and that

9 is right in the same location as 12, 13, 14 and 15.

10 Q Please go to --

11 A 20.

12 Q Frame 20. And tell the hearing officer what

13 that picture shows.

14 A 20 is the same pipe in the location as 11,

15 12, 13, 14, 15 and 19.

16 Q Mark that.

17 A (Witness complies.)

18 Q Then frame 21, what is that?

19 A Frame 21 shows the floor of the dining hall.

20 Q Please go to frame 22. What is that?

21 A 22, that is the same location as 12, 13, 14,

22 15, 20 and 19.

23 Q Mark that.

24 A (Witness complies.)

1 Q Please go to the next picture. What is that?

2 A That shows electrical wires and that is
3 located in the dining hall on the -- that would be the
4 southwest corner.

5 Q Mark that.

6 A (Witness complies.)

7 Q Then frame number 24, what is that?

8 A 24 shows some pipe hanging on the wall, and
9 that is located in the dining hall in the center of the
10 west wall.

11 Q Mark that.

12 A (Witness complies.)

13 Q Then number 25, what is that?

14 A 25 shows a section of pipe, and that's
15 located in the dining hall on the northwest corner.

16 Q Mark that.

17 A (Witness complies.)

18 Q Now have you identified all the pictures
19 except for frame number 11 by marking them on
20 Respondent's Exhibit 4?

21 A Yes.

22 Q In your observation of the dining hall, did
23 you observe 160 lineal feet of pipe at any time period?

24 A No. No.

1 MR. KOHLHASE: Nothing further.

2 HEARING OFFICER HALLORAN: Thank you, Mr. Kohlase.

3 Any cross, Mr. Haschemeyer, please?

4 MR. HASCHEMEYER: Yes.

5 CROSS-EXAMINATION

6 BY MR. HASCHEMEYER:

7 Q Mr. Palmer, you indicated that you inspected
8 the dining hall portion of that Department of Mental
9 Health Facility prior to purchase; is that correct?

10 A I walked through it, yes.

11 Q You walked through it.

12 And you indicated a portion of the roof had
13 collapsed?

14 A Yes.

15 Q Do you recall whether or not there were any
16 pipes laying under that portion of roof that had
17 collapsed?

18 A No, there was not.

19 Q Did you lift that portion of the roof to see
20 if there were pipes underneath it?

21 A When I walked through it?

22 Q Yes.

23 A No. No.

24 Q So this roof that collapsed, it collapsed to

1 the floor; is that correct?

2 A Yes, it is.

3 Q So you were not able to look underneath that
4 roof to see if there were any pipes underneath that
5 roof?

6 A No.

7 Q Now you reviewed those photographs that are
8 part of -- marked as Respondent's Exhibit 5. You didn't
9 take those photographs, did you?

10 A No.

11 Q You weren't present when those photographs
12 were taken, were you?

13 A No.

14 Q In fact, you weren't present at the site when
15 Mr. Hancock arrived on the 17th, were you?

16 A No.

17 Q As a practical matter, you really didn't
18 participate in the destruction of the building? That
19 was done by your men; is that correct?

20 A Yes.

21 Q So you were not inside the building and
22 observing the locations as indicated on these
23 photographs at the time the photographs were taken?

24 A No.

1 Q So your testimony relative to what those
2 photographs show is, as best you can recollect, based on
3 some earlier walk-through kind of look at the place?

4 A No. Right now those pipes still exist. They
5 are still there on a lot of the pictures.

6 Q Now I believe if my memory is correct there
7 has been some testimony, some inspection memos that the
8 pipes had been cut when the demolition commenced. You
9 were not present when those pipes were cut, were you?

10 A No.

11 Q So you would have no personal knowledge of
12 what pipes were cut when or any of that?

13 A No. I know a lot of the pipes were cut many
14 years prior to us even purchasing the building. Like I
15 said, the building is pretty much all cannibalized for
16 scrap value.

17 MR. HASCHEMEYER: I have no further questions.

18 HEARING OFFICER HALLORAN: Thank you,

19 Mr. Haschemeyer.

20 Mr. Kohlhase, any redirect?

21 REDIRECT EXAMINATION

22 BY MR. KOHLHASE:

23 Q When is the last time you looked at this
24 dining hall building?

1 A Yesterday.

2 Q Are you, do you believe, familiar with what's
3 depicted in the photographs that you then marked on
4 Respondent's Exhibit 4?

5 A Yes.

6 Q With respect to pipe being on the floor, did
7 you ever find any significant lengths of pipe in that
8 building under roof debris?

9 A No. There was not.

10 MR. KOHLHASE: Nothing further.

11 HEARING OFFICER HALLORAN: Thank you.

12 Mr. Haschemeyer, any recross?

13 MR. HASCHEMEYER: No, Your Honor.

14 HEARING OFFICER HALLORAN: You may step down,
15 Mr. Palmer. Thank you.

16 MR. KOHLHASE: We have nothing further.

17 HEARING OFFICER HALLORAN: Thank you.

18 Any rebuttal, Mr. Haschemeyer?

19 MR. HASCHEMEYER: Mr. Hearing Officer, may I take a
20 couple of minutes?

21 HEARING OFFICER HALLORAN: Yes.

22 (Whereupon, a recess was taken.)

