

ILLINOIS POLLUTION CONTROL BOARD
OCTOBER 27, 2020

JOHNS MANVILLE,)
)
 Complainant,)
) No. PCB 14-3
 vs) (Citizens
) Enforcement -
 ILLINOIS DEPARTMENT OF) Land)
 TRANSPORTATION,)
)
 Respondent.)

REPORT OF THE PROCEEDINGS held in the
above entitled cause before Hearing Officer Bradley
Halloran, called by the Illinois Pollution Control
Board, before Jennifer L. Wiesch, CSR, for the State
of Illinois, appearing remotely via WebEx, 100 West
Randolph Street, Chicago, Illinois, on the 27th day
of October 2020, commencing at the hour of 9:06 a.m.

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1 HEARING OFFICER HALLORAN: Good morning,
2 everybody. My name is Bradley Halloran. I'm the
3 Hearing Officer with the Illinois Pollution Control
4 Board assigned to this matter. It's Johns Manville,
5 Complainant, versus IDOT, Respondent, PCB 14-3.
6 This is a continuation of a hearing from yesterday,
7 October 26, 2020. Today is October 27, 2020,
8 approximately 9:10 a.m.

9 I believe Ms. Brice from JM is directing
10 her expert, Mr. Dorgan. You may proceed, Ms. Brice.

11 MS. BRICE: Yes.

12 HEARING OFFICER HALLORAN: Okay. Thank you.

13 DOUGLAS G. DORGAN JR.,
14 called as a witness herein, having been previously
15 duly sworn and having testified, was examined and
16 testified further as follows:

17 DIRECT EXAMINATION (Resumed)

18 BY MS. BRICE:

19 Q. Mr. Dorgan, you understand that you're
20 still under oath; correct?

21 A. Yes, I do.

22 Q. We stopped yesterday, and we were talking
23 about one of your task buckets dewatering; correct?

24 A. Correct.

1 Q. And we went through the whole Site 3
2 dewatering task buckets, and now we're going to go
3 through the Site 6 dewatering task buckets. And if
4 you turn to Exhibit 204-27, you explained that
5 dewatering was needed both on the north side and the
6 south side of Site 6 or the creation of clean
7 corridors. And you cited Mr. Peterson who told you
8 that the level of effort was relatively the same for
9 both the work on the north and the south side of
10 Site 6, is that correct?

11 A. That's correct.

12 Q. Okay. And so did you include the cost
13 associated with the north side of Site 6 in your
14 IDOT, Illinois Department of Transportation,
15 dewatering attributions?

16 A. No, I did not.

17 Q. And why is that?

18 A. Because the work on the north side of
19 Site 6 would have been outside of an IDOT, and we'd
20 be talking --

21 Q. Okay. Let's turn to the south side of
22 Site 6 now. Was dewatering needed east of 9S?

23 A. Not that I'm aware of.

24 Q. And how do you know this?

1 A. Based upon information that was provided
2 by Mr. Peterson.

3 **Q. And in that, Site 6 dewatering was**
4 **\$159,250; is that correct?**

5 A. That's correct.

6 **Q. Okay. So how did you arrive at this IDOT**
7 **attribution for Site 6 dewatering of \$79,625?**

8 A. Simply took 50 percent of the total cost
9 for the dewatering on Site 6 and attributed that to
10 IDOT.

11 HEARING OFFICER HALLORAN: Could you please
12 speak up, Mr. Dorgan. Thank you.

13 MS. O'LAUGHLIN: Objection, hearsay. He's
14 relying on information, evidence from Mr. Peterson,
15 to come up with this calculation, which is beyond
16 the cost figures that was in his report. He's
17 relying upon information, testimony and evidence
18 from Mr. Peterson about how far offsite six
19 dewatering went, and that's hearsay, so we object as
20 hearsay.

21 HEARING OFFICER HALLORAN: Well, we could
22 bring Mr. Peterson back. Ms. Brice?

23 MS. BRICE: Number one, this is in his
24 reports, and he says that he was talking to

1 Mr. Peterson. Mr. Peterson is someone he can rely
2 upon because that's the type of person that is -- is
3 information from the guy who was in charge of the
4 construction project, type of information you would
5 reasonably rely upon as an expert.

6 THE WITNESS: Absolutely.

7 HEARING OFFICER HALLORAN: Yeah, you know,
8 and pursuant to the Board's procedural rules, 106
9 something, about a reasonable and prudent person to
10 rely on. Overruled. You may continue.

11 BY MS. BRICE:

12 Q. Okay. I'm sorry, I got lost.

13 You were -- how did you arrive at this
14 \$79,625 attribution?

15 A. It's half of the total cost of \$159,250.

16 Q. Okay. And the following paragraph --

17 MS. O'LAUGHLIN: I'm also going to object
18 this goes beyond his expert report.

19 MS. BRICE: It's right there in his expert
20 report on 204 --

21 MS. O'LAUGHLIN: How --

22 MS. BRICE: -- 27.

23 MS. O'LAUGHLIN: How he determined the
24 allocation is beyond the scope of the report.

1 HEARING OFFICER HALLORAN: I'm sorry, could
2 you please restate your objection. Please stand up.

3 MS. O'LAUGHLIN: Sure. Objection. His
4 testimony goes beyond his expert report. He states
5 the allocation, but he doesn't state the basis for
6 it in his expert report. So I'm objecting on the
7 basis of his testimony that provides the basis for
8 his allocation is beyond his expert report and
9 should not be allowed in this hearing.

10 HEARING OFFICER HALLORAN: Ms. Brice?

11 MS. BRICE: You can read it. It's straight
12 out of the expert report. I'll read it if you want
13 me to.

14 HEARING OFFICER HALLORAN: Please do.

15 MS. BRICE: The dewatering --

16 HEARING OFFICER HALLORAN: Thank you.

17 MS. BRICE: Excuse me?

18 HEARING OFFICER HALLORAN: Go ahead, please
19 do.

20 MS. BRICE: The dewatering work associated
21 with the south side of six, concentrated between 1S
22 to approximately 9S, the excavation was deeper
23 within this area resulting in the need to dewater.
24 East of 9S dewatering was not needed. Because of

1 Site 6, IDOT area widely caused this work. I
2 attributed these costs to IDOT. I, therefore,
3 attributed to IDOT 50 percent, a gain of total costs
4 for the Campanella dewatering services associated
5 with the south side of six. And up above that, he
6 talks about, based upon the conversation with
7 Mr. Peterson, I determine that the level of
8 activities would be relatively the same for the work
9 on the north side of six as for the work on the
10 south side of Site 6.

11 MS. O'LAUGHLIN: I withdraw my objection.

12 HEARING OFFICER HALLORAN: Thank you. You
13 may proceed.

14 BY MS. BRICE:

15 Q. Okay. If we can go to the second
16 paragraph there under Site 6, you say DMP. Who is
17 DMP?

18 A. That would be Mr. Peterson's company.

19 Q. Okay. He incurred \$1,337 associated with
20 discharge fees from the North Shore Water
21 Reclamation District. Did you include those in your
22 attributions to IDOT?

23 A. I did not since they were attributable to
24 costs for the north side work on Site 6.

1 **Q. Okay. I'm going to talk about three and**
2 **six again. Yesterday, we went through calculations**
3 **that you did for Site 3 and 6 for other task**
4 **buckets. I want to take a step back for a second.**
5 **And tell me, why have you calculated the Site 3 --**
6 **the combined Site 3 plus 6 task buckets in this way?**

7 **A. In the absence of better information**
8 **about where specifically to assign those combined**
9 **Site 3 and Site 6 tasks, I thought it was fair and**
10 **reasonable to look at the allocations for Site 3 and**
11 **Site 6 individually, and I simply added the totals**
12 **for Site 3 and Site 6, added the total attribution**
13 **to IDOT for Site 3 and Site 6 and then divided one**
14 **by the other to come up with a percentage that I**
15 **then applied to the combined Site 3 and Site 6**
16 **costs.**

17 **Q. And the percentage is different for each**
18 **of these task buckets, and why is that?**

19 **A. It can be different based upon the**
20 **information that was provided relative to the**
21 **individual work efforts. In many instances they're**
22 **the same, but in some instances they vary.**

23 **Q. Right. But the allocations are**
24 **different, correct, so that changes your numbers**

1 that they go into the calculation to get the
2 percentage; is that correct?

3 A. That's correct.

4 Q. And Mr. -- again, Mr. Gobelman did this
5 exact same type of method of calculation, is it not
6 true?

7 A. That is correct.

8 Q. Okay. So Site 3 plus 6 costs, the
9 combined costs of 204-27, what kind of costs were
10 these?

11 A. These were costs that were incurred both
12 by Campanella under their T&M services and also
13 certain costs that were incurred by DMP,
14 Mr. Peterson's company.

15 Q. Okay. And I'm just -- I'm not going to
16 make you walk through everything at this time. But
17 on Exhibit 204-109, which we looked at exhibits like
18 this yesterday, if you could please turn to that.
19 You have here again at the bottom of the exhibit
20 under dewatering, you have the Site 3 plus 6
21 dewatering calculation essentially. Can you just
22 walk us through that?

23 A. Yes. So the total dewatering calculation
24 for Site 3 and 6 was \$419,671. The attribution for

1 IDOT for both Site 3 and Site 6 totaled \$297,428.
2 And when you divide one by the other, that's
3 70.9 percent. I applied that to the Site 3 and 6
4 combined costs which are reflected in the column
5 above. And when you do that, you ended up with an
6 IDOT attribution for Site 3 and 6 combined costs of
7 \$27,775. And, therefore, the dewatering IDOT total,
8 which appears at the very bottom of that
9 calculation, comes out to \$325,203, which is simply
10 the sum of IDOT's attribution for Site 3, Site 6 and
11 combined Site 3 and Site 6.

12 **Q. Thank you. I'm now going to turn to the**
13 **filling and capping attribution. If you can turn to**
14 **204-28, please. You discuss filling and capping**
15 **work. What filling or capping work was done on**
16 **Site 3?**

17 A. There was a cap that was installed across
18 Site 3.

19 **Q. Okay. And what did it cover?**

20 A. It covered all of Site 3.

21 **Q. And you say your method here was to**
22 **consider what drove the need for cap. What do you**
23 **mean by that?**

24 A. Again, I looked at the conditions on

1 Site 3. I looked at what elements of the work that
2 had to be done, which included the City of Waukegan
3 waterline, the North Shore Gas clean corridor, the
4 clean corridor for both, the removal and relocation
5 of the AT&T lines and then the northeast excavation.
6 And those were four of the major work elements on
7 Site 3. The remaining -- the fifth one was the
8 Nicor Gas line. Earlier I had attributed four of
9 those five to IDOT. And I applied that same ratio
10 to the filling and capping costs for Site 3.

11 **Q. Okay. So you came up with 80 percent of**
12 **those costs to IDOT, is that correct?**

13 A. That's correct.

14 **Q. And that came to a total of \$341,003, is**
15 **that right?**

16 A. That's correct.

17 **Q. Okay. Site 6 filling and capping, what**
18 **work was done on Site 6 with respect to filling or**
19 **capping?**

20 A. Basically it was the placement of the
21 vegetative layer that was needed, no vegetative
22 growth on the -- both the north and south side of
23 Site 6.

24 HEARING OFFICER HALLORAN: Ms. Brice, what

1 page are we on? I'm sorry.

2 MS. BRICE: We are on 204-29.

3 HEARING OFFICER HALLORAN: Thank you.

4 BY MS. BRICE:

5 Q. The total costs here were \$310,353, is
6 that right?

7 A. I'm showing \$341,003.

8 Q. Oh, I'm sorry, I probably have it wrong.

9 Can you just explain to me how you came
10 up with this Site 6 attribution for filling on
11 Site 6?

12 A. Basically I used a similar process that I
13 used for the utility and ACM excavation work that
14 was done. I considered what utilities were present
15 on both the north and south side of Site 6, and
16 there were a total of eight, four of which were on
17 the south side of Site 6, so I simply took
18 50 percent of the total cost and made that
19 attribution to IDOT.

20 Q. Okay. And, again, this is the same type
21 of method you used with the ACM utility excavation,
22 is that what you said?

23 A. Yes, that's correct.

24 Q. Okay. And the total was \$155,177?

1 A. That's correct.

2 Q. Okay. And that is similarly again on the
3 board over here at 204-36?

4 A. Yes, it is.

5 Q. Okay. I'm now going to -- if you can
6 turn -- stay on this, and we're going to talk about
7 this ramp issue for a moment. You discussed the
8 work -- what work was done with respect to -- well,
9 first of all, let's go back to --

10 MS. BRICE: Drew, if you wouldn't mind
11 pulling up 204-38.

12 BY MS. BRICE:

13 Q. Mr. Dorgan, can you identify for us what
14 your understanding is of where the ramp is located?

15 A. Yeah. It's basically what's shaded in
16 green in the upper left corner of Site 3.

17 Q. And how far does it go to the east?

18 A. Roughly to sample location 4S.

19 Q. And you said that AECOM did sampling work
20 here?

21 A. That's correct.

22 Q. Okay. Why did AECOM do sampling work
23 here?

24 A. My understanding was that they recognized

1 a certain degree of impracticality to try and place
2 the cap on an embankment because of the sloped
3 feature of the site, and so the compromise that was
4 reached with U.S. EPA was that if AECOM could do
5 additional sampling to demonstrate that there wasn't
6 additional asbestos, that they could then not put
7 the cap in.

8 Q. And I believe Dr. Ebihara testified that
9 they did find asbestos during that sampling, is that
10 your recollection?

11 A. That's my understanding.

12 Q. And was this testing done before the
13 first hearing in this case or after?

14 A. I believe it was after.

15 Q. And then how did you reach your
16 attribution for the ramp with respect to IDOT?

17 A. Basically since all of the ramp was
18 within parcel 0393, I attributed all of the cost,
19 100 percent of the cost, to JM -- or excuse me, to
20 IDOT.

21 Q. And that's again over here on 204-36,
22 correct?

23 A. Yes, that's correct.

24 Q. Okay. Now I'm going to move into what we

1 call -- we had a demonstrative here that we agreed
2 to with IDOT. This is again slightly complicated.
3 This is -- this deals with the task buckets for both
4 oversight and support services. Okay. Can you
5 explain to me -- there's this grouping of task
6 buckets, and then there's this grouping of task
7 buckets that we just discussed. Can you explain the
8 difference between these two different types --
9 categories of task buckets?

10 A. I think in the case of the task buckets,
11 Mr. Peterson and Dr. Ebihara were able to look at
12 the incurred expenses and attribute them to one of
13 those major work elements. In the case of the
14 general site, site preparation, there were a number
15 of tasks that were implemented that were less easily
16 identifiable to a specific task bucket and ended up
17 being more generally performed for all of the
18 activities that were taking place on both Site 3 and
19 Site 6.

20 Q. Okay. So is it fair to say that the
21 first grouping that we had just gone through is more
22 sort of construction related to one specific task,
23 such as Nicor Gas, North Shore Gas; is that right?

24 A. Yes, that's correct.

1 **Q. And these tend to relate more to overall**
2 **site issues?**

3 A. That's correct.

4 **Q. Can you explain for me what this**
5 **demonstrative is showing? And I'll bring it closer**
6 **to you for the moment.**

7 A. I think what we're looking at here is
8 just a -- kind of a matrix that shows which elements
9 of the work had activities on Site 3 or Site 6
10 across on the top, so this is just a summary of what
11 we largely already covered. And then you'll see
12 below are the attributions that Mr. Gobelman made
13 based upon his evaluation of the IDOT areas of
14 liability. And what's kind of complicated about
15 this is that each of the construction costs and the
16 total costs versus the total IDOT contribution ends
17 up having an influence on how each of these general
18 site prep allocations were made for each of the
19 various work elements.

20 **Q. Okay. Let me just dig into that a little**
21 **bit for one second, and then we'll go through each**
22 **of these. So let's just take, for example, Site 3**
23 **prep work. We have these Xs down below Site 3 prep**
24 **work that, for example, there's an X under Nicor,**

1 Waukegan waterline, AT&T, North Shore Gas, northeast
2 excavation, dewatering ramp and filling and capping.

3 Why are there Xs there?

4 A. Because there are work done on each one
5 of those task buckets for Site 3.

6 Q. Right. But were these -- were your
7 calculations dependent upon what was found in each
8 one of these task buckets?

9 A. Yes, they were.

10 Q. Okay. And Mr. Gobelman did this
11 methodology the same way, correct?

12 A. That's correct.

13 Q. Okay. So if you or Mr. Gobelman is wrong
14 about a task bucket attribution, it will impact, for
15 example, let's say -- let's take North Shore Gas, it
16 would impact the number for Site 3 prep, Site 6
17 prep, Site 3 and 6 prep -- actually, all of these,
18 because that's important for all of these?

19 A. That's correct.

20 Q. Is that what that's showing?

21 A. That would then translate into the
22 allocation for the Site 3 prep work.

23 Q. Okay. So you explain here on 204-29, the
24 very bottom, that the activities encompass a range

1 **of services that relate to general limitation to**
2 **work on Site 3 and 6. What are some examples?**

3 A. General project management both by
4 Dr. Ebihara and by Mr. Peterson, and then support to
5 and interface with the regulatory authorities
6 throughout the project. And then there was
7 oversight services that were performed during the
8 construction work itself. And then also included
9 are certain future operations and maintenance
10 expenses that are anticipated. Those have been
11 projected, so those are costs to still be incurred.
12 And then, of course, there was a number of others
13 referenced here, including surveying, storm water
14 control installation and maintenance of other site
15 general activities.

16 **Q. Okay. There are some examples -- sorry,**
17 **turn to 204-31, this table here that breaks down**
18 **some of this work, can you generally explain this**
19 **table?**

20 A. Yeah. This is similar to what we've seen
21 previously, which is just a breakdown and a grouping
22 of the expenses by who was incurring them; with the
23 professional engineering largely being the AECOM and
24 predecessor time and materials, professional

1 completion costs are those that are still
2 anticipated. O&M is the projection of the future
3 operation and maintenance of the cap on Site 3. And
4 then you have Campanella Construction base bid
5 items, and then where they perform T&M services.
6 Construction management support that was provided by
7 EMP. And then there's a few construction related
8 miscellaneous items that are included at the bottom.