23 HEARING OFFICER HALLORAN: We are back on the
24 record. Mr. Hancock is going to retake the stand, and I

1 remind you you are still under oath. Thank you.

2 DENNIS HANCOCK,

3 called as a witness, having been previously duly sworn,
4 was examined and testified upon his oath as follows:

5 DIRECT EXAMINATION

6 BY MR. HASCHEMEYER:

7 Q Mr. Hancock, I hand you Respondent's Exhibit
8 Number 4, and I call your attention to number 16. You
9 marked on it. And then I call your attention to what is
10 marked as frame 16 as part of Respondent's Exhibit
11 Number 5, the photograph marked. Can you tell me where
12 frame 16 or the photograph depicted by frame 16 was
13 taken?

14 A That was taken over here in this section.
15 Inside this (indicating).

16 Q When you say "in this section," could you
17 mark -- and just mark an X where that photograph was
18 taken.

19 A (Witness complies.)

20 HEARING OFFICER HALLORAN: Frame 16?

21 A Frame 16.

22 Q So it would be your testimony then that frame
23 16 was of a pipe extending through the wall in the old
24 dining hall area. Was it extending into the area where

1 the dining hall was or out the other side?

2 A It was extending inside the area that was
3 demolished.

4 Q Now calling your attention to frame 17.

5 A That was taken right through -- there is a
6 doorway here. It was taken in through here
7 (indicating).

8 Q Let's put an X with a circle around it. So
9 that's pretty close to where Mr. Palmer testified. And
10 as we look at this photograph, there appears to be some
11 debris hanging from the roof; is that correct?

12 A Yes.

13 Q To the best of your knowledge is that the
14 kind of debris that was hanging also from the roof, was
15 part of the roof in the old dining room area?

16 A No. No, that was separate.

17 Q That was separate?

18 A Yeah. There is a photo that shows red tile
19 and everything and had the insulation on it. That's
20 what came from the exhibit.

21 Q So this photo, there is a doorway there that
22 looks outside. Can you tell me what that is looking at,
23 what direction?

24 A It's looking out the rear of the back of the

1 building.

2 Q Into what was the old --

3 A There is -- well, there is part of a ravine
4 over here, and the other part is over here (indicating).

5 Q When you say the other part was over here,
6 you are motioning to the right of the photograph?

7 A Right.

8 Q What was over there?

9 A That's the debris, the ravine that the debris
10 was in.

11 Q Calling your attention to frame 18.

12 A That would have been over in this area.
13 Well, actually, it's coming in through right inside the
14 doorway here (indicating).

15 Q So where Mr. Palmer marked 18, that's
16 correct, where that picture was taken?

17 A Yes.

18 Q To the best of your knowledge, if you know,
19 are these pictures of pipes that then extended through
20 the wall into the old dining hall area?

21 A This pipe and I believe there was another
22 section next to it that went through. One of the
23 pictures shows where they came out.

24 Q So one of the pipes -- then this photograph

1 it would be the pipe towards the bottom of photograph
2 then extended through the wall into the old dining room
3 area?

4 A Right. Yeah. To the best of my knowledge it
5 was.

6 Q To the best of your recollection.

7 MR. HASCHEMEYER: I have no further questions.

8 HEARING OFFICER HALLORAN: Thank you,
9 Mr. Haschemeyer.

10 Mr. Kohlhase?

11 MR. KOHLHASE: No questions. I would, subject to
12 whatever else, I have one question to ask Mr. Palmer if
13 I could at the appropriate time.

14 MR. HASCHEMEYER: I have no further questions.

15 HEARING OFFICER HALLORAN: Okay. You may step
16 down, Mr. Hancock.

17 Are you finished with your --

18 MR. HASCHEMEYER: I have completed my case.

19 HEARING OFFICER HALLORAN: Do you have any
20 objection to Mr. Palmer retaking the stand?

21 MR. HASCHEMEYER: Your Honor, with all due respect,
22 I wasn't aware that the Respondent had an opportunity to
23 call rebuttal to redirect. But in the interest of
24 fairness, I have no objection.

1 HEARING OFFICER HALLORAN: I agree with your
2 observations, Mr. Haschemeyer, but in the interest that
3 the Board can have all the information in front of it, I
4 will allow Mr. Palmer to be called again as a witness.

5 HEARING OFFICER HALLORAN: Mr. Palmer, you are
6 reminded that you are still under oath.

7 THE WITNESS: Yes.

8 JOHN G. PALMER, SR.,
9 called as a witness, having been previously duly sworn,
10 was examined and testified upon his oath as follows:

11 DIRECT EXAMINATION

12 BY MR. KOHLHASE:

13 Q With respect to what's depicted in frame
14 number 16 of Respondent's Exhibit 5, please tell the
15 hearing officer when was the last time you looked at
16 that particular scene to determine what it showed and
17 where it was?