9 Q. Okay. Other than the very last row, IDOT
10 attribution, these are all -- these all are numbers
11 that are for what was incurred by JM, right, they're
12 not attribution there?

13 A. That's correct.

14 Q. And does Mr. Gobelman agree with this
15 table with the exception of obviously the IDOT
16 attribution at the bottom?

17 A. Yes, that's my understanding.

18 Q. Okay. So can you explain to me here, the
19 first paragraph on 204-31, you come up with
20 this percentage of 74.2 to use for your site
21 preparation, professional service, engineering
22 services, attribution for the general site prep --
23 I'm just going to say it for short -- can you
24 explain how you did this?

1 A. So what I did in the absence of --
2 basically what I did is I took a look at this -- all
3 of these activities were done in support of all of
4 the other work that had already been done at --

5 **Q. If you don't mind for one --**

6 A. Sure.

7 **Q. -- second, I'm going to hand you**
8 **Exhibit 204-110 because it contains some of the**
9 **calculations on here, so that you can use that to**
10 **the extent it is helpful.**

11 A. So what I did is I took the construction
12 costs, all of the costs that we've already discussed
13 that were related specifically to construction work
14 that was unperformed at the site, and I added up all
15 of the Site 3 construction costs, added up the --

16 **Q. For these task buckets?**

17 A. For those task buckets.

18 **Q. Under Site 3 prep?**

19 A. That's correct.

20 **Q. So not all of the costs, just the costs**
21 **for these task buckets?**

22 A. That related to Site 3.

23 **Q. Okay.**

24 A. If it did not relate to Site 3, it wasn't

1 added. And so that calculation is shown at the
2 bottom of this column under general site site
3 preparation, so I carried each of the individual
4 task buckets over and laid them out, and then I
5 calculated how much of that Site 3 construction work
6 I had attributed to IDOT. So an example here is at
7 the bottom of the table, it shows \$1,476,454 are
8 full construction costs for the work that is
9 referenced in this column, and then the IDOT
10 attribution came out to \$1,094,891. That represents
11 74.2 percent of the total costs that were attributed
12 to IDOT. And I then applied that 74.2 to each of
13 the Site 3 general site site preparation costs.

14 **Q. Okay. And we'll get to that. So let me**
15 **just recap to make sure we all understand what you**
16 **did. For each of these task buckets with an X, you**
17 **looked at what was the overall Site 3 prep cost**
18 **number, which are in your tables and explained here,**
19 **it's on your chart here, it says 355,534; correct?**

20 A. I'm sorry, which chart?

21 **Q. On 204-31.**

22 A. Yes, that would be the Site 3
23 professional engineering.

24 **Q. That's the professional engineering. But**

1 then you've added it all up -- well, no, that's not
2 what -- so you took -- okay. So you took all of
3 these with the Xs, and you added up what the costs
4 incurred were for all of these task buckets;
5 correct?

6 A. That's correct.

7 Q. And you called them your construction
8 services task buckets in --

9 A. Correct.

10 Q. -- your report, right?

11 A. Yes.

12 Q. And then you added up how you allocated
13 to each one of these task buckets with an X,
14 correct?

15 A. That's correct.

16 Q. And then you divided that?

17 A. That's correct.

18 Q. And then that's how you got your
19 74.2 percent?

20 A. That's correct.

21 Q. And then you applied that to the number
22 that related to the professional engineering service
23 here, the \$355,534; correct?

24 A. In all but one instance.

1 Q. Right. But I'm just sticking with number
2 one with --

3 A. Yes.

4 Q. -- professional engineering.

5 And what did you come out with? What was
6 your attribution?

7 A. \$263,806.

8 Q. Okay. So then we have site
9 preparation -- this is the second paragraph --
10 professional engineering services. Oh, I can't --
11 did you do the same thing with respect to that
12 category and using the 74.2 percent?

13 A. Yes.

14 Q. And what was your attribution?

15 A. \$52,401.

16 Q. Okay. Then let's go down -- we're going
17 to skip this next paragraph and come back to it.

18 So number four, the fourth paragraph,
19 again we're seeing this 74.2 percent, and this is
20 Campanella base bid site preparation work on Site 3.
21 What did you do here?

22 A. Same methodology. I applied the
23 74.2 percent for the total cost of \$138,310, coming
24 up with an IDOT attribution of \$102,626.

1 Q. Okay. And let's go down to the next
2 paragraph, the certain miscellaneous construction
3 costs relating to Site 3 that are shown on Table 5
4 of Exhibit C, and I see once again the 74.2 percent.
5 And what did you -- what did you do here?

6 A. Again, I took the total costs for this
7 particular work element of \$57,362, and I applied
8 the 74.2 percent factor and came up with an IDOT
9 attribution of \$42,563.

10 Q. Okay. Let's back up to the paragraph
11 that we skipped on 204-32, and it's the first full
12 paragraph, and it starts with AECOM projects. So
13 this paragraph deals with O&M, correct?

14 A. That's correct.

15 Q. Okay. And just for the record, to remind
16 everybody, we talked about it yesterday, but what is
17 O&M?

18 A. Operations and maintenance.

19 Q. And what O&M was required here?

20 A. They were required to provide O&M
21 services for the vegetative cap on Site 3.

22 Q. Okay. And so how did you come up with
23 your attribution with respect to the O&M for Site 3?

24 A. Similar to the filling and capping

1 attribution that I had made. I applied the same
2 factor, which was of the work elements, there were
3 five driving the need for the cap on Site 3.
4 Earlier I had attributed four of those five to IDOT
5 and 80 percent -- I used the same application of
6 80 percent for these general site prep costs for
7 Site 3.

8 Q. Okay. And what did you apply that to,
9 and what number did you get?

10 A. The total costs were \$310,903, and the
11 80 percent factor came up with an IDOT attribution
12 of \$248,722.

13 Q. Let's turn to Site 6 now on 204-32. And
14 once again we're still in this -- we're now at this
15 Site 6 prep, right? We're now at this column, the
16 second column on this exhibit, which we're going to
17 give a number to at some point, but it's the
18 demonstrative called task buckets inputs by both
19 experts to determine oversight and support services
20 task bucket attributions; right? So now we're over
21 here on row number two, correct?

22 A. That's right. Column two.

23 Q. Okay. Yes, column two, sorry. Did you
24 use the same methodology that you used for Site 3,

1 being that you divided the Site 6 construction
2 services costs you attributed to IDOT by the total
3 Site 6 construction services costs to get a
4 percentage and then apply that percentage to the
5 various cost categories?

6 A. That's correct.

7 Q. On 204-110, which is in front of you, do
8 you explain this calculation here?

9 A. Yes, I do.

10 Q. And can you walk us through that
11 calculation, because I believe we have a
12 37.9 percent number for the Site 6 that appears to
13 be applied to every one of the Site 6 categories; is
14 that right?

15 A. That's right.

16 Q. Okay.

17 MS. O'LAUGHLIN: I'm sorry, where are you,
18 204-10?

19 MS. BRICE: 204-32.

20 MS. O'LAUGHLIN: 32, okay.

21 MS. BRICE: And 33.

22 BY MS. BRICE:

23 Q. Okay. So, once again, we said that you
24 have the same percentage in the Site 6 site prep

1 costs, and I assume -- just to make sure we're
2 right, you know, you use -- these are the task
3 buckets you used to come up with that calculation,
4 correct?

5 A. That's correct.

6 Q. Okay. And why are there so many more in
7 Site 3 than there are in Site 6?

8 A. Because there are less of the task
9 buckets that applied to the work that was done on
10 Site 6.

11 Q. And how do you know that?

12 A. From the analysis that I did in each of
13 the task buckets and the division of the work
14 between Site 3 and Site 6.

15 Q. Okay. So then --

16 HEARING OFFICER HALLORAN: You're dropping
17 your voice again, Mr. Dorgan.

18 THE WITNESS: I'm sorry.

19 HEARING OFFICER HALLORAN: Try to keep it up.
20 Thank you, sir.

21 BY MS. BRICE:

22 Q. So can you please explain for me how you
23 arrived at that 37.9 percent that you applied to
24 these one, two, three, four different cost elements

1 **of the Site 6 prep work?**

2 A. So I took the previously identified
3 construction costs for Site 6 and put the total
4 number and added that up, and that adds to the
5 \$1,232,059. And then I took my amounts for those
6 same construction elements that I had attributed to
7 IDOT, and that totaled to \$466,915. And the one
8 divided by the other comes up with the 37.9 percent
9 of the total costs that were incurred and then
10 attributed to IDOT.

11 **Q. Okay. So you take that 37.9 percent, and**
12 **you multiply it by various numbers? So for site**
13 **prep, professional engineering services for Site 6,**
14 **which is on the first paragraph of 204-33, what was**
15 **your calculation?**

16 A. I took the total costs of \$53,250 and
17 calculated the 37.9 percent, which came out to
18 \$20,182 and that became the attribution.

19 **Q. Okay. The same thing for the next**
20 **paragraph, which relates to Campanella base bid,**
21 **site preparation work for Site 6.**

22 A. Same methodology. I took the total costs
23 of \$95,560 and applied the 37.9 percent factor and
24 arrived at a total IDOT attribution of \$36,217.

1 **Q. Okay. Next one, Campanella T&M**
2 **construction services, what did you do there?**

3 A. Same methodology. The total of the JM
4 cost was \$37,410, applied the same 37.9 percent
5 factor, arriving at an IDOT attribution of \$14,178.

6 **Q. Okay. And then, finally, the**
7 **construction miscellaneous for Site 6?**

8 A. IDOT -- or, excuse me, JM incurred a
9 total of \$102,082 in total costs, and applying that
10 37.9 percent factor, came up with an IDOT
11 attribution of \$38,689.

12 **Q. Okay. And then I think we have one more**
13 **complicated calculation, and then I think we're done**
14 **with the complication. So 204-34, you have a Site 3**
15 **plus 6 prep, which is, I believe, on here the third**
16 **column with the Xs; right?**

17 A. That's correct.

18 **Q. Okay. And so the inputs for that were**
19 **AT&T, North Shore Gas, dewatering and filling and**
20 **capping; correct?**

21 A. That's correct.

22 **Q. Okay. And why are these the ones that**
23 **both you and Mr. Gobelman used to come up with this**
24 **combined 3 plus 6 site prep work number?**

1 A. Those were the relevant work elements
2 that led to this Site 3 and 6 combined allocation.

3 **Q. So can you explain to me how you**
4 **determined IDOT's attribution for these costs?**

5 A. Yes. I again added the individual costs
6 for the Site 3 and 6 -- when there were Site 3 and 6
7 costs, I added those up for each of those work
8 elements to come up with a total, and that total was
9 \$74,300. And just look here real quick.

10 **Q. I think you might have -- I think it**
11 **might be helpful to look at --**

12 A. Yeah, so what I have here --

13 **Q. What exhibit are you looking at?**

14 A. I'm looking at Exhibit 204-11.

15 **Q. Okay. And where are you looking on that**
16 **exhibit?**

17 A. I'm looking at the very bottom right at
18 the general site site preparation tabulation.

19 **Q. And is that underneath the box?**

20 A. It's underneath the main table.

21 **Q. Okay.**

22 A. So when you add up all of the previously
23 identified construction costs that were attributed
24 to Site 3 and 6 combined, that added up to \$548,602.

1 The IDOT attribution for those same elements totaled
2 to \$346,307. And so the IDOT attribution represents
3 63.1 percent of the total construction costs. Or
4 this one item that appears on the table for the
5 Site 3 and 6 general site site preparation related
6 to construction services provided by DMP that totals
7 \$74,300, I used that factor of 63.1 to make the
8 allocation for IDOT for this particular work element
9 under general site site preparation. And that
10 carries -- it's the only item in the column, so it
11 carries directly to the bottom of the column.

12 **Q. Thank you. So health and safety, we're**
13 **still on 204-34, what costs are contained within**
14 **this health and safety task bucket of \$77,000?**

15 A. This is mainly related to the cost to
16 have the onsite health and safety officer and
17 expenses related to their services.

18 **Q. And that's an example of things that**
19 **would apply to both Site 3 and 6?**

20 A. That's correct.

21 **Q. You seem to have used the same**
22 **63.1 percent calculation that you just discussed for**
23 **this health and safety work. Why is that?**

24 A. Again, that was -- the Site 3 and 6

1 health and safety costs were aggregate costs for all
2 of the work done at the site. I took that same
3 construction and IDOT related attributions that I
4 just reviewed, which came up with the 63.1 percent
5 allocation, I applied that same 63.1 percent to
6 those health and safety Site 3 and Site 6 costs and
7 carried that down to the bottom.

8 **Q. Okay. And it would make sense, right,**
9 **because the health and safety task buckets that you**
10 **used on this chart are the same at the Site 3 and 6**
11 **task buckets?**

12 A. That's correct.

13 **Q. Okay. Now we're going to talk strictly**
14 **about EPA oversight costs on 204-34. What are EPA**
15 **oversight costs?**

16 A. This is the cost that EPA charged Johns
17 Manville for all of their work related to Site 3 and
18 6.

19 **Q. And what do you mean? What kind of work**
20 **did the U.S. EPA do?**

21 A. This would have been their oversight,
22 review of the documentation, the approval process,
23 the meetings that occurred over the course of the
24 project. These would have been their direct costs.

1 **Q. And why did JM have to pay these?**

2 A. I believe it was outlined in the agreed
3 order that JM would be responsible for EPA oversight
4 costs.

5 **Q. Okay. Did this task bucket contain all
6 of the oversight costs JM will ultimately incur?**

7 A. I'm not certain of that. There could be
8 additional costs, but I believe these were all that
9 had been invoiced at the time that we were putting
10 these together.

11 **Q. Right. And we're just ask -- your
12 opinion is based just solely on these, correct?**

13 A. That's correct.

14 **Q. What was the Site 3 total?**

15 A. Total cost from EPA?

16 **Q. Yes, the total Site 3 oversight costs.**

17 A. They were -- just a second.

18 **Q. I think it's on 204-35. Sorry.**

19 A. Total EPA oversight costs for Site 3 were
20 \$233,805.

21 **Q. And how did you arrive at your
22 attribution -- again, we have a 74.2 percent one
23 here. And I believe again that is the same one you
24 used for Site 3, is that correct? If you look at**

1 **this chart, it's the same Xs --**

2 A. That's correct.

3 Q. -- right?

4 So that's why you end up with the
5 same percentage because you're using the same task
6 buckets?

7 A. That's correct.

8 Q. Okay. And so then you applied that
9 74.2 percent, and what happened? What numbers did
10 you --

11 A. IDOT's attribution for that, therefore,
12 became \$173,418.

13 Q. Okay. Can you explain what you did here
14 on the Site 6 oversight costs?

15 A. Same process. I looked back at the
16 calculation of the total construction costs for all
17 of Site 6 that I applied to the general site and
18 site preparation, which was a factor of
19 37.9 percent, and I carried that into how to
20 allocate the EPA oversight costs for Site 6, which
21 total oversight costs were \$125,675, and IDOT's
22 attribution at 37.9 percent was \$47,631.

23 Q. Okay. And the Site 6 oversight numbers,
24 the Xs that we have on this demonstrative are the

1 **same Xs in the various construction task buckets**
2 **under Site 6 prep; right?**

3 A. That's correct.

4 **Q. Okay. So finally to legal costs, who is**
5 **Don Manikas?**

6 A. He's an attorney that was representing
7 Johns Manville.

8 **Q. And what did he do?**

9 A. My understanding, he was mainly involved
10 in helping the project team negotiate lease
11 agreements and access agreements with the utilities
12 as part of the utility abandonment relocation.

13 **Q. Did he -- did any of his invoices have to**
14 **deal with litigation in this case?**

15 A. Not that I'm aware of.

16 **Q. So his work was all to support the**
17 **remediation effort --**

18 A. That's correct.

19 **Q. -- from your understanding?**

20 A. That's correct.

21 **Q. And how do you know that?**

22 A. Based upon the review that I did of his
23 individual invoices and the tabulation of those
24 invoices.

1 Q. Okay. If you could turn to page 204-92,
2 **Exhibit D of your report. Are you there?**

3 A. Yes, I am.

4 Q. Okay. And did you create this?

5 A. Yes, I did.

6 Q. And what is this?

7 A. This is an entry of the tabulation of the
8 invoices that I was provided from the period of
9 February 7th of 2014 through June 1st of 2016.

10 Q. When you say invoices, you mean Don
11 **Manikas invoices?**

12 A. That's correct.

13 Q. Okay. And over here you've got
14 **utilities. What are you trying to denote there?**

15 A. Which utilities were the subject of the
16 billing for each individual period.

17 Q. So it was relating to utility work as far
18 **as you're concerned?**

19 A. That's correct.

20 Q. Okay. Let's flip back to 204-35, costs
21 **for legal support services, third paragraph. Can**
22 **you explain, please, how you came up with this**
23 **attribution to IDOT?**

24 A. Since these costs were related to the

1 utility work, I went back and looked at the
2 allocation for the actual utility services that were
3 provided as part of the construction effort and
4 applied that factor to the total of Manikas cost
5 items.

6 Q. And what was that factor, and what was
7 your conclusion?

8 A. The factor was 47.5 percent, which
9 resulted in an allocation or an attribution to IDOT
10 of \$34,124.

11 Q. Okay. You say here: The total costs I
12 attributed for legal support services for three-six
13 and three-six is \$34,124. Why did you say it that
14 way?

15 A. Those were the costs when they're
16 combined for Site 3 and 6. They're not specifically
17 separated.

18 Q. If you turn the page, 204-36, this is
19 your attribution summary, which we have on the board
20 here, and I've been referring back to; correct?

21 A. That is correct.

22 Q. 204-36. And if you can turn to in your
23 report Exhibit C, 204-71. Is Exhibit C the
24 information that Mr. Peterson gave to you that he

1 **discussed previously in this hearing?**

2 A. That's correct.

3 Q. Okay. And Exhibit B, which starts at
4 204-49, I believe -- I'm sorry, that's incorrect.
5 204-47. What is this Exhibit B?

6 A. 204-47 is the cover letter that was
7 provided -- the information on the costs that
8 Dr. Ebihara had summarized. This is the cover
9 letter followed by his summary table and the
10 supporting document that supported it.

11 Q. Okay. And then Exhibit E, 204-94 through
12 106, what is this?

13 A. These are the records of payments that
14 had been made by Johns Manville for the work that
15 had been undertaken on Site 3 and Site 6.

16 Q. All right. Just a few more questions.
17 We discussed earlier your figures on 204-38, which
18 has been Dorgan figure one through 41. Do you
19 believe these to be accurate to a reasonable degree
20 of professional certainty?

21 A. Yes, I do.

22 Q. And have you reached your opinions in
23 this matter to a reasonable degree of professional
24 certainty?

1 A. Yes, I have.

2 **Q. Okay. A couple more things. If you can**
3 **turn to Exhibit 202 in your report -- I mean in your**
4 **binder, it's near the end. It's almost the -- it's**
5 **the second to last document.**

6 MS. BRICE: And, Drew, if you can bring that
7 up, please, 202. And if you could blow that up a
8 bit, I think that will be helpful.

9 BY MS. BRICE:

10 **Q. Okay. Mr. Dorgan, what is this document?**

11 A. This is a figure that was produced by
12 Mr. Gobelman, I believe, as part of the earlier
13 hearing.

14 **Q. Okay. And previously, if you notice here**
15 **on 1S through 8S, underneath it, there are color**
16 **markings that have to do with -- I believe, tell me**
17 **if I'm wrong -- types of asbestos found in the**
18 **borings 1S through 8S, is that accurate?**

19 A. Yes, that's correct.

20 **Q. Okay. And what type of materials were**
21 **found in 1S through 4S?**

22 A. According to the legend, there was
23 fibrous paper material, fiber sludge, transite, and
24 it appears brake shoes in one or two of the borings.

1 Q. Okay. And what are the materials that
2 were found in 5S through 8S?

3 A. Similar. Transite, brake shoes, roofing
4 paper material. Looks like that's it.

5 Q. Okay. And is this the same type of
6 material generally that Mr. Peterson discussed
7 yesterday?

8 A. Yes.

9 Q. Okay. One last question. 214, if you
10 could turn to 214 in your binder. It's near the
11 back. Mr. Peterson testified about a number of
12 photos in this grouping, I think 204-14, 15, 17, 19,
13 and I think those were the ones that he spoke about.
14 I could be wrong about that, but the record will
15 reflect what he spoke about. In general, what are
16 we looking at here?

17 A. You're basically looking at the
18 excavation that was done on the right-of-way of
19 Greenwood Road. And what you see in each of the
20 pictures is the vertical wall that was constructed
21 after they had completed the excavation of
22 materials.

23 Q. Okay. So this is after materials have
24 been removed?

1 A. That's correct.

2 **Q. Okay. There was a suggestion that there**
3 **was no transite pipe in here. What is your reaction**
4 **to that?**

5 A. The purpose for the excavations had been
6 to remove the asbestos-containing materials that had
7 been identified during the earlier investigations.
8 And what we see here is the result of that removal
9 effort. The materials that contained that asbestos
10 had already been removed, and what we're left with
11 is a vertical profile of the edge of the excavation.

12 **Q. Okay. And one last thing, sir, I was**
13 **just reminded of. Exhibit 209, can you tell me what**
14 **this is?**

15 A. This is an affidavit.

16 **Q. And if you could turn to 209-3, is that**
17 **your signature on this affidavit?**

18 A. Yes, it is.

19 **Q. Okay. And to your knowledge, is this**
20 **affidavit true and correct?**

21 A. Yes, it is.

22 MS. BRICE: Okay. No further questions.

23 HEARING OFFICER HALLORAN: Thank you.

24 Here, I do want to ask the court

1 reporter, Jen, if you could just give me a thumb's
2 up. Is everything working out okay? Are you able
3 to hear? Okay. Perfect.

4 And, secondly, I was remiss. We have --
5 on WebEx, we have Chair Currie. And then present we
6 have Member Van Wie present. And if there's a
7 connection issue, which I probably would have found
8 out by now, but if there is, you can call Marie
9 Tipsord at 312-814-4925, and she'll probably be able
10 to help you out. Thank you.

11 Ms. O'Laughlin, you ready? You want to
12 take a break, or do you want to do cross?

13 MS. O'LAUGHLIN: Can we take just a little
14 break? I want to cross him.

15 HEARING OFFICER HALLORAN: Okay. Ten
16 minutes.

17 (WHEREUPON, a recess was had.)

18 HEARING OFFICER HALLORAN: Okay.

19 Ms. O'Laughlin, you can cross Mr. Dorgan. Thank
20 you.

21 MS. O'LAUGHLIN: So I'd like to just renew
22 our objections on Mr. Dorgan's qualifications as an
23 expert. We object to his qualifications as an
24 expert. And we also -- our continuing objection to

1 Mr. Dorgan's outside of --

2 HEARING OFFICER HALLORAN: I'm sorry, the
3 last part --

4 MS. O'LAUGHLIN: And then our continuing
5 objection including areas outside of the Board's
6 order.

7 HEARING OFFICER HALLORAN: Correct. And Site
8 6, 5S to 8S?

9 MS. O'LAUGHLIN: Yes.

10 HEARING OFFICER HALLORAN: Standing objection
11 there, the berth objection, no, based on my past
12 rulings as far as expert --

13 MS. O'LAUGHLIN: Right. And also areas
14 outside the board's 0393, that standing objection.

15 HEARING OFFICER HALLORAN: On, yeah, 0393,
16 correct. Thank you. That is a standing objection.
17 Yes.

18 MS. BRICE: And I will state for the record
19 there was a motion in limine I filed on this in
20 which you are --

21 MS. O'LAUGHLIN: We are acting according with
22 your motion in limine on this because, you know --

23 HEARING OFFICER HALLORAN: Correct.

24 MS. O'LAUGHLIN: -- the Board -- the Board

1 will decide that.

2 HEARING OFFICER HALLORAN: Yeah, correct.

3 Thank you so much.

4 CROSS-EXAMINATION

5 BY MS. O'LAUGHLIN:

6 Q. Okay. Good morning still.

7 A. Good morning.

8 Q. Okay. So let's go to Exhibit 202. We
9 just looked at that.

10 A. Is that in a binder that's here?

11 Q. I'm not sure. Whatever you used for
12 Exhibit 202.

13 MS. BRICE: Is your witness binder from us
14 there?

15 THE WITNESS: No.

16 HEARING OFFICER HALLORAN: Is it Mr. Dorgan's
17 binder 202?

18 MS. BRICE: Yeah, it's from ours. It's in
19 our binder. It's just easier to get to, I guess.

20 BY MS. O'LAUGHLIN:

21 Q. So, Mr. Dorgan, on direct, you testified
22 about Exhibit 202; is that correct?

23 A. That's correct.

24 Q. And I just wanted to ask you: What are

1 these red circles on 202 throughout, just in
2 general, what do they depict?

3 A. Locations where asbestos was detected.

4 Q. And this was from the first hearing,
5 first group of hearing; is that correct?

6 A. That's correct.

7 Q. Okay. I'd like to direct your attention
8 to Site 3 that is below south of parcel 0393.

9 A. Yes.

10 Q. And you can see in there, there's red
11 dots throughout that area; is that correct?

12 A. There are red dots.

13 Q. And what does the red dots depict?

14 A. Asbestos that was detected.

15 Q. Okay.

16 A. Red circles, excuse me, we're speaking of
17 the same thing.

18 Q. Sure, red circles, that's a better way to
19 describe it.

20 And if you could turn to your report,
21 Exhibit 204-39.

22 A. Yes.

23 Q. And what is that?

24 A. That is a figure that represents Site 3

1 and Site 6 and various features.

2 Q. And on this 204-39, there's some orange
3 circles; is that correct?

4 A. That is correct.

5 Q. And what are those orange circles?

6 A. Those are depicting those locations where
7 visual ACM was observed.

8 Q. Okay. And comparing Exhibit 204-39
9 versus Exhibit 202, there's a lot of asbestos on
10 Exhibit 202 that is not depicted on your -- in your
11 one 204-39, isn't that correct?

12 A. Figure 204-39 is only showing those
13 locations where actual physical ACM was observed
14 during the sampling, whereas I believe what's being
15 represented by Exhibit 202 is those locations where
16 asbestos was detected.

17 Q. And your figure one neglected to include
18 all the areas where asbestos was detected, isn't
19 that correct?

20 A. I'm sorry, which figure?

21 Q. Your figure at 204-39, figure one, it
22 neglected to include all the ACM that was detected
23 on Site 3; isn't that correct, Mr. Dorgan?

24 A. No, that's not correct.

1 Q. So there are -- there is asbestos that is
2 not detect -- there's asbestos -- your figure one
3 shows all asbestos that was detected on Site 3?

4 A. 204-38?

5 Q. 39.

6 A. 39, that's my figure two.

7 Q. Oh, I'm sorry, I apologize, figure two.

8 A. And this is only representing those
9 locations where physical ACM material was observed.
10 It wasn't intended to represent all of the locations
11 where asbestos was detected.

12 Q. Okay. And in the first part of the
13 hearing, your theory against IDOT was that they
14 spread barrier transite pipe ACM material throughout
15 Site 3, isn't that correct?

16 A. At various locations.

17 MS. BRICE: Objection, please, if we're
18 talking about testimony from the first hearing.

19 HEARING OFFICER HALLORAN: You know, it's in
20 the record. He can answer if he's able.

21 BY THE WITNESS:

22 A. I don't recall my specific testimony on
23 that particular question. But certainly I opined
24 that there was asbestos on the site that was

1 attributed to IDOT's construction work.

2 Q. Throughout Site 3, isn't that -- isn't
3 that your --

4 A. I don't recall if I specifically
5 referenced Site 3.

6 Q. Okay. And so sticking on Site 3 and
7 the -- directing your attention to parcel 0393, the
8 Board did not include borings on the western portion
9 of 0393 in the December 2016 court order; isn't that
10 correct, Mr. Dorgan?

11 A. That's correct.

12 Q. Okay. And also those borings on the
13 western side of 0393, those were clean borings;
14 isn't that true?

15 A. Which borings are you specifically
16 referring to?

17 Q. The borings that would have been on the
18 west side of 0393.

19 A. I'm still looking at Exhibit 204-39, and
20 it's not showing on any borings on the western side
21 of 0393.

22 Q. Okay. Why don't you look at Exhibit 202.
23 Turning your attention to B3-36, B3-35, B3-26.

24 A. Yes.

1 Q. And those borings do not show asbestos,
2 is that correct?

3 A. According to this figure, that's correct.

4 Q. Okay. And those borings were also
5 excluded in the Board orders, isn't that true?

6 A. That's correct.

7 Q. Let's stay with Exhibit 202 since we're
8 here. So can you identify what the detour road that
9 you were referring to -- detour road earlier in your
10 testimony, is that depicted on Exhibit 202?

11 A. Yes. It's kind of in a purple shading
12 that runs from the very southwest corner of the
13 figure up to the northeast where it then intersects
14 with Site 6.

15 Q. Okay. And so the detour road -- and I
16 just want to make sure that I understand you there,
17 the detour road is what matches up with stations 5S
18 to 8S; is that correct?

19 A. I don't believe -- you may be referring
20 to the sample locations rather than the stationing.

21 Q. No, I'm not. So -- okay. First, Site 6,
22 turning your attention to Site 6, you expanded the
23 Board's area of liability to 5S to 8S, isn't that
24 correct -- or you've attributed, excuse me, IDOT's

1 **liability to 5S through 8S; isn't that true?**

2 A. That's correct.

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

5 HEARING OFFICER HALLORAN: How so?

6 MS. BRICE: He has attributed -- well, it's
7 more to the first question. But he's attributed
8 because of the causation with respect to 1S through
9 4S.

10 HEARING OFFICER HALLORAN: Pursuant to the
11 Board order, he did expand on the 5S to 8S.

12 MS. BRICE: He did talk about it that way,
13 correct.

14 HEARING OFFICER HALLORAN: He may answer.
15 Your objection is noted on the transcript. You may
16 continue.

17 BY THE WITNESS:

18 A. Yes, I included 5S to 8S as being within
19 my attributions as being part of IDOT's liability as
20 it relates to the work that was done because of the
21 conditions that were identified in those samples.

22 BY MS. O'LAUGHLIN:

23 Q. Okay. And Detour Road A, does that match
24 up roughly with the area locations identified as 5S

1 to 8S?

2 A. Yes.

3 Q. Okay. So I'd like to go over a little
4 bit detour -- the work involved with Detour Road A.
5 And we're doing this because they've opened up this
6 area of testimony, and so now we have to address it
7 again. So going to Detour Road A, 21A-23, you have
8 the document? Are you there?

9 A. Yes, I am.

10 Q. Okay. And what is -- and this is -- what
11 is Exhibit 21A?

12 A. It's the photocopy of one of the sheets
13 out of IDOT's plan set for the Greenwood Avenue road
14 construction project.

15 Q. Okay. And does this depict Detour Road A
16 that we just discussed?

17 A. Yes, it does.

18 Q. Okay. And then turning to 21A-26, and
19 this is a document that you discussed in your direct
20 testimony; is that true?

21 A. Yes, that's correct.

22 HEARING OFFICER HALLORAN: I'm sorry,
23 Ms. O'Laughlin, is this 21A?

24 MS. O'LAUGHLIN: 23 and then --

1 HEARING OFFICER HALLORAN: Oh, 23.

2 MS. O'LAUGHLIN: And then 21A-26.

3 HEARING OFFICER HALLORAN: Okay. I'm sorry,
4 go ahead.

5 BY MS. O'LAUGHLIN:

6 Q. So these are the areas that would discuss
7 the fill and the construction of Detour Road A, is
8 that correct?

9 A. Detour Road A and Greenwood Avenue.

10 Q. Okay. So Mr. Peterson, you said you
11 relied on his information, you know, the photographs
12 which show asbestos material, those are those
13 photographs, is that -- is that right, you relied on
14 his information and those photographs in your theory
15 of liability, is that -- is that accurate?

16 A. I think that's correct.

17 Q. Okay. That area of -- that area of
18 contamination, that went under Greenwood Avenue;
19 isn't that correct?

20 A. I can't say based upon the information
21 I've seen that it did.

22 Q. Okay. But from the pictures and
23 everything there, it looked like it went under
24 Greenwood Avenue, would you agree with that?

1 A. What you could see was the vertical side
2 wall at the limits of the excavation which were
3 right at roughly the edge of Greenwood Avenue, and
4 there was still some asbestos materials that were
5 observed in that seam of fill material.

6 Q. You asked Mr. Ebihara and Mr. Peterson to
7 separate the costs for Sites 3 and 6, is that
8 correct?

9 A. That's correct.

10 Q. Okay. You didn't ask them to separate
11 the costs for the IDOT area of liability defined
12 within the Board ruling, did you?

13 A. No, I did not.

14 Q. I want to talk a little bit about the
15 map, your base map.

16 A. Can you specifically -- do you know which
17 specific base map you're referring to?

18 Q. Sure. If you want to turn to your
19 report, which is Exhibit 204. I think it's 38,
20 204-38. Now, I believe it was your testimony that
21 you used AECOM's or AECOM CAD file.

22 A. That's correct.

23 Q. And it's an electronic file that then
24 puts into the CAD software where you can then create

1 **the map that you created at 204-38?**

2 A. That's correct.

3 **Q. Okay. Did you do anything to verify any**
4 **of the GPS coordinates on that AECOM CAD file?**

5 A. We looked at certain GPS information that
6 was embedded within the CAD file relative to site
7 features but certainly didn't independently validate
8 the accuracy of the GPS coordinates themselves.

9 **Q. Okay. Did you or did Dr. Ebihara lay out**
10 **the utilities depicted in these?**

11 A. These would have been laid out by
12 Dr. Ebihara.

13 **Q. So that CAD software actually laid out**
14 **the utility, and that's depicted in your figure one?**

15 A. The utilities would have been input into
16 the CAD software based upon their knowledge of where
17 the utilities were located.

18 **Q. Okay. And did you input that information**
19 **or did Dr. Ebihara or anybody under his commission?**

20 A. It would have been Dr. Ebihara or one of
21 his team members.

22 **Q. Okay. And you talked earlier about the**
23 **U.S. EPA action memorandum of the --**

24 A. Enforcement action memorandum.

1 Q. Thank you. And the goal -- or one of the
2 goals of the U.S. EPA remediation mandates was to
3 create clean corridors for utilities, is that
4 correct?

5 A. Yes, that's correct.

6 Q. Okay. And I think we heard Dr. Ebihara
7 testify that some of the utilities on Site 6 went
8 east of, you know, the area that we're -- you know,
9 this concrete area that we're looking at on all
10 these maps, but Site 6 goes a long way east, right,
11 and he talked about utilities that went to 28S?
12 Does that sound consistent with his testimony? I'm
13 not sure. The record will reflect whatever his
14 testimony was.

15 A. That sounds generally correct. But I
16 believe he spoke to the utilities on both the north
17 side and the south side, and they did find at
18 different intervals, at different locations, at
19 different lengths.

20 Q. Okay. Let's discuss the City of Waukegan
21 waterline, and we heard testimony that it wasn't
22 where people had thought it was. It wasn't
23 accurately depicted on earlier maps that were
24 provided -- that were used in the first hearing

1 until actual work was done in 2016 in that area.

2 Can you help us figure out what is the
3 change from the map depictions from the first
4 hearing to this phase of this action? And I -- and
5 I -- you know, we have -- I guess I would look to
6 your 20 -- 204-38 and then that same Exhibit 202 --

7 Well, if you can recall it on your own,
8 and maybe I'll try to find another map or another
9 one depicted from the first part of the hearing.
10 But if you recall, if you're able to, can you
11 discuss the change in location?

12 A. Yes. The location basically shifted to
13 the north from where it was thought to have been in
14 the earlier phases of the work, and it --
15 Mr. Peterson described the steps that they had to go
16 through to try to actually locate on it once they
17 began the work on the clean corridor.

18 Q. Do you know how far north it shifted?

19 A. I think he testified it was roughly
20 50 feet.

21 Q. 50 feet, okay. And both the depiction of
22 the Waukegan waterline, it was on parcel 0393 in the
23 first part of the hearing, and it's also on parcel
24 0393 in this part of the hearing on your map?

1 MS. BRICE: Objection, mischaracterizes prior
2 testimony.

3 HEARING OFFICER HALLORAN: You want to
4 rephrase, Ms. O'Laughlin.

5 MS. O'LAUGHLIN: I'll withdraw the question.

6 HEARING OFFICER HALLORAN: Thank you.

7 BY MS. O'LAUGHLIN:

8 Q. And I apologize for this. Exhibit 84,
9 and I don't know where it would be. I don't know if
10 it's in the Dorgan witness book or not, Exhibit 84.

11 A. Doesn't appear to be.

12 Q. It's in the binder that begins 67.

13 HEARING OFFICER HALLORAN: You said
14 Exhibit 84?

15 MS. O'LAUGHLIN: Correct.

16 BY MS. O'LAUGHLIN:

17 Q. 84-1, are you there?

18 A. Yes, I am.

19 Q. Okay. Do you know what this -- what is
20 this document?

21 A. This was a cross section that we prepared
22 as part of one of my reports in the earlier phase of
23 this matter that depicted the vertical profile of
24 where asbestos was located in certain of the borings

1 that were done on Site 3 and Site 6.

2 Q. And if you could direct your attention to
3 5S and 6S on Cross Section A-A.

4 A. Yes.

5 Q. Is ACM material depicted in this?

6 A. Yes, it is.

7 Q. And this was from the first part? This
8 was prepared the first part of the hearing --

9 A. That's correct.

10 Q. -- or excuse me, the first hearing?

11 A. Yes.

12 Q. Okay. Sorry.

13 And if you could turn the page to
14 Exhibit 84-2, now, cross section I-I, what is that?

15 A. That's a cross section through two sample
16 locations that show a north-south cross section from
17 6S to, I believe, it's S346E.

18 Q. Okay. And so 6S would be the south side
19 of Site 6, is that right?

20 A. That's correct.

21 Q. Okay. And what is ACM material in this
22 sample?

23 A. Yes.

24 Q. And moving one figure to the left H-H, is

1 **ACM depicted in this sample?**

2 A. Which of the three borings?

3 Q. **I'm sorry, H-H.**

4 A. Yes, I see that.

5 Q. **Okay. Is ACM depicted in this sample?**

6 **Was ACM found as a result of this sampling event?**

7 A. ACM is depicted within the profile that's
8 being shown including 5S.

9 Q. **Okay. And what does that mean? That**
10 **means ACM was found in this sample?**

11 A. That's correct.

12 Q. **Okay. Okay. I'm done with that. And if**
13 **we can go to your figure one, 204-38. And I'm not**
14 **going to spend a lot of time going over all of the**
15 **utility information and all the application of the**
16 **percentages, sort of the basic ones that were**
17 **applied, but I'm just going to ask you a few**
18 **questions about some of the attributions.**

19 So I'd first like to -- we talked about
20 the waterline. Let's go to the waterline a little
21 bit. Is that included in the IDOT area of liability
22 specifically referenced by the Board by boring
23 location?

24 A. Upon my interpretation of the Board's

1 order, I would say yes, it is.

2 **Q. Are the borings mentioned? Does that**
3 **area cover the -- excuse me.**

4 HEARING OFFICER HALLORAN: What exhibit are
5 you on?

6 MS. O'LAUGHLIN: Exhibit 204-38.

7 HEARING OFFICER HALLORAN: Okay. I'm there.
8 Thank you.

9 BY MS. O'LAUGHLIN:

10 **Q. And what is this exhibit?**

11 A. This is the site plan for Site 3 and
12 Site 6.

13 **Q. And who prepared it?**

14 A. It was prepared by Weaver Consultants
15 using AECOM's digital base map.

16 **Q. And this is figure one of your expert**
17 **report, is that right?**

18 A. That's correct.

19 **Q. Okay. So your theory of liability**
20 **includes the Waukegan waterline? I'm just trying to**
21 **get to the bottom of it. Your theory of liability**
22 **for IDOT includes the Waukegan waterline, is that**
23 **right?**

24 A. That's correct.

1 Q. And that's because it falls within parcel
2 0393?

3 A. That's correct.

4 Q. It's outside the actual borings
5 referenced in the Board order, but under your
6 theory, because it's in 0393, it should be included;
7 is that right?

8 A. That's correct.

9 Q. Okay. Moving along to AT&T phone lines,
10 how are the AT&T phone lines -- yeah, how is AT&T
11 depicted on figure one?

12 A. It is shown with a -- basically a dashed
13 line with small Ts in between the dashes in a beige
14 kind of color.

15 Q. Okay. And so there's one on the bottom
16 half, and there's one -- well, how many telephone
17 lines are there?

18 A. On Site 3, there's three of them.

19 Q. Okay. And how did you determine
20 liability?

21 A. I took the total costs that were related
22 to the abandonment of the AT&T telephone lines on
23 Site 3 and attributed two of the three lines to
24 IDOT, so two-thirds of the total costs.

1 Q. Right. Okay. And you can see that
2 the -- did you calculate the length of the lines?

3 A. I did not.

4 Q. Okay. So you didn't factor in the length
5 of the actual lines, you just did a two out of
6 three --

7 A. That's correct.

8 Q. -- calculation?

9 And on Site 6, how did you calculate IDOT
10 liability for Site 6?

11 A. If I recall correctly, the AT&T telephone
12 lines, there were two of them, and I believe I
13 allocated 50 percent since one of them was on the
14 south side of Greenwood Avenue.

15 Q. Okay. And you allocated all of the
16 telephone lines south of site -- on the south side
17 of Greenwood Avenue?

18 A. Just for the area that was in the IDOT
19 area of liability.

20 Q. Did you --

21 A. By extending it to the point where it
22 went up onto the pole, which was further to the
23 east.

24 Q. Okay. So did you factor in the length of

1 **1S or even under your theory 1S to 8S?**

2 A. No, I did not.

3 **Q. It was just once it was part of it, it**
4 **was all of the costs were incurred; is that right?**

5 A. That's correct.

6 **Q. Okay. Let's turn to the utility ACM**
7 **excavations category. And is that depicted on your**
8 **figure one?**

9 A. Yes, the excavations are shown.

10 **Q. Where is the utility ACM excavation?**

11 A. Shown on the -- both the north and south
12 side of Site 6.

13 **Q. And how is it shown?**

14 HEARING OFFICER HALLORAN: Can you speak up,
15 please.

16 MS. O'LAUGHLIN: Sure. I'm sorry.

17 BY MS. O'LAUGHLIN:

18 **Q. And how is it shown on this figure?**

19 A. There's a key at the bottom right of the
20 figure that shows a crosshatching that's labeled
21 excavation and then you can see that crosshatching
22 used -- of course, there's other layers that are
23 involved as well, but you can see it running across
24 the length of the north and south side of Site 6 on

1 the figure as it's shown.

2 Q. Okay. And my question about the utility
3 ACM excavation, it would not include the northeast
4 excavation, which was a whole different --

5 A. That's correct.

6 Q. Okay. And how did you determine IDOT
7 liability for the utility ACM excavation?

8 A. I attributed that part of the cost for
9 the utility and ACM excavation related to the south
10 side of Site 6.

11 Q. And that's the entire south side of
12 Site 6, is that correct?

13 A. That's correct.

14 Q. Okay. You didn't account for 1S to 4S or
15 even under your theory 1S to 8S, is that correct?

16 A. I included all of the utility ACM
17 excavation because it was being driven by the
18 presence of asbestos in the earlier detected
19 samples.

20 Q. And the answer to my question would be
21 no, is that -- is that -- is that right?

22 A. Can you just restate the question,
23 please.

24 Q. So you attribute all of the costs for the

1 south side of Site 6 to IDOT?

2 A. That's correct.

3 Q. Irrespective of the length of the utility
4 ACM excavation, is that correct?

5 A. I attributed all of the utility ACM costs
6 on the south side of Site 6 to IDOT.

7 Q. Okay. And moving to the northeast
8 excavation, which is depicted where on
9 Exhibit 204-38, figure one on your expert report?

10 A. It's shown again with the crosshatching
11 on kind of the northeast corner of Site 3, and it's
12 labeled northeast excavation.

13 Q. And what is the black line that goes
14 through the northeast excavation?

15 A. That is the parcel 0393 boundary.

16 Q. Okay. And is part of the northeast
17 excavation, does that fall on the side of parcel
18 0393?

19 A. Yes, it does.

20 Q. Moving to North Shore Gas utility and
21 looking at your figure one on 204-38, where is the
22 North Shore Gas line depicted in figure one, 204-38?

23 A. It's again -- it's a line. I believe
24 it's kind of a faded green that's dashed line that I

1 believe says gas in small print. I think between
2 the dashes it's labeled there in the key. And it
3 basically runs from the roughly center line or the
4 center of the western boundary to the northeast
5 where it intersects Site 6 at approximately roughly
6 sample 4S.

7 Q. Okay. So this is it, it starts here?

8 A. Yes.

9 Q. And then it runs up?

10 A. That's correct.

11 Q. Okay. So this is the North Shore Gas
12 line?

13 A. Yes.

14 Q. And what is this black line?

15 A. That is the parcel 0393 boundary.

16 Q. Okay. And some of the gas line falls
17 within 0393 and some of it falls outside of 0393, is
18 that correct?

19 A. That's correct.

20 Q. And how did you allocate -- what was your
21 allocation to IDOT for this North Shore Gas line?

22 A. 100 percent for Site 3.

23 Q. For Site 3, thank you. That's all the
24 utilities I'm going to go over, because those

1 calculations, those findings, those drove that
2 exciting testimony of figuring out percentages and
3 applying it to total construction costs that went
4 on -- yeah, but these are the utilities that drove
5 the calculations, more or less? I mean, these are
6 the ones I decided to go over because they had a big
7 impact on determining calculations? I'm not going
8 to tend to go over more of them, so dewatering and
9 all of these other general services and U.S. EPA
10 costs. I will ask you about the filling and
11 capping, however. So the filling and capping was
12 for the entire Site 3, is that correct?

13 A. That's correct.

14 Q. Minus the ramp area?

15 A. That's correct.

16 Q. Okay. And you did not -- you did not
17 determine by geography, you know, the portion of
18 land area that is assigned -- that was allocated to
19 IDOT under either expanded 0393 or not, but you did
20 not calculate it by geography, you calculated it
21 based on earlier utility allocations; is that right?

22 A. I don't think that's correct. I did it
23 based upon the Site 3 boundaries.

24 Q. Okay. But you didn't determine IDOT has

1 this much of 0393, which is X percentage of this
2 geography and, therefore, they're responsible for X
3 amount of this geography?

4 A. I didn't base it upon the specific IDOT
5 borings that are referenced in the board's order but
6 based upon the causality of the work that was done.

7 Q. The causality of the work that was done,
8 not the geography, the causality?

9 A. That's correct.

10 Q. Okay. You talked a little bit about the
11 legal services provided by Manikas. Do you know
12 whether the work involved areas outside of IDOT
13 areas of liability?

14 A. I believe it did.

15 Q. Okay. Did it include Sites 4 and 5?

16 A. Yes, it did.

17 Q. And it included southwestern site of the
18 area, is that -- the whole southwestern side
19 remediation area, which is Sites 3, Sites 4 and 5
20 and Site 6; is that correct?

21 A. That's correct.

22 Q. And how was Manikas's invoices made to
23 reference only Sites 3 and Site 6?

24 A. There were notations regarding the

1 individual utilities that they were working on, that
2 he was working on, or was different billing periods
3 that had assigned hourly increments for that
4 particular work.

5 **Q. In determining costs and payments, did**
6 **you consider any other costs that were paid by any**
7 **other entity other than JM?**

8 MS. BRICE: Objection, irrelevant. The Board
9 has already ruled on this. There was a finding by
10 the Board that any other -- that it's, yes --

11 HEARING OFFICER HALLORAN: Before we get more
12 into your objection, what was the question?

13 MS. O'LAUGHLIN: Whether in his costs -- the
14 costs paid by Johns Manville, whether he considered
15 payments being made by any other entity.

16 HEARING OFFICER HALLORAN: Okay. Ms. Brice?

17 MS. BRICE: Yes. There is an order and
18 opinion of the Board of December 21, 2017, which
19 finds such requests irrelevant. It says, as JM
20 correctly states, the only one found to have
21 violated the act is IDOT. The December 2016 order
22 did not find that JM, ComEd or anyone else violated
23 the act. Furthermore, no complaint has even been
24 brought before the Board alleging that anyone has

1 further violated the act. IDOT's arguments
2 erroneously presume that any payments from ComEd to
3 JM necessarily reduce IDOT's liability under the act
4 to pay for the cleanup resulting from its
5 violations. And it goes on to say that the Board
6 finds that the information act seeks to discover is
7 neither relevant nor calculated to lead to the
8 information relevant to the issues for the remedy
9 hearing.

10 HEARING OFFICER HALLORAN: Ms. O'Laughlin,
11 response?

12 MS. O'LAUGHLIN: The date of that order is --

13 MS. BRICE: It's December 21, 2017.

14 MS. O'LAUGHLIN: Okay. And what's the date
15 of your expert report?

16 THE WITNESS: Is that a question to me?

17 MS. O'LAUGHLIN: We can all find that order.
18 It's dated June 13, 2018, prior to that order and --

19 MS. BRICE: Wait one second. That's not
20 correct.

21 HEARING OFFICER HALLORAN: It's not --

22 MS. O'LAUGHLIN: I'm sorry, what --

23 MS. BRICE: It's after the order.

24 MS. O'LAUGHLIN: Okay. His expert report is

1 after the order?

2 MS. BRICE: Yes.

3 MS. O'LAUGHLIN: That's my point.

4 MS. BRICE: You said the opposite.

5 MS. O'LAUGHLIN: Okay. I apologize.

6 MS. BRICE: That the order is preventing --
7 is saying this type of questioning is irrelevant.

8 MS. O'LAUGHLIN: If I may address that now.
9 Mr. Dorgan includes cost calculations and says that
10 they were paid by JM. That is pertinent to his
11 report. The enforcement action memorandum is
12 entered into by JM and ComEd. Mr. Dorgan makes
13 certain representations that Johns Manville paid for
14 these costs. It is certainly within our realm of
15 cross-examination to ask whether Johns Manville
16 actually paid them and whether any other entity paid
17 them.

18 HEARING OFFICER HALLORAN: How does that
19 reconcile what the Board ordered as far as its order
20 between JM and IDOT?

21 MS. O'LAUGHLIN: Well, I don't know. I can't
22 speak to that.

23 HEARING OFFICER HALLORAN: Well, I'm going to
24 sustain Ms. Brice's objection.

1 MS. O'LAUGHLIN: Okay. I would -- we
2 obviously object to that and -- because if we feel
3 it's very pertinent to this Board's finding that if
4 another entity such as ComEd, who is the signatory
5 to enforcement action memorandum, if they have paid
6 some of these costs and Johns Manville is seeking
7 money from IDOT for costs that they say they paid,
8 that is entirely pertinent.

9 HEARING OFFICER HALLORAN: Because that's the
10 same issue you brought up with the board, and I
11 think you filed a motion to reconsider and I --
12 twice, so I don't --

13 MS. O'LAUGHLIN: Okay.

14 HEARING OFFICER HALLORAN: You know, and it's
15 the same issue, and so --

16 MS. O'LAUGHLIN: Okay. So the record is
17 clear --

18 HEARING OFFICER HALLORAN: Okay.

19 MS. O'LAUGHLIN: -- our objection is noted.

20 HEARING OFFICER HALLORAN: Thank you.

21 BY MS. O'LAUGHLIN:

22 Q. And you also do not consider whether they
23 received any insurance payments or any other tax
24 liability calculations, you did not consider any of

1 **those in your report either?**

2 MS. BRICE: Objection. This is outside of
3 the scope of what we're talking about. I can
4 represent to you if you ask that question, we would
5 have made arguments about collateral source rule, et
6 cetera. That's not something that has been brought
7 up before and, frankly, he has testified that all of
8 these costs were paid by JM. He has testified to
9 that.

10 MS. O'LAUGHLIN: I'm just asking if he can --
11 that he didn't consider whether JM received
12 reimbursement from any other source.

13 MS. BRICE: Same objection.

14 HEARING OFFICER HALLORAN: Sustained. It's
15 kind of -- you're backdooring it in, Ms. O'Laughlin.

16 MS. O'LAUGHLIN: I'm just trying to make an
17 argument.

18 HEARING OFFICER HALLORAN: I know.

19 MS. O'LAUGHLIN: I talked about ComEd. I
20 also wanted to make sure that we included other
21 potential sources.

22 HEARING OFFICER HALLORAN: I appreciate that.
23 Thanks.

24 MS. O'LAUGHLIN: If I can take just a moment.

1 HEARING OFFICER HALLORAN: Yes, you may.

2 MS. O'LAUGHLIN: Thank you. No further
3 questions. Thank you.

4 HEARING OFFICER HALLORAN: Thank you,
5 Ms. O'Laughlin. Ms. Brice, redirect?

6 MS. BRICE: Yes. One second.

7 REDIRECT EXAMINATION

8 BY MS. BRICE:

9 Q. Mr. Dorgan, a few questions. You have
10 discussed at length, but you talked about how the
11 board and we had it up on the screen the board's
12 language and its opinion, which is in Exhibit 203,
13 about if the violations caused -- someone can
14 recover costs that are related to violations of --
15 that are -- I'm sorry, I have to get it. As a --
16 I'd like to actually have -- that would be great, if
17 you can bring that up, because I'd like the language
18 exactly right. It's above that.

19 The board continues to find inappropriate
20 that a party recover the costs of performing payment
21 as a result of another party's violations. Okay.
22 Do you see that?

23 A. Yes, I do.

24 Q. So are your opinions premised on part

1 upon that language?

2 A. Yes, they are.

3 Q. Okay. I'd like to turn to Exhibit 202 if
4 you don't mind, you had a discussion about 202. And
5 this is Mr. Gobelman's figure from the first
6 hearing, correct?

7 A. That's correct.

8 Q. Okay. And then can you turn to 204-38,
9 please. You note here at the bottom, you said that
10 when you were shown the samples of locations of ACM
11 detected of equal -- above or equal to .25 percent
12 and/or visibly observed ACM. Do you see that?

13 A. Yes, I do.

14 Q. Okay. Can you explain to us the
15 significance of .25 percent and put that in
16 perspective as to how much ACM we're actually
17 talking about?

18 A. That's trace amounts of asbestos fibers
19 in a sample would be being able to count one or two
20 individual asbestos fibers in a sample makers.

21 Q. Okay. So that's .25 percent of the
22 entire sample found asbestos --

23 A. That's correct.

24 Q. -- is that right?

1 So we're not talking about a hunk of
2 transite, we're talking about a really small amount?

3 A. That's correct.

4 Q. Okay. So you have depicted on this
5 photograph everything with these boring locations,
6 these Bs and SBs and 1Ss, the ones that had either
7 visible ACM or something above .25 percent or equal
8 to; right?

9 A. That's correct.

10 Q. Okay. So turning back to 202, so these
11 other circles that we're having are not boring
12 locations that have visible ACM or ACM above
13 .25 percent, are they?

14 A. No, they're not.

15 Q. Let's talk about -- let's talk about this
16 whole 1S through 8S issue, and I just want to hammer
17 home this point. And you've said it a couple times
18 in your original testimony. But you included 5S
19 through 8S, but would your opinion be different if
20 you only included 1S through 4S?

21 A. No, it would not.

22 Q. Okay. And explain to me why and what
23 documentary evidence you are relying upon for that
24 opinion?

1 A. The EAM in particular specified that the
2 clean corridor was going to be for the utilities
3 based upon the presence of the asbestos that was
4 detected in the samples that were represented in the
5 EAM. And then that carried through to the Board
6 ruling, which indicated that the work that had to be
7 performed because of the presence of that material
8 would be attributed to IDOT.

9 Q. Okay. So let's take an example. Let's
10 go back to 204-38. Okay. I believe you're -- so
11 we're talking Site 3 here, right, we've got -- your
12 opinion was B3-15 through and B3-50, and those were
13 borings that the Board find IDOT to be liable for;
14 correct?

15 A. Yes, that's correct.

16 Q. And they also happened to be within
17 0393 --

18 A. That's correct.

19 Q. -- right?

20 So your opinion was these two borings,
21 because there was asbestos in these borings, they
22 had to create this entire clean corridor, is that
23 your opinion?

24 A. That's correct.

1 Q. And again at the time of the first
2 hearing, nobody knew that the Waukegan waterline was
3 in this exact location, did they?

4 A. They did not.

5 Q. They thought it was further south?

6 A. That's correct.

7 Q. Okay. I'd like to -- if you could pull
8 up -- I'm not sure if this is in your binders, but
9 it's Exhibit 67-534. I don't think it's in your
10 binder, so we're going to have to look at the
11 screen.

12 MS. BRICE: And, Drew, can you blow that up.

13 BY MS. BRICE:

14 Q. Can you explain to me what this is?

15 A. I believe that's a figure out of AECOM's
16 work plan that shows -- the hatching there shows
17 approximate area of potential ACM affected soil
18 based upon the soil boring results.

19 Q. Okay. And I want to focus on the AT&T
20 lines. So we've got again these two AT&T lines
21 right under the northern portion of Site 3, correct?

22 A. That's correct.

23 Q. And you said they fall within 0393,
24 correct?

1 A. That's correct.

2 Q. Okay. They also, do they not -- this one
3 here falls within B3-15, doesn't it?

4 A. That's correct.

5 Q. And what did the Board say about having
6 to clean up a grid?

7 A. That the entire grid had to be removed.

8 Q. Okay. And this also falls within B -- if
9 that's B3-16, sorry, I can't see very well. This
10 one also falls through B3-15, does it not?

11 A. Yes, it looks like it does.

12 Q. Okay. And then there's -- up here, this
13 one falls through B3-25; correct?

14 A. That's correct.

15 Q. Okay.

16 MS. O'LAUGHLIN: What exhibit number is that?

17 MS. BRICE: It's 67-534.

18 MS. O'LAUGHLIN: Okay.

19 BY MS. BRICE:

20 Q. And B3-25, I believe, was a boring
21 location identified by the Board; is that correct?

22 A. I believe that's correct, yes.

23 Q. And so were B3-16 and 15?

24 A. That's correct.

1 Q. I believe Ms. O'Laughlin represented that
2 your opinion with respect to 0393 was a theory of
3 liability. It's actually a theory of damages, isn't
4 that correct, with the Waukegan waterline? Sorry,
5 I'm talking about the Waukegan waterline.

6 A. Yes, I was referring to my allocation of
7 costs to four of the Waukegan waterline construction
8 work based upon what I considered to be the IDOT
9 areas of liability on my expert report.

10 Q. And what language did you seize upon in
11 the order with respect to 0393 being part of the
12 IDOT area of liability?

13 A. Both that it was in the control of IDOT
14 where IDOT had been found to have violated the act.
15 And then as an element of the causation for the work
16 that had to occur within 0393 based upon the
17 specific borings represented in the order for IDOT.

18 Q. And IDOT -- in the ruling, the Board
19 talks about 0393 separately as an -- and decides
20 whether or not there was control over or possessory
21 interest in 0393 by the Board, correct?

22 A. That's my understanding.

23 Q. Okay. And then they find everything that
24 was discussed at the first hearing that was known at

1 **the first hearing to be part of that IDOT area of**
2 **liability, correct, the boring locations?**

3 A. That's correct.

4 **Q. Okay. Thank you. No further questions.**

5 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

6 MS. O'LAUGHLIN: I'd also like to lodge an
7 objection. The order says what it says. Mr. Dorgan
8 is not an attorney. It's not a proper redirect to
9 make an argument of the Board orders.

10 HEARING OFFICER HALLORAN: I think you asked
11 some questions too about the Board order, but
12 certainly --

13 RECROSS-EXAMINATION

14 BY MS. O'LAUGHLIN:

15 **Q. Mr. Dorgan, so in your testimony you just**
16 **talked about ACM size, and your math was limited to**
17 **ACM above 2.5 percent, is that correct? You can**
18 **maybe help me with that.**

19 A. That's correct.

20 **Q. Okay. And so the size of the ACM**
21 **2.5 percent is -- why is that significant?**

22 A. That was a threshold that was being used
23 by EPA in their evaluation of the sampling that had
24 been done at the site.

1 MS. BRICE: Objection --

2 HEARING OFFICER HALLORAN: Ms. Brice, do you
3 have an objection?

4 MS. BRICE: 2.5 percent is not right. It's
5 0.25 percent.

6 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

7 MS. O'LAUGHLIN: 0.25, less than one, 0.25 --
8 oh, it's not two -- well, 0.25 percent.

9 MS. BRICE: Yeah, it says it right here.

10 MS. O'LAUGHLIN: Okay. Thank you. Got it,
11 0.25 percent. Thank you.

12 BY MS. O'LAUGHLIN:

13 Q. Did U.S. EPA limit the clean corridors to
14 where ACM was found below that size limit that
15 Ms. Brice just identified?

16 A. I don't believe so.

17 Q. So let me ask you another question.
18 Suppose sample results from 1S to 4S were clean,
19 that there was no ACM found that was larger than the
20 size of ACM that was just clarified by Ms. Brice,
21 suppose 1S to 4S did not have ACM of that size,
22 would that have changed the clean corridor
23 requirement for the U.S. EPA?

24 A. If there had been no ACM detected within

1 that south right-of-way, there would have been no
2 need for a clean corridor.

3 **Q. What about other utilities in other**
4 **corridors, there would be no need for any clean**
5 **corridors if the 1S to 4S were clean?**

6 MS. BRICE: Objection, vague.

7 BY MS. O'LAUGHLIN:

8 **Q. Do you understand the question?**

9 HEARING OFFICER HALLORAN: Could you rephrase
10 that, please.

11 MS. O'LAUGHLIN: Sure.

12 BY MS. O'LAUGHLIN:

13 **Q. So if 1S to 4S did not have ACM, how**
14 **would that -- that wouldn't have changed the U.S.**
15 **EPA requirements for clean corridors in Sites 3 and**
16 **Site 6, would it?**

17 A. That would be speculation on my part in
18 terms of what they might have required for other
19 clean corridors on other sites based upon those four
20 locations. And as I previously said, the asbestos
21 detected in the south right-of-way.

22 **Q. And that required clean corridors**
23 **throughout the southwestern sites of the area, isn't**
24 **that correct?**

1 A. They required clean corridors on Site 3
2 and Site 6.

3 Q. What about -- but you did testify that
4 your opinions do not change if 5S to 8S were not
5 part of your IDOT allocation?

6 A. Yes, that's correct.

7 Q. Okay. So what -- if it was 5S to 8S were
8 clean, would that have impacted the remedy of clean
9 corridors required by the U.S. EPA?

10 A. Remedy would have been the same based
11 upon the information available for 1S to 4S.

12 Q. And if the remedy -- I mean, I already
13 asked the question, 1S to 4S, you can't speculate on
14 whether that would alter U.S. EPA cleanup
15 requirements?

16 HEARING OFFICER HALLORAN: Could you speak
17 up?

18 MS. O'LAUGHLIN: I apologize. I'm sorry.

19 HEARING OFFICER HALLORAN: It's a mask thing.

20 BY MS. O'LAUGHLIN:

21 Q. But you already answered that you don't
22 want to speculate that you cannot -- you don't want
23 to speculate how U.S. EPA requirement for clean
24 corridors would be different if 1S to 4S were clean

1 **samples; in other words, no asbestos there?**

2 A. I believe my testimony was answering the
3 question about other clean corridors on Site 6 and
4 Site 3, what those requirements would have been in
5 the absence of material in the 1S to 4S samples.

6 **Q. Okay. You will agree that there's ACM**
7 **all over the southwestern sites area?**

8 MS. BRICE: Objection, mischaracterizes the
9 testimony.

10 HEARING OFFICER HALLORAN: He can answer if
11 he's able.

12 BY THE WITNESS:

13 A. There has certainly been asbestos
14 detected in multiple locations on both Site 3 and
15 Site 6.

16 BY MS. O'LAUGHLIN:

17 **Q. And Sites 4 and Sites 5?**

18 A. I'm not familiar with Sites 4 and 5.

19 **Q. And on the north side of Site 6?**

20 A. Yes, on the north side of Site 6.

21 MS. O'LAUGHLIN: Nothing further.

22 HEARING OFFICER HALLORAN: Thank you,
23 Ms. O'Laughlin.

24 MS. BRICE: I have one question.

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REDIRECT EXAMINATION

BY MS. BRICE:

Q. She just mentioned Sites 4 and 5, and I believe you talked about Mr. Manikas's legal cost table. Were the costs for four and five taken out of that in your tabulation?

A. Yes, they were.

Q. Okay. So did you attribute any Site 4, 5 costs to IDOT?

A. None.

HEARING OFFICER HALLORAN: Okay.

Ms. O'Laughlin, anything?

RECROSS-EXAMINATION

BY MS. O'LAUGHLIN:

Q. Did Manikas seek an easement for 0393? Excuse me, did Manikas do any easement work in regards to parcel 0393?

A. I'm not familiar with the specific work he did for 0393 but certainly there were easements within 0393 that he's written up.

Q. Did he get permission from IDOT?

A. I'm not aware of what permissions were sought or provided.

MS. O'LAUGHLIN: I have nothing further.

1 HEARING OFFICER HALLORAN: Thank you,
2 Mr. Dorgan. You may step down. I appreciate it.
3 Let's go off the record, transcript for a moment.

4 (WHEREUPON, a recess was had.)

5 MS. BRICE: We're calling Mr. Nguyen adverse.

6 HEARING OFFICER HALLORAN: Okay. Thank you.
7 Ms. Brice is calling you as an adverse witness.

8 (WHEREUPON, the witness was duly
9 sworn.)

10 HEARING OFFICER HALLORAN: You may proceed,
11 Ms. Brice.

12 MICHAEL NGUYEN,
13 called as an adverse witness herein, appearing
14 remotely via Zoom, having been first duly sworn, was
15 examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. BRICE:

18 Q. Okay. Thank you, Mr. Nguyen. We
19 appreciate you being here today. I've got some
20 questions for you. As I understand it, you have a
21 deposition in front of you that you gave back in
22 March of 2019; is that correct?

23 A. Yes.

24 Q. Okay. And you also have an exhibit

1 binder that we provided to you over the weekend?

2 A. Yes.

3 Q. Okay. So I'm going to ask you some
4 questions. You work at Andrews Engineering,
5 correct?

6 A. Correct.

7 Q. And you work with Mr. Steven Gobelman?

8 A. Correct.

9 Q. He is one of your bosses, right?

10 A. Yes.

11 Q. And you do work on various projects for
12 him as well as others at Andrews, is that right?

13 A. Correct.

14 Q. Okay. I want to talk a little bit about
15 your background. You attended Robert Morris
16 College, is that correct?

17 A. Correct.

18 Q. And you received a degree, right?

19 A. Correct.

20 Q. But you don't remember the name of the
21 degree, is that right?

22 A. Correct.

23 Q. What is auto CAD or CAD for short?

24 A. It's computer aided drafting.

1 Q. Can you elaborate on that?

2 A. It stands for computer aided drafting,
3 it's CAD.

4 Q. Okay. When you say it's CAD, what does
5 it do for computer drafting?

6 A. It drafts and stuff. It's a software to
7 draft instead of hand draft.

8 Q. Okay. How does it work?

9 A. What do you mean how? It's a software
10 that you are to draft stuff.

11 Q. Okay. You use CAD in your work at
12 Andrews Engineering, right?

13 A. Yes.

14 Q. Okay. And you learned CAD in school,
15 right?

16 A. Correct.

17 Q. Okay. There is such a thing as an auto
18 CAD certification, correct?

19 A. Correct.

20 Q. But you do not have one, do you?

21 A. No, I don't.

22 Q. So given that you use auto CAD all the
23 time, can you try and describe it a little bit more
24 for me as to how it works?

1 MR. GRANT: Object on the basis of vague.
2 Obviously he doesn't understand what she's saying.
3 And if she could split it up into little bite size
4 pieces, that might help.

5 HEARING OFFICER HALLORAN: Would that be
6 fine, Ms. Brice?

7 MS. BRICE: Sure.

8 BY MS. BRICE:

9 Q. What do you do to create a drawing in
10 auto CAD?

11 A. Well, let's just say that create a
12 picture, say overlay an image, so the software can
13 generate the image and then put the company boiler
14 in, scale, no error, the standard stuff.

15 Q. Okay. Anything else you can think of?

16 A. I mean, that's a lot it can do with the
17 software. I mean, like generate the dimension, draw
18 line, draw circle, a rendering, do volumes,
19 calculation. It's a lot the software can do.

20 Q. When I took your deposition in this case,
21 you told me that you did not know the term "point of
22 reference" with respect to working in CAD, is that
23 correct?

24 MR. GRANT: Object on the basis of that's

1 really calling for hearsay. She's --

2 HEARING OFFICER HALLORAN: I'm sorry, could
3 you speak up, Mr. Grant?

4 MR. GRANT: Yeah, I'm going to object.
5 There's --

6 HEARING OFFICER HALLORAN: Could you put your
7 mask on for starters.

8 MR. GRANT: Oh, I'm sorry. Thank you. I'm
9 sorry.

10 Yeah, I'm objecting in terms she's asking
11 about what she asked at a deposition. The
12 deposition transcript is hearsay unless there is
13 some sort of an inconsistent statement that was made
14 under oath. So if she's got a question for him, she
15 can ask it. But if she's saying when I asked you
16 during your deposition, you said, she's bringing
17 hearsay.

18 HEARING OFFICER HALLORAN: Ms. Brice?

19 MS. BRICE: I don't think it's hearsay. I'm
20 just asking him what he said in his deposition. And
21 if that's -- I just want to find out if that's still
22 the case.

23 HEARING OFFICER HALLORAN: I don't see
24 anything wrong with it. If he can answer, fine.

1 And then if we need to go into impeachment, you can,
2 so you may answer. Overruled.

3 BY MS. BRICE:

4 Q. Do you remember the question?

5 A. I don't. Can you repeat?

6 Q. Sure. When I took your deposition, you
7 told me that you didn't know what the term "point of
8 reference" meant with respect to working in CAD; is
9 that correct?

10 A. I can't remember.

11 Q. Okay. If you take a look at -- open up
12 your deposition, and you take a look at page 53.

13 MR. GRANT: I'm going to object again. This
14 is an improper use of the deposition transcript.

15 HEARING OFFICER HALLORAN: Overruled.

16 BY MS. BRICE:

17 Q. Tell me when you're on page 53.

18 A. I'm on 53.

19 Q. Okay. And if you go to lines 13 -- and
20 this is your deposition, correct?

21 A. Yes.

22 Q. Okay. And I asked you the question: But
23 on this map right here, Gobelman figure one,
24 what point of reference did you use in

1 creating the map?

2 **Answer:** I don't understand what you're
3 trying to ask me. Point of reference, like
4 what?

5 **Question:** Do you know what I mean by
6 point of reference? Is that something you
7 learned, you know, with respect to working in
8 CAD? Is that not a familiar term, point of
9 reference?

10 **Answer:** No.

11 Do you see that?

12 A. Yes.

13 **Q.** Okay. Do you know what it means now?

14 A. Again, I'm saying what the point of
15 reference, what you trying to reference to? I mean,
16 the terminology, it varies. That's why when you
17 asked me point of reference, of what, I mean?

18 HEARING OFFICER HALLORAN: He sufficiently
19 answered the question, Ms. Brice.

20 BY MS. BRICE:

21 **Q.** You began to work with Mr. Gobelman on
22 the Johns Manville site a few years ago, correct?

23 A. Correct.

24 **Q.** And your work involved using CAD to put

1 together figures for Mr. Gobelman, right?

2 A. Correct.

3 Q. Okay. If you go to your exhibit binder
4 book and go to the first one, which is Exhibit 205,
5 and turn to -- is Exhibit 205 Mr. Gobelman's expert
6 report dated August 22, 2018, the first page, 205-1?
7 It's the very first thing in your book.

8 A. Oh, my first one?

9 Q. Not your deposition. Your binder book.

10 A. Yeah, 205? Okay.

11 Q. Yeah. Is this his expert report from
12 August 22, 2018?

13 A. I never seen this before.

14 Q. Okay. Can you turn to 205-22, please.
15 Tell me when you're there.

16 A. Yes, I'm there.

17 Q. Okay. Do you recognize this document?

18 A. Yes.

19 Q. What is it?

20 A. It's a figures map.

21 Q. And is this Mr. Gobelman's base map?

22 HEARING OFFICER HALLORAN: Ms. Brice, what
23 exhibit are we on? I just found these exhibit
24 books. I don't know who left them up here.

1 MS. BRICE: Oh, sure. It's Mr. Nguyen's
2 exhibit book. We're on Exhibit 205-22.

3 HEARING OFFICER HALLORAN: Yeah, it just
4 appeared on my desk here.

5 MS. BRICE: I apologize. I think that that's
6 his deposition there in the black book.

7 HEARING OFFICER HALLORAN: Okay. Thank you.
8 205-22. Thank you.

9 MS. BRICE: Okay.

10 HEARING OFFICER HALLORAN: Sorry for
11 interrupting.

12 MS. BRICE: No problem.

13 BY MS. BRICE:

14 Q. Did you create this figure 205-22,
15 Mr. Nguyen?

16 A. Yes.

17 Q. Can you turn to the next page to 205-23,
18 24, 25, 26, 27 and 29. Do you see these?

19 A. Yes.

20 Q. Did you create these figures?

21 A. Yes.

22 MR. GRANT: Give him time to look through it.

23 MS. BRICE: Sure.

24 MR. GRANT: Mr. Nguyen, please take your time

1 to make sure you've reviewed them.

2 BY THE WITNESS:

3 A. Yes, I've read these.

4 BY MS. BRICE:

5 Q. Now, can you go to -- there's a tab in
6 your binder. The next tab is 207. Do you see that?

7 A. Yes.

8 Q. Okay. Again, 207-1, it says, expert
9 rebuttal supplemental report of Steven Gobelman, and
10 it's dated November 7, 2018. Do you recognize this?

11 A. No, not this document, I haven't seen
12 this before.

13 Q. Okay. Turn, if you will, to page 207-13.

14 A. 207-13?

15 Q. Yes, dash 13. It says Gobelman figure
16 one. It's the second tab 207 and just dash 13.

17 MR. GRANT: You might want to tell him the
18 numbers are on the bottom of the page.

19 BY MS. BRICE:

20 Q. Yeah, the numbers are on the bottom of
21 the page on the right-hand corner. The same
22 document you looked at that you said that you didn't
23 know what it was, 207-1, it's in that same document.

24 A. Okay. Gobelman one.

1 Q. Yeah, Gobelman one. Okay. Did you
2 create this document?

3 A. 207, what did you say, 13?

4 Q. Correct.

5 A. Yes.

6 Q. Okay. And do you know why there is --
7 and when you went to 207-1, I said that this is a
8 supplemental report. Do you know why Mr. Gobelman
9 created a supplemental report?

10 A. No.

11 Q. Okay. Is 207-13 different from 205-22?
12 If you could pull those both out, you said you
13 created both of them. The first one was in the
14 first report, and the other one is in the
15 supplemental report, so I want to know if they are
16 different from one another.

17 A. Okay.

18 Q. Okay. Are these different from one
19 another?

20 A. Yeah, they match.

21 Q. Okay. But are the boundaries and the
22 figures and where everything is placed on the map
23 different on 207-13 than where it is on 205-22?

24 A. I don't know. Where am I looking?

1 Q. Okay. So can you answer the question as
2 to whether they're the same or different?

3 A. They're different, yeah, the image
4 different.

5 Q. Now, what do you mean by the image?

6 A. The image for one of them gray. One of
7 them more green color finish.

8 Q. Okay. But I'm talking about the lines
9 and the -- and where things are placed on the map,
10 are they the same or are they different? Let me ask
11 it this way, it might be easier for you.

12 Do you remember a time where Mr. Gobelman
13 asked you to revise the maps that you had done
14 originally?

15 A. Yeah. Because, yeah, Gobelman did put
16 like a note attached to image that's different from
17 before, so, yes, he asked me to revise it.

18 Q. Okay. And is this set on 13 the revised
19 Gobelman one figure as far as you know?

20 A. Yes.

21 Q. And you used this 207-13 as a foundation
22 for creating the next group of documents, which is
23 207-14, 15 -- just turn the page -- and I'm going to
24 give you time -- 16, 17, 18, 19, 20. Okay. So my

1 question is: Did 207-13 serve as the foundation for
2 creating the maps that follow it --

3 A. Yes.

4 Q. -- 207-13 to 207-20?

5 A. Yes.

6 Q. Okay. Let's take a step back. When you
7 were creating all of these figures for Mr. Gobelman,
8 you didn't know how Mr. Gobelman planned to use
9 them, did you?

10 A. No, I don't.

11 Q. In fact, Mr. Gobelman gave you no details
12 about this project at all, did he?

13 A. Yes. Yeah, I have no idea, yeah.

14 Q. But he didn't give you any details about
15 the project, correct?

16 A. Correct.

17 Q. So you had no idea that your figures were
18 going to be used to determine damages in a lawsuit,
19 right?

20 A. Right.

21 Q. You put together these figures in 205 and
22 207, the ones we've just been talking about, by
23 overlaying PDF files Mr. Gobelman gave to you in
24 auto CAD; is that right?

1 A. Right.

2 Q. And you used, as I understand it, many
3 different sources to create these maps; correct?

4 A. Correct.

5 Q. And you overlaid these PDFs and tried to
6 match up the site boundaries with the different PDF
7 paper documents that he gave you, right?

8 A. Right.

9 Q. But you didn't pick the sources, you
10 didn't pick the PDF documents that you used to
11 create the map; isn't that correct?

12 A. What do you mean not picked it?

13 Q. You didn't --

14 A. I used what he gave me.

15 Q. That's my point. You didn't pick them,
16 you used what he gave you?

17 A. Correct. Oh, I'm sorry, yes.

18 Q. If you can turn to the next tab, it's
19 229F. Do you see the next tab?

20 A. Yes.

21 Q. Okay. Do you recognize this piece of
22 paper, this auto CAD drawing?

23 A. I can't remember.

24 Q. Okay. Do you know if Mr. Gobelman ever

1 gave you some auto CAD software that JM turned over
2 to IDOT during the course of the last couple of
3 years? Do you recall him giving you an auto CAD
4 file to work with?

5 A. No, can't remember, no.

6 Q. Okay. Did you use an auto CAD file that
7 you obtained from Mr. Gobelman to create any of your
8 maps?

9 A. No auto CAD file.

10 Q. So you only used the maps that
11 Mr. Gobelman directed you to use, correct, and they
12 were paper maps?

13 A. PDF, yes, PDF files.

14 Q. Yes. And you had no idea that there were
15 other maps out there that you could use that might
16 be better quality or better information, isn't that
17 right, you didn't know that?

18 A. Yes, I didn't know, right.

19 Q. And you didn't go looking for other
20 sources on your own, right?

21 A. Right.

22 Q. Let's talk about what you did use. If
23 you turn to -- go back to your first tab, 205.

24 A. 205?

1 Q. Yes, 205. And we're going to go to 22,
2 205-22.

3 A. Okay.

4 Q. Okay. Sorry. Taking me a second. Give
5 me a second. Okay. 205-22, if you look over here
6 in the notes, it says you used the Atwell survey.
7 Do you see that?

8 A. On 205-22?

9 Q. Yeah, under the notes.

10 A. Okay.

11 Q. What does it say that you used the Atwell
12 survey for?

13 A. Oh, can't remember.

14 Q. Well, no, can you just -- I think it says
15 that. It says under number two, IDOT right-of-way
16 land -- my eyes are going. But can you read --

17 A. My eyes too. I can barely read this
18 thing. It's a terrible copy.

19 Q. Okay. I'm going to read to you what it
20 says on the screen here blown up. IDOT right-of-way
21 0393 land acquisition legal description and Atwell
22 plat of topographic survey July 22, 2018. That's
23 under your notes okay? That's what it says. So do
24 you know what you used the Atwell survey for?

1 A. Oh, can't remember. Oh, which one is
2 that? Which map is that, so I can see, you know?

3 Q. I'm not sure if it's actually in here,
4 frankly. Just so if -- I think it's in the
5 documents, so -- but just from sitting here, you
6 don't remember, is that the answer?

7 A. I don't remember, yes.

8 Q. Okay. If you can turn to 205-45, so the
9 same tab, and then just further along.

10 A. 45?

11 Q. 45, yes.

12 A. Okay.

13 Q. Okay. And what is this?

14 A. I don't know.

15 Q. Okay.

16 A. I didn't create this one. I don't know.

17 Q. I know you didn't create it, but you
18 testified that you used it in your -- to create your
19 figures in 205 and 207, right?

20 A. I can't remember if I used the
21 Exhibit 205-45.

22 Q. Okay. Well, I'll represent for the
23 record that Mr. Gobelman said that this was the
24 document that was used. Okay?

1 A. Yeah.

2 Q. And so I want to ask you some questions
3 about that. He said that on Exhibit 205-7 of his
4 report, that this document you used to generate the
5 Site 3 borings for Gobelman figure one. Does that
6 ring a bell?

7 A. I can't remember. Probably. I can't
8 remember. It's too long, gosh, like a couple years
9 now.

10 Q. Okay. This document is a draft map,
11 right, it says draft on the top?

12 A. Yes.

13 Q. And if Mr. Gobelman gave you draft
14 documents to use to create his figures, you used
15 them; right?

16 A. I can't remember what he gave me.

17 Q. Okay. But I'm just asking you: If he
18 gave you something that was a draft map, you would
19 use the draft map that he gave you; right?

20 A. If he told me to use this, I used it.

21 Q. Okay. And if you want to accurately plot
22 borings on a base map, you need a document that
23 gives you northings and eastings from each boring,
24 right?

1 A. Probably. It's northern -- if northing
2 easting fine, you measure -- I mean from the field
3 like from the knowns -- known location of -- like,
4 for example, if you know the fire hydrant, okay, you
5 go like five feet, you measure five feet into the
6 east or to the west, something, it's still good. I
7 mean, that's why I mean the survey way, way long
8 time ago. And they give ruler and ruler to measure
9 stuff out, you know, it's still good.

10 **Q. Okay. I'm asking a different question**
11 **though. Okay. So what I'm saying is if you want to**
12 **accurately plot borings on a base map, you need a**
13 **document that gives you northings and eastings for**
14 **each boring; isn't that true?**

15 A. Like I say, north and easting, yes, or
16 measurement from the -- like from distance from one
17 to another, from a known point, yes, still good too.

18 **Q. Okay. I think I'm going to -- let's go**
19 **to your deposition.**

20 A. Okay.

21 **Q. If you turn to page 42.**

22 A. 42?

23 **Q. 42.**

24 A. Okay.

1 Q. Okay. Okay. You say, starting at line
2 five, the question was --

3 A. To line five, yes.

4 Q. Hold on, I want to make sure I got the
5 right thing. Actually, no, go to line two, sorry.

6 A. Line two.

7 Q. It says: If you want to accurately plot
8 borings, right, on a base map that you're
9 creating?

10 Answer: Right.

11 Question: What kind of source documents
12 do you want, and what information do you want
13 on it?

14 Answer: Well, first of all, there has to
15 be a north and east in here, so I know that
16 north and east line up. That's the first
17 thing.

18 Do you see that?

19 A. Yes.

20 Q. Okay. And then if you turn to the next
21 page on 43 and you go to line seven, go to line
22 seven.

23 A. Okay.

24 Q. It says: And which -- between the north

1 and east, are you talking about the north and
2 east at the borings themselves or the site
3 outline?

4 Answer: The borings themselves.

5 Do you see that?

6 A. Yes.

7 Q. Okay. And then turn to page 47, line 20.

8 A. Okay.

9 Q. Okay. And it says -- this is an answer
10 to my question, and it says: Like I say, the
11 north and east, if you want to be accurate, I
12 mean, yeah, you need to have that.

13 Do you see that?

14 A. Yes.

15 Q. Okay. So going back to 205-45, this
16 document does not have northings and eastings on it,
17 does it, for the boring location?

18 A. No.

19 Q. State plane coordinates are another way
20 to identify features on a map, right?

21 A. The coordinates, yes.

22 Q. Okay. But this document does not have
23 state plane coordinates on it, right,
24 Document 205-45?

1 A. Yeah, that's say something, I mean, yeah,
2 I don't see this statement.

3 Q. Yeah, just to be clear, I couldn't really
4 hear you. So it does or it does not have state
5 plane coordinates on it?

6 A. No, don't see anything, coordinates on
7 here.

8 Q. Okay. Does it have any kind of grid
9 system on it?

10 A. No.

11 Q. Okay. So you couldn't plot the exact
12 location of these borings on your base map using
13 205-45, could you?

14 A. Well, you can line up to the image.

15 Q. Okay. But you can't plot the exact
16 locations of the borings?

17 A. Not exactly. Exactly 100 percent, no.

18 Q. Sorry, I don't understand.

19 A. Not exact 100 percent exact, no.

20 Q. And even though this was a draft map, you
21 didn't ask Mr. Gobelman if there was a better map
22 you could use to plot the Site 3 borings, did you?

23 A. I can't remember. Because, again, it's
24 going back like a couple years ago. I don't know if

1 this is my first map or second or third or whatever
2 we did.

3 **Q. Okay. Let's turn to page 43 in your**
4 **deposition.**

5 A. Yeah.

6 HEARING OFFICER HALLORAN: Okay. Ms. Brice,
7 we're talking about Exhibit 229E?

8 MS. BRICE: That is correct. And I will give
9 you the page number, I apologize.

10 MS. O'LAUGHLIN: Yeah, I think your pages
11 might be a little bit different than ours.

12 HEARING OFFICER HALLORAN: I'm not following
13 you at all --

14 MS. BRICE: I'll fix it. I'll fix it. Once
15 we're done -- I'm sorry, I've been giving him the
16 page number of the deposition, not the exhibit
17 number.

18 MS. O'LAUGHLIN: Gotcha.

19 HEARING OFFICER HALLORAN: Understood.

20 BY MS. BRICE:

21 **Q. Okay. So I'm going to page 43 at the**
22 **top, but at the bottom it says 229E-44. Do you see**
23 **that? Are you on that page?**

24 A. 229E?

1 Q. Just go to page 43 of your deposition.

2 A. Oh, 43, yes.

3 Q. Okay. And going to line 14, okay?

4 A. Okay.

5 Q. And I'm going to read it.

6 Mr. Gobelman said this was the map that
7 you guys used. This is referencing 204-45.

8 If that's the case, do you recall going back
9 and saying is there a better map that has
10 more information, would you have done that?

11 Answer: Yes. If you got a better map,
12 yes, you have to tell them.

13 Okay. Do you remember having any kind of
14 conversation like that with Mr. Gobelman?

15 Answer: No, I don't.

16 Okay. And he didn't tell you there were
17 more precise maps available, did he?

18 A. No, he didn't tell me.

19 Q. And if you had been given a better map
20 with more information about the location of the
21 Site 3 borings, would you have used that map to plot
22 the Site 3 borings instead of 205-45?

23 A. Well, you can have, yeah, better, yes.

24 Q. Okay. Can you turn to 225 in your

1 exhibit book. It's about three or four documents
2 in.

3 A. 225?

4 Q. 225. I'm going to go to page 88.

5 A. 225-88. 88?

6 Q. Oh, I'm sorry. Let's go -- it's -- okay.
7 Go to 225, sorry, 94.

8 A. Okay.

9 Q. Okay. Have you ever seen this document
10 before?

11 A. Again, can't remember.

12 Q. Okay. This is an AECOM document, right?
13 Do you see AECOM's letterhead over on the right?

14 A. Yes.

15 Q. And this document shows Site 3 borings,
16 right?

17 A. Yes.

18 Q. And it also has a grid, right?

19 A. Well, it's not the site grid. It's the
20 grid of the -- I don't know, it's a grid of a
21 boring.

22 Q. Yeah, there's a grid on it, right?

23 A. Grid of what? Side grid or grid of
24 boring, you know what I mean? It's different.

1 HEARING OFFICER HALLORAN: One at a time,
2 please.

3 BY MS. BRICE:

4 Q. Sorry. Sampling boring grid?

5 A. Yes.

6 Q. But Mr. Gobelman didn't give you this
7 document to put up the Site 3 borings, did he?

8 A. I can't remember.

9 Q. Let's turn to 205-46, so go back to 205
10 at the beginning and go to page 46.

11 A. Okay.

12 Q. Okay. Do you see this -- do you
13 recognize this document?

14 A. No, can't remember.

15 Q. Okay. So you don't remember Mr. Gobelman
16 giving you this document and asking you to use it in
17 your figures?

18 A. Yeah, I can't remember.

19 Q. Let's turn the page to 205-47. Do you
20 recognize this document?

21 A. Can't remember.

22 Q. Okay. Mr. Gobelman testified that he
23 gave you this document to use, you don't have any
24 recollection of that?

1 A. It's been so long.

2 HEARING OFFICER HALLORAN: Hold on,
3 Mr. Nguyen. Mr. Grant?

4 MR. GRANT: Now we're using two depositions.

5 MS. BRICE: No, we're not.

6 MR. GRANT: You can tell him that he
7 testified --

8 MS. BRICE: Sure, I can say it. I can say
9 here --

10 HEARING OFFICER HALLORAN: Wait a minute,
11 let's talk one at a time, guys, please.

12 MR. GRANT: All right. The problem I got is
13 that I'm sitting here and supposed to recognize that
14 what she's telling my witness is true. I don't know
15 if it's true. You said Mr. Gobelman testified, you
16 know, a little bit more foundation will seem to
17 be --

18 HEARING OFFICER HALLORAN: Okay. But as far
19 as her reading the document, this is the only way
20 we're going to get through it.

21 MR. GRANT: Well, that's fine. I understand
22 as far as the deposition, you know, use of
23 deposition, even though we're not doing -- formally
24 creating an inconsistency --

1 HEARING OFFICER HALLORAN: Right.

2 MR. GRANT: -- how he's doing his job. But
3 if she's going to say Mr. Gobelman said you used
4 this, then he reports to Mr. Gobelman, well, I guess
5 she says that --

6 MS. BRICE: Okay. Here --

7 MR. GRANT: I don't even know if that's true.
8 That's all I'm trying to find out, Susan. I'm not
9 trying to screw up your --

10 MS. BRICE: Sure.

11 MR. GRANT: -- examination or --

12 HEARING OFFICER HALLORAN: Fair enough.
13 Ms. Brice.

14 BY MS. BRICE:

15 Q. Sure. So if you look at 205-7?

16 A. 07?

17 Q. Yes. Hold on one second, Mr. Nguyen.

18 MS. BRICE: If you look at 205-7 and 205-8,
19 Mr. Gobelman talks about using these documents, and
20 then they're attached to his expert report at the
21 back. Do you see it.

22 MR. GRANT: Show me.

23 MS. BRICE: See? Sample locations.

24 MR. GRANT: I guess for one thing, that these

1 are really questions that ought to be addressed to
2 Mr. Gobelman since it's his report.

3 MS. BRICE: He created the map.

4 MR. GRANT: He didn't -- he told you earlier
5 he's never seen the report before, so --

6 MS. BRICE: He testified that he created the
7 map.

8 MR. GRANT: Yeah. But, you know, when you
9 show him the reports, he did the maps based on PDFs
10 they were given. So I really think these are -- if
11 you're saying, you know, Mr. Gobelman testified that
12 he used this map --

13 MS. BRICE: It's fine, I'll move on.

14 MR. GRANT: All right.

15 MS. BRICE: I'm just trying to understand --

16 MR. GRANT: Again, I'm not trying to be
17 difficult. But he said under oath that it's an
18 exhibit he's never seen before, you know.

19 HEARING OFFICER HALLORAN: Well, he doesn't
20 know if he's seen it before.

21 MR. GRANT: I think he said -- when she went
22 to the first Exhibit 205, the first thing he said:
23 I never saw this. I never seen this.

24 MS. BRICE: No, that was the expert report.

1 MR. GRANT: Yes.

2 (WHEREUPON, there was simultaneous
3 crosstalk.)

4 HEARING OFFICER HALLORAN: Okay. Objection
5 noted. You may move on, Ms. Brice.

6 MS. BRICE: Okay.

7 HEARING OFFICER HALLORAN: Please.

8 MS. BRICE: Yes.

9 BY MS. BRICE:

10 Q. If you can turn to Exhibit 204, please,
11 in your book.

12 A. 204?

13 Q. 204. It says expert report of Douglas G.
14 Dorgan, Jr.

15 A. Okay.

16 Q. Okay. I assume you've never seen this
17 document before, correct?

18 A. Yes, the 204, I don't know, I haven't
19 seen all these document.

20 Q. Okay. Can you turn to 204-38. It's a
21 map. I just want to know if you've seen it before.
22 Do you remember ever seeing this map before?

23 A. It look familiar though.

24 Q. It does or it does not look familiar?

1 A. It look familiar.

2 Q. Okay. Well, you note on the bottom, it
3 **says site layout supplied by AECOM?**

4 A. Yes.

5 Q. And what was AECOM's role in this project
6 **to the extent that you know?**

7 A. I have no idea.

8 Q. And but do you know if you -- you said
9 **you recognize this document. Did you use this**
10 **document at all in creating your base maps and**
11 **figures for Mr. Gobelman?**

12 A. One of them, the form kind of look
13 familiar. I think saw them on the map somewhere had
14 the red circle or something like that or use this as
15 a base map somewhere. Maybe not, I don't know. Oh,
16 yeah, 204-39 has got the circles.

17 Q. You either did or did not?

18 A. Oh, yeah, probably seen it before.

19 Q. You were trying to create an accurate
20 **base map and accurate figures for Mr. Gobelman,**
21 **right?**

22 A. Yes.

23 Q. And in order to do that, you needed the
24 **sources to line up; right?**

1 A. Yes.

2 Q. For example, you needed the boundaries of
3 Site 3 to line up on all of your sources; correct?

4 A. Yes.

5 Q. That way you could ensure you were
6 placing the features contained within each source in
7 the right place --

8 A. Yes.

9 Q. -- is that correct?

10 A. Yes.

11 Q. And one way to do that is to ensure that
12 the corners of Site 3 are aligned, right?

13 A. Yes.

14 Q. But you don't remember if you did this,
15 do you?

16 A. Yeah, can't remember.

17 Q. What is the scale on a PDF document?

18 A. Oh, 50 one inch equal --

19 Q. In general, like in general, what is the
20 scale on a PDF document? What is it representing?

21 A. The scale is pretty much the distance we
22 are asked to consider, so if we use the scale
23 dimension, the scale will be on the PDF file.

24 Q. Okay. I assume when you're trying to

1 align PDF documents, you want the scales on the
2 documents to be accurate; right?

3 A. Right.

4 Q. Okay. You don't know if the scales of
5 the documents Mr. Gobelman gave you are accurate, do
6 you?

7 A. Right. Yeah, I just go -- for example,
8 the Exhibit 204-38, so it has a scale, so I don't
9 use that scale it out by one inch go to 50.

10 Q. Right. But I'm talking about when you
11 did the maps, I'm going back. You don't know if the
12 sources he gave you had accurate scales, do you, all
13 of the sources?

14 A. Right.

15 Q. Okay. Okay. Let's go back to 205-43.
16 Tell me when you're there.

17 A. Okay. 205-23.

18 MR. GRANT: Did he say 23 or 43?

19 MS. BRICE: 23.

20 BY THE WITNESS:

21 A. Oh, 205-43.

22 BY MS. BRICE:

23 Q. Yeah, 205-43.

24 A. Okay.

1 Q. Okay. Did you pick this figure?

2 A. Yes.

3 Q. Okay. And what is it showing about the
4 Site 3 boundaries?

5 A. Yeah, they have a whole bunch of
6 different boundaries not matching up to each other.

7 Q. I'm sorry, I didn't understand what you
8 just said at the end.

9 A. Yeah, there's a whole bunch of
10 boundaries, it's not matching up.

11 Q. They don't match up, is that what you
12 said?

13 A. Right.

14 Q. What color is Mr. Gobelman's Site 3
15 boundary on this map?

16 A. It's the black dash.

17 Q. Okay. Black dash line?

18 A. Yeah.

19 Q. Okay. And in the northeast, southwest
20 and southeast corners of Site 3, okay, the black
21 line doesn't line up with the other sources noted on
22 this document, does it?

23 A. Right.

24 Q. Okay. You didn't discuss with

1 **Mr. Gobelman whether you thought a source he gave**
2 **you was reliable or not, did you?**

3 A. I think I -- yeah, I talked to him
4 about -- I show him the sources not matching up.

5 **Q. Okay. But did you talk to him about**
6 **whether you thought a source itself was reliable?**

7 A. Right.

8 **Q. You did or you did not talk about that?**

9 A. Yeah, we talk about, yeah, that the
10 source he gave me, that it is probably not accurate,
11 because as you can see in three, four of them not
12 matching up to one of them, so I don't know which
13 one's correct.

14 **Q. Okay. So let's go to page 26 of your**
15 **deposition, which is going to be 229E-27.**

16 A. 27?

17 **Q. It's 26 on yours, Mr. Nguyen. And I'm**
18 **going to line 20, and it says:**

19 Like again on the figure, whatever the
20 project man provides to me what to use, I'm
21 using. I don't have like saying no, don't
22 use this, don't use that.

23 Do you see that?

24 A. Yeah.

1 Q. So you just used what he told you to use,
2 didn't you?

3 A. Yeah.

4 Q. And Mr. Gobelman told you where to locate
5 the various features on Site 3 and 6, didn't he?

6 A. What do you mean locate site features?

7 Q. He told you where to place certain things
8 on the map, right? Like let's say the northeast
9 excavation, he told you where to put it; right?

10 A. Right.

11 Q. And if you thought Mr. Gobelman was wrong
12 about where he wanted something placed, you still
13 placed it where he wanted it, didn't you?

14 A. Well, because I don't know which one is
15 correct. I mean, he's the project manager, if there
16 are like differences like this, you can't make
17 exactly the decision for me.

18 Q. Understood. But if you thought it was
19 wrong, you still put it where he told you to put it
20 even though you thought it was wrong; isn't that
21 right?

22 A. If he say put it there, I put it there.

23 Q. Give me one second. Sorry.

24 I'm looking for 229E-374.

1 A. 229E?

2 Q. Yeah.

3 A. All right. I don't have 229E. I only
4 have 229.

5 Q. Yeah, go to 229. Okay. And then go one,
6 two, three, four, I think it's five pages in. Do
7 you see at the bottom it says 229E-374?

8 A. Yes.

9 Q. Okay. This is an e-mail between you and
10 Mr. Gobelman, right?

11 A. Yes.

12 Q. And it's talking about B3-50, which is a
13 soil boring; correct?

14 A. Yes.

15 Q. Okay. And that's within the northeast
16 excavation, isn't it, if you remember?

17 A. I don't think -- which one is that? It
18 looks pretty small, I can't read, but, yeah,
19 northeast.

20 Q. Okay. But let's just go -- let's just
21 talk about 229E-374.

22 A. Okay.

23 Q. You see here that you put B3-50, it's
24 just below the right-of-way, do you see that?

1 A. Yes.

2 Q. So it's possible here that you're
3 responding to Mr. Gobelman's request to move B3-50
4 just below the right-of-way, is that correct?

5 MR. GRANT: Calls for speculation. I object.

6 MS. BRICE: He answered it in his deposition.

7 HEARING OFFICER HALLORAN: Overruled.

8 BY MS. BRICE:

9 Q. Can you remember?

10 A. I can't remember.

11 Q. Okay. We'll just move on.

12 Okay. We've discussed Exhibit 205, which
13 contains one set of figures, and 207, which contains
14 a set of figures. And you made the changes to the
15 figures in 207 because Mr. Gobelman told you to make
16 them, not because you found something wrong with the
17 original base map; is that right?

18 A. 205, yeah.

19 HEARING OFFICER HALLORAN: 205?

20 BY MS. BRICE:

21 Q. Yeah. So you have the 205 figures and
22 then you have the 207 figures, right?

23 A. Right.

24 Q. And you said -- and all I'm getting at is

1 that the changes you made were not because you found
2 something wrong with, because Mr. Gobelman told you
3 to make them; right?

4 A. Right.

5 Q. And that's because you were not the
6 decisionmaker here, correct?

7 A. Right.

8 Q. You made drafts of your base maps and
9 figures, right, and showed them to Mr. Gobelman?

10 A. Yeah, I used -- yeah, when I draft the
11 figures, yeah, I e-mail them to him for review.

12 Q. Okay. And he was the one that decided if
13 any changes were made to your drafts?

14 A. Yes.

15 Q. So you didn't make any changes on your
16 own, right?

17 A. No.

18 Q. Okay. If you can turn to Exhibit 221,
19 it's there at the back, kind of near the back of
20 your exhibit binder.

21 A. 21, yes.

22 Q. Okay. It's a one-page document. Do you
23 know what this is?

24 A. It's a map.

1 Q. Okay. Did you create it?

2 A. Looks like it, yes.

3 Q. It says -- and what's the date on the
4 map?

5 A. Oh, man, it's so small, I can't --

6 Q. Okay. I'll represent for the record it
7 says April 2018.

8 MR. GRANT: Where's the date, Susan?

9 MS. BRICE: Right here.

10 MR. GRANT: Thank you.

11 BY MS. BRICE:

12 Q. This wasn't your file figure though, was
13 it, this is one of your drafts; right?

14 A. I don't know. Can't remember.

15 Q. Okay. Is this the same as any of your
16 other maps that we just looked at?

17 A. Oh, the boring and -- I mean, the top of
18 box, yeah, I mean, it looks the same without the
19 image background.

20 Q. Okay. That's fine. Let's just turn to
21 207-217, next -- are you there?

22 A. 217, yes.

23 Q. Okay. I'm going to read -- I'm going to
24 read this first sentence out loud at 217-1. It says

1 attached -- and this is an e-mail from Mr. Gobelman
2 to Mr. McGinley and Ms. O'Laughlin and
3 Mr. Dougherty. Do you see that?

4 A. Yes.

5 Q. Okay. It says: Attached are the revised
6 figures. R1 were made the first changes that only
7 adjusted the location of parcel 0393. And R2 were
8 the figures used in the supplemental. Do you see
9 that?

10 A. Yes.

11 Q. Okay. So this exhibit contains two set
12 of figures I would -- based upon -- if that's
13 accurate what I just read, this exhibit contains two
14 set of figures; right?

15 A. Yeah.

16 Q. Okay. And you can look through them, but
17 you created these figures, didn't you?

18 A. Yeah.

19 Q. All of these figures in exhibit --

20 A. 217 dash 2, dash 3, all that, yeah.

21 Q. Turn to 217-5.

22 A. Okay.

23 Q. You see that? And this is -- it's -- on
24 the bottom, it says it's Gobelman figure three,

1 right?

2 A. Yes.

3 Q. Okay. I want you to look at the
4 northwest portion of Site 3, and there's a feature
5 there that's kind of an L-shaped turned on its side.
6 Do you see that?

7 A. The hatching area.

8 Q. With the hatching?

9 A. Yes.

10 Q. Do you know what that is? Do you happen
11 to know what that is?

12 A. I have no idea about it.

13 Q. Okay. So now turn to 217-14. Okay?

14 A. 17-14.

15 Q. Yes. Are you there?

16 A. Yes.

17 Q. Okay. Will you agree with me that this
18 hatching, the side shaped L, is in a different place
19 on 217-14 than it is on 217-5?

20 A. Yes.

21 Q. It's further south, correct?

22 A. Yes, further south, yes.

23 Q. On 217-14?

24 A. Yes, 217-14 further south, yes.

1 Q. Okay. Now can you turn to 217-8. Tell
2 me when you're there.

3 A. Okay. I'm here.

4 Q. Okay. And I want you to focus in on the
5 hatched area on this one. Okay?

6 A. Okay.

7 Q. And then turn to 217-17. Okay. And look
8 at the hatched area on that one. You see that?

9 A. (No audible response.)

10 Q. Yeah, do you see that? Are you looking
11 at them?

12 A. Yeah.

13 Q. Are they in the same place? Because it
14 looks to me like on 217-17, it's further to the
15 right than it is on 217-8. It's closer to the
16 western boundary -- the eastern boundary, I'm sorry,
17 of Site 3. Will you agree with me on that?

18 A. Which one further on south?

19 Q. The one further -- further to the right
20 is 217-17 if you're comparing the distance between
21 the right edge of the hatched area and the boundary
22 to the right, there is more area there on 217-8 than
23 there is on 217-17, right?

24 A. Further right?

1 **Q. Further to the right.**

2 A. I mean, you can match it up with the
3 grid, that's fine.

4 **Q. Okay. It doesn't look like --**

5 A. It matches up with the grid, it means
6 it's on.

7 **Q. Okay.**

8 A. Yeah, if you flip back and forth, it
9 doesn't look like it's all the way into the right,
10 so --

11 (WHEREUPON, there was simultaneous
12 crosstalk.)

13 HEARING OFFICER HALLORAN: Wait, one person
14 at a time.

15 MS. O'LAUGHLIN: Sorry.

16 HEARING OFFICER HALLORAN: Thank you.

17 BY MS. BRICE:

18 **Q. So look at the gray area, okay, go to the**
19 **southeast corner of the hatched area.**

20 A. Okay.

21 **Q. Okay?**

22 A. Okay.

23 **Q. Okay. And see how far it is away from**
24 **the boundary of Site 3?**

1 A. Oh, okay. Yes. Yes.

2 Q. Right? So is it further toward the
3 boundary on the second map on 217-17?

4 A. Yes.

5 Q. Mr. Gobelman isn't an expert in auto CAD,
6 is he?

7 MR. GRANT: Objection, calls for a legal
8 conclusion.

9 HEARING OFFICER HALLORAN: Overruled. He can
10 answer if he's able.

11 BY THE WITNESS:

12 A. Oh, I don't know what his experience with
13 the auto CAD.

14 BY MS. BRICE:

15 Q. So despite that you don't know if he's an
16 expert or not, you didn't take any extra steps to
17 ensure what he told you to do was the right thing to
18 do, did you?

19 A. No.

20 HEARING OFFICER HALLORAN: Wait a minute.
21 Mr. Grant, stand, please, because I can't --

22 MR. GRANT: I'm just objecting to the right
23 thing to do, that's a pretty vague question.

24 MS. BRICE: Okay. Sorry.

1 HEARING OFFICER HALLORAN: Can you rephrase.
2 It's hard when you don't stand up, Mr. Grant.

3 MR. GRANT: I'm sorry.

4 BY MS. BRICE:

5 Q. You didn't take any extra steps to ensure
6 what he told you to do using auto CAD was accurate,
7 did you?

8 A. By what? He asked me of I do accurate?

9 Q. No. He told you where to place things,
10 right?

11 A. Right.

12 Q. And you didn't go back and take any extra
13 steps to make sure that it was correct what he told
14 you -- where he told you to place things, did you?

15 A. No, because I don't know -- like I don't
16 know what's the -- like where I need to put like
17 certain spot, I don't.

18 Q. Okay. If you can turn to the last
19 exhibit in your book, 202.

20 A. 202, okay. Okay. Yeah, see, this kind
21 of familiar.

22 Q. Did you draft -- did you put this map
23 together?

24 A. Yeah, from the PDF, yes, from the exhibit

1 you show me earlier.

2 Q. Okay. And your name is on this map,
3 right?

4 A. Yes.

5 Q. Did you check to see if this map -- the
6 boundaries on this map lined up with the boundaries
7 on your exhibits in 205 and 207, your figures in 205
8 and 207, did you try and match this map to the maps
9 in 205 and 207?

10 A. Well, see, I don't know if this is the
11 first map or the second or third or fourth that he
12 gave me so I can check.

13 Q. My question is simple. Do you remember
14 trying to match this map and these boundaries --

15 A. Yeah.

16 Q. -- to what you did in the figures for
17 Exhibits 205 and 207? If you don't remember, that's
18 fine.

19 A. Yeah, I don't remember.

20 Q. Okay. One last question. Go back to
21 204-38. Tell me when you're there.

22 A. Okay.

23 Q. Okay. And this was one that you said
24 looked familiar, right?

1 A. Yeah, kind of look familiar, yeah, but
2 it's not exactly the same though.

3 **Q. Okay. All I want to know is: Do you**
4 **have an opinion on whether this map is accurately**
5 **depicting the soil boring and the features for**
6 **Site 3 and 6 or not? I just want to know if you**
7 **have an opinion about that.**

8 A. I can't if it's accurate or not, I mean.

9 **Q. Okay. Thank you.**

10 MS. BRICE: No further questions.

11 HEARING OFFICER HALLORAN: Thank you. Let's
12 go off the transcript for a minute, Jen.

13 (WHEREUPON, a recess was had.)

14 HEARING OFFICER HALLORAN: Back on the
15 record. Still October 27th, it's approximately
16 1:56. I think Mr. Grant is going to cross Mike
17 Nguyen. Can you hear us, sir?

18 THE WITNESS: Yes, sir.

19 HEARING OFFICER HALLORAN: Thank you. You're
20 still under oath.

21 CROSS-EXAMINATION

22 BY MR. GRANT:

23 **Q. I just have a few questions. How long**
24 **have you been with Andrews Engineering?**

1 A. 17, 18 years now.

2 Q. Okay. And what was your position when
3 you started?

4 A. CAD tech one.

5 Q. What is your current position?

6 A. Yeah, the lowest.

7 Q. What is your current position?

8 A. CAD manager.

9 Q. CAD manager?

10 A. CAD manager.

11 Q. Does Andrews Engineering require that its
12 CAD technicians be certified?

13 A. Not certified, no, but has to be two
14 college, two years.

15 Q. I want you to take a quick look at one of
16 the exhibits. Do you still have the exhibits there?

17 A. Yeah.

18 Q. This is 205-45, so it's the first binder
19 and Document 45.

20 A. 45.

21 MS. BRICE: Is it 205?

22 MR. GRANT: Yes.

23 BY MR. GRANT:

24 Q. There was testimony related -- before

1 related to this particular map and the boring
2 locations. Do you remember?

3 A. Yeah, like I say, I can't remember.

4 Q. Okay. But I just meant from today, from
5 this morning?

6 A. Right.

7 Q. Do you remember talking about --

8 A. Yes. Yes.

9 Q. My question is if the boring locations on
10 this map are accurately located, and you inserted
11 this PDF into an accurate base map, would the
12 resulting map accurately identify the boring
13 locations?

14 A. Yes.

15 MS. BRICE: Objection. We have not agreed to
16 the admissibility of this map, obviously it's a map,
17 we talked about this map. But I just want the
18 record to say this is one of the things that we move
19 to be -- we deem lacks foundation and was not
20 admissible. But to the extent you want to ask him
21 about it, I believe that that is okay. But I want
22 to state for the record that we are not agreeing to
23 the admissibility or the validity of this map.

24 MR. GRANT: Okay. Was this part of this

1 report that was attached here?

2 MS. BRICE: It is.

3 MR. GRANT: That's all. Thank you,
4 Mr. Nguyen.

5 HEARING OFFICER HALLORAN: Do you have any
6 questions?

7 MS. BRICE: I have no further questions.

8 HEARING OFFICER HALLORAN: Okay.

9 MR. GRANT: Mike, you're free to go.

10 THE WITNESS: Oh, thank you very much.

11 HEARING OFFICER HALLORAN: You could have
12 done that before lunch.

13 MS. BRICE: Okay. We're going to call our
14 next witness.

15 HEARING OFFICER HALLORAN: We're off the
16 transcript, Jen.

17 (WHEREUPON, the witness was duly
18 sworn.)

19 RIAH DUNTON,
20 called as a witness herein, having been first duly
21 sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. BRICE:

24 Q. Could you please state your name for the

1 **record.**

2 A. Riah Dunton.

3 **Q. And where do you work, Ms. Dunton?**

4 A. Weaver Consultants Group.

5 **Q. And how long have you worked there?**

6 A. 14 years, nine months.

7 **Q. Okay. And what is your current title?**

8 A. Designer.

9 **Q. Designer, can you elaborate on that?**

10 **What kind of designer?**

11 A. Well, I'm multiversital. I do
12 architectural engineering as well as environmental
13 design.

14 **Q. And what is your educational background?**

15 A. I have an associate's degree in applied
16 science for auto CAD that I received from the Art
17 Institute of Houston in 1995. And I have a
18 bachelors of science for architecture that I
19 received from University of Michigan in '03.

20 **Q. Can you briefly explain for us in your
21 terminology what is auto CAD, or CAD for short?**

22 A. Auto CAD is a software for computers in
23 order to draft. You are going to be using that for
24 local reasons such as architectural engineering and

1 environmental purposes that will lay out plans,
2 details, drawings, things that will actually be used
3 to follow for construction purposes.

4 **Q. And what kind of experience do you have**
5 **and had?**

6 A. Aside from my degree back in 1995, I have
7 literally done architecture, engineering and
8 environmental purposes, I've designed roads, I've
9 designed buildings, inside landscaping,
10 environmental layouts, boring locations such as the
11 plans that we are going to be discussing today.

12 **Q. Okay. And then you've been doing that in**
13 **CAD or auto CAD, is that correct?**

14 A. Yes, correct.

15 **Q. Can you just briefly describe how CAD is**
16 **used in the environmental field?**

17 A. Basically it's for documenting the
18 diagrams and the site layouts themselves, such as
19 the fact that you will have a site and you want to
20 report the boring locations, a layout where the road
21 is, where a building is, the property boundaries.
22 And in the case that we're talking about here, which
23 will be the boring locations, so you would map those
24 out on an aerial or a plan of the site so that you

1 would know where they were located.

2 **Q. And how often is CAD used in the**
3 **environmental field?**

4 A. I would say rather often. It's also used
5 to document soil types as well. So you'll see the
6 cross section, cross sections for roads, which is
7 also needed for environmental, so you know what kind
8 of soils are underneath it, so you'd have a profile
9 of that.

10 **Q. Who is Doug Dorgan?**

11 A. He's the head principal of the company
12 Weaver Consultants Group.

13 **Q. And do you work for him?**

14 A. I do.

15 **Q. And how did you work with him on this**
16 **matter, this Johns Manville matter, that we're here**
17 **today to discuss?**

18 A. I have been helping him with some figures
19 on laying out the site that's in question with
20 regards to AECOM documents that we obtained from
21 them to lay out the borings and the street layouts
22 that have been a part of.

23 **Q. Okay. And why don't we do this, let's**
24 **turn to the first exhibit, Exhibit 204. And have**

1 **you seen this document before?**

2 A. I have seen it, yeah.

3 **Q. Okay. Can you turn to 204-38, please.**

4 A. Uh-huh.

5 **Q. What is 204 -- and I'll ask these two**
6 **together, 204-38 and 204-39, and what are these two**
7 **documents?**

8 A. This is the site layout that's in
9 question at Site 3 and parcel Site 6. 38 shows the
10 basic layout showing utilities, where some
11 embankments are, basic outline of the sites, some
12 boring locations where corridors, excavation
13 locations, basic information for the site.

14 **Q. Okay.**

15 A. And 39 is basically the same information
16 with the addition of where ACM has been observed.
17 This looks like it was produced so that you could
18 see the overall and then some of the contaminated
19 areas at the separate --

20 **Q. Okay. And I'm going to direct your**
21 **attention down here to the bottom right corner, and**
22 **it's with the orange. It says visual ACM observed.**

23 A. Correct.

24 **Q. So are the orange dots where visual ACM**

1 **was observed?**

2 A. Yes, that's what it's indicating.

3 **Q. And did you work with Mr. Dorgan to**
4 **create these maps?**

5 A. I did. The maps themselves, as I had
6 mentioned, are actually from AECOM. They did the
7 initial -- the first actual layout itself. My job
8 was basically to help framework some of these used
9 as an exhibit to show where the ACM was located. So
10 through with other documents saying that there
11 are -- those circles were actually added by myself
12 indicating where those -- that visual ACM was noted.

13 **Q. On the visual ACM, correct?**

14 A. Yes.

15 **Q. You put the circles around there?**

16 A. Correct.

17 **Q. And you said you got the information from**
18 **AECOM. Did that come in an auto CAD format?**

19 A. No, it did not.

20 **Q. It did not?**

21 A. No. It came in a PDF format.

22 **Q. Okay. But initially -- but at one point**
23 **you got an auto CAD format from AECOM?**

24 MR. GRANT: Leading, objecting.

1 HEARING OFFICER HALLORAN: Sustained.

2 BY THE WITNESS:

3 A. Do I answer?

4 BY MS. BRICE:

5 Q. Sure.

6 A. I can't say for sure -- I just know that
7 we do have PDFs -- it was about five years ago -- if
8 we received auto CAD drawings or not. I know we had
9 currently the PDF versions in our auto CAD version.

10 Q. In your auto CAD version?

11 A. Yes.

12 Q. Okay.

13 A. My version is auto CAD. The AECOM
14 document that is used here is actually an image
15 that's in our auto CAD.

16 Q. All right. Understood. Did you use the
17 Atwell survey in any way in creating these
18 documents?

19 A. Not in creating them, no.

20 Q. Okay. Did you -- did all of your sources
21 at least originally come from AECOM with the
22 exception of, I believe, there were a couple of
23 figures -- well, let's just talk about on these two
24 figures.

1 **Did all of your sources come from AECOM?**

2 A. Yes.

3 **Q. And do you consider AECOM's work to be**
4 **reliable?**

5 A. Yes.

6 **Q. And why is that?**

7 A. I had no reason to question it. I did
8 some elementary investigations that just looking at
9 some aerials that looked like they lined up with
10 what AECOM provided.

11 **Q. Okay. And do you believe those to be**
12 **accurate?**

13 A. Yes, I do.

14 **Q. Okay. If you can turn to 206, please.**
15 **And I'd like to direct your attention to 206-22 and**
16 **24. And these are -- what are these?**

17 A. These are maps illustrating four
18 different outlines of properties for the same sites
19 that were done by Atwell, AECOM and myself, or
20 Weaver Boos, Weaver Consultants -- sorry, we used to
21 be Weaver Boos -- CQM and Gobelman's interpretation
22 of the outline.

23 **Q. What do you mean Gobelman's**
24 **interpretation? What is this showing? What is**

1 **206-22 showing?**

2 A. 206-22 shows the outline of the site by,
3 like I said, the four different outlines you can see
4 in different four colors with one aerial image. It
5 also has a grid, which is actually the latitude and
6 longitude grid of the area. And it also has some
7 boring locations as well as the outline of the sites
8 just like three of the parcel 0393.

9 **Q. Okay. And this Exhibit 206, you've seen**
10 **this whole entire exhibit before; right?**

11 A. Yes.

12 **Q. Okay. And this was in response to**
13 **Mr. Gobelman's initial report, is that correct?**

14 A. One of them, yes.

15 **Q. All right.**

16 A. Yes, it was an initial one, correct.

17 **Q. And so what are you trying to show here**
18 **on 206-22 and 206-24?**

19 A. I'm showing the differences between
20 our -- the sites, the boundaries.

21 **Q. Okay. And what boundary is**
22 **Mr. Gobelman's boundary?**

23 A. Mr. Gobelman's is the yellow one.

24 **Q. Okay. And what is your boundary?**

1 A. Ours is the red one.

2 Q. Okay. And is that the same as the
3 **AECOM's boundary?**

4 A. Yes.

5 Q. Okay. Going back again on figures 203
6 and 204 if you don't mind -- sorry, I said the wrong
7 thing. 204-40 and 204-41, excuse me.

8 A. 40 and 41, okay.

9 Q. Okay. Do you recognize these documents?

10 A. Yes, I do.

11 Q. Okay. Did you assist in creating these
12 **documents?**

13 A. Yes, I did.

14 Q. And do you believe them to be accurate?

15 A. Yes, I do.

16 Q. If you could turn to 205, which is three
17 or four tabs in, and I'd like to go to 205-47. Do
18 **you recognize this document?**

19 A. Yes, I do.

20 Q. And what is this document?

21 A. This is CQM -- that's the company that
22 produced it. It is basically their utility and
23 engineer barrier layout.

24 Q. Okay. And what are the coordinates that

1 **we see in the corners?**

2 A. Those are the lat and longitude of the
3 corners of the lot.

4 **Q. And do those match up with your drawings?**

5 A. Generally, yes.

6 **Q. And what are the numbers along the bottom
7 here that are sort of vertical?**

8 A. Oh, those are the -- I see, I'm sorry.
9 Those are actually the lat and long ones, ones that
10 are going up, and it says E like one and one, 22,
11 300.

12 **Q. Yeah.**

13 A. Those are the lat and long, which
14 actually if you look at the corner ones, you can
15 then assess where that's located.

16 **Q. Okay. And how do you use those with auto
17 CAD?**

18 A. When you create the drawing in auto CAD,
19 you geo locate it, which is actually finding these
20 coordinates in it, which is linked to the -- well,
21 one of the add-ins. It's then linked to actually
22 where the earth coordinates are, and it's all built
23 into the software itself. And so you would say,
24 Okay, I would want to find that corner of -- you

1 know, that's the northeast corner of it, you would
2 type in those coordinates and say, okay, you laid it
3 out like this and so, therefore, it's already set
4 into the software itself, so you can actually find
5 it. So if you want to find one, you can just type
6 in those coordinates and it will automatically take
7 you there in auto CAD. Just like you would on
8 Google Earth, you put in those coordinates, boom,
9 you're in the same spot.

10 **Q. And how long have you been working on**
11 **this matter? You said about five years?**

12 A. Five years.

13 **Q. Okay. So since 2015?**

14 A. Yes.

15 **Q. Okay. Do you know when the matter began?**

16 A. I'm guessing about 2015 but probably a
17 little before that.

18 **Q. It was 2013, for the record.**

19 I'd like to mark -- let's go to 208 if
20 you don't mind. And have you seen this document
21 before?

22 A. I have.

23 **Q. Okay. If you can turn to 208-9 and**
24 **208-11. And what are 209-8 and 209-11 --**

1 A. These are the --

2 Q. I'm sorry, 208 -- yeah, 208-9 and 208-11.

3 A. This is the site layout showing the
4 boundaries that AECOM and WCG produced, which is in
5 yellow, compared to Gobelman's two different
6 versions that they had done in 2018.

7 Q. Okay. So back up. What do you mean by
8 two different versions?

9 A. Well, in August of 2018, they had the red
10 boundaries, and then for some reason they changed it
11 when they did the November 2018 version, and so that
12 has both theirs. The November one is in blue. The
13 August one is in red. And you can see the
14 differences of which they've moved and changed.

15 Q. Okay. And the yellow is Mr. Dorgan and
16 AECOM, is that correct?

17 A. Correct.

18 Q. And you verified that?

19 A. Yes.

20 Q. Looking at Mr. Gobelman's blue and
21 Mr. Dorgan AECOM's yellow, is the Waukegan waterline
22 in the same place?

23 A. No, it is not. In fact, when they moved
24 from Gobelman's 2018, August 2018, to their

1 November, they actually moved the waterline.

2 **Q. Okay. And how about the northern**
3 **boundary of Site 3, and can you explain where that**
4 **is on the map?**

5 A. That would be along the northern road,
6 which is Greenwood Avenue.

7 **Q. Okay.**

8 A. The August 2018 version is much closer to
9 the actual roadway itself, the red dash line you'll
10 see. And then when they did the November 2018, they
11 lowered it approximately ten, 12 feet -- you
12 couldn't tell on this map -- to even lower than you
13 see AECOM's yellow line.

14 **Q. Okay. And how about the northeast**
15 **excavation, how did these three compare?**

16 A. That's moved as well. They moved that --
17 the initial one that's in the red, that's south and
18 slightly east to the blue location while WCG's
19 stayed the same.

20 **Q. Okay. And then on 208-11, I think we've**
21 **got a close-up of that; is that correct?**

22 A. That is correct. It is the same thing,
23 it's just blown up so you can see it a little more
24 clearly.

1 **Q. Okay. What happened in Mr. Gobelman's**
2 **report with respect to the Site 3 borings between**
3 **his first report and his second report?**

4 A. They looked -- they changed as well,
5 which is also a bit like south and southeast from
6 there that are --

7 **Q. Okay. And that's with respect to the B**
8 **borings?**

9 A. Yes.

10 **Q. Okay. What about the 1S through 7S on**
11 **here that you can see, what happened with those?**

12 A. Those didn't seem to change much. They
13 shifted a little bit, but not much, so those things
14 didn't move.

15 **Q. Okay. Look at 4S though.**

16 A. Yes.

17 **Q. 4S and 5S, how do they compare to**
18 **Mr. Gobelman's and AECOM's though?**

19 A. Those are in different locations. So you
20 have like 1S is relatively to close to what AECOM
21 had. And then the 2S and then so forth when you go
22 more easterly, it actually ends up shifting away.

23 **Q. If you could go to 229-365, please. And**
24 **what is this document?**

1 A. This is another comparison between AECOM,
2 WCG, as well as Gobelman's from their November 2018
3 boundaries.

4 **Q. Okay.**

5 A. This also includes the utility layouts as
6 well as their corridors.

7 **Q. Okay. I just want to focus on one thing,**
8 **and I realize this is hard to see, so I'd like for**
9 **you to explain it. Can you tell me the differences**
10 **with the North Shore Gas line and then -- and tie it**
11 **to which report you're talking about?**

12 A. Okay.

13 MR. GRANT: Can you identify for me where the
14 North Shore