18 A I was in this room yesterday.

19 MR. HASCHEMEYER: I'm going to object. The photo
20 was taken at a particular point in time which is like
21 three, four years earlier than what he is asking this
22 witness to testify. I don't see the relevance of the
23 question.

24 HEARING OFFICER HALLORAN: Mr. Kohlhase?

1 MR. KOHLHASE: There is apparently some effort to
2 establish through Mr. Hancock's testimony who was last
3 at the site in June of 2001 to establish that Mr. Palmer
4 was in error in his testimony with respect to
5 where -- what is depicted in frame number 16 exists on
6 Respondent's Exhibit 4. My only point is that as a
7 matter of weight and credibility Mr. Palmer was there
8 yesterday looking at it. With respect to photographs
9 anybody familiar with the scene can tell whether or not
10 the photograph fairly and accurately depicts what's
11 there. He knows what's in the photograph. He knows
12 what's in the building. He looked at it yesterday.
13 That's the point. I think it's relevant.

14 HEARING OFFICER HALLORAN: I'm going to overrule
15 Mr. Haschemeyer's objection. If you can answer, do so.
16 Please wrap it up, Mr. Kohlhase.

17 MR. KOHLHASE: I'm done.

18 HEARING OFFICER HALLORAN: Mr. Palmer, could you
19 answer Mr. Kohlhase's question?

20 A This particular piece of pipe exists today in
21 this room with the same attachments on the wall and the
22 same condition. You see it right here in this picture.
23 It's still there.

24 HEARING OFFICER HALLORAN: And that is frame 16?

1 THE WITNESS: As I indicated on the drawing is
2 frame 16.

3 HEARING OFFICER HALLORAN: Thank you. Any cross, I
4 guess?

5 MR. HASCHEMEYER: Yeah. Just a couple of things.

6 CROSS-EXAMINATION

7 BY MR. HASCHEMEYER:

8 Q Mr. Palmer, to the best of your
9 knowledge -- you were present here when Mr. Hancock
10 testified. Do you know -- and he has indicated on
11 Respondent's Exhibit 4 with this X here where he
12 believes that picture was taken. To the best of your
13 knowledge is that wall still standing right there today?

14 A Part of it, yes.

15 Q What part of it is still standing if you can
16 tell me?

17 A The top part. There is just part of the top
18 wall. There was a couple of windows right there.

19 Q And the rest of the wall is gone?

20 A Yes.

21 Q So assuming -- if we assume as a hypothetical
22 that Mr. Hancock's testimony is correct, the picture
23 that he has taken of this wall where the pipe comes
24 through would be gone, is that correct, if it's where he

1 says it is?

2 A That would be correct, yes.

3 Q So if that's the case, it would be impossible
4 for you to tell today what was there because it's no
5 longer there?

6 A I can show you that exact picture right now.

7 MR. HASCHEMEYER: I have no further questions, Your
8 Honor.

9 HEARING OFFICER HALLORAN: Thank you. Are we
10 finished with Mr. Palmer?

11 MR. KOHLHASE: We are finished.

12 HEARING OFFICER HALLORAN: Thank you, Mr. Palmer.

13 THE WITNESS: You are welcome.

14 HEARING OFFICER HALLORAN: Before I forget, I'm
15 supposed to make a credibility determination on the
16 witnesses. And based on my legal experience and
17 judgment, I find that there is no credibility issues
18 with the witnesses that were testifying here today, all
19 two of them.

20 Real quickly, and we'll go off the record, we
21 did prior to the hearing agree on a posthearing briefing
22 schedule. We surmised that the transcript will be ready
23 February 13th. Complainant's brief is due on or before
24 March 8th. Respondent's brief is due on or before March

1 29th. Complainant's reply, if any, is due on or before
2 April 12th. I will also -- as I'm required to
3 do -- set public comment. Public comment is due on
4 February 27th, 2004. With that said, we will go off the
5 record for a minute and we will wrap this thing up.
6 Thank you.

7 (Discussion off the record.)

8 HEARING OFFICER HALLORAN: We have discussed
9 briefly. Attorneys for the parties have decided to go
10 ahead and save their closing argument for the
11 posthearing briefs. And I think that's it although I do
12 want to thank the attorneys for their professionalism
13 and their civility throughout the proceeding and on the
14 telephonic status conferences. With that said, have a
15 safe trip home and thank you very much.

16

17

18 (Whereupon, the proceedings concluded
19 at 11:05 a.m.)

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23

24

1 STATE OF ILLINOIS)
) SS
2 COUNTY OF PEORIA)

3

4

CERTIFICATE OF REPORTER

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6

7

I, GALE G. EVERHART, CSR-RPR, Notary Public

8

in and for the County of Peoria, State of Illinois, do

9

hereby certify that the foregoing transcript, consisting

10

of pages 1 through 80, both inclusive, constitutes a

11

true and accurate transcript of the original

12

stenographic notes recorded by me of the foregoing

13

proceedings had before Hearing Officer Bradley P.

14

Halloran, in Peoria, Illinois, on the 3rd of February,

15

A.D. 2004.

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17

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Dated this 9th day of February, A.D. 2004.

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22

GALE G. EVERHART, CSR-RPR
Illinois License No. 084-004217

23

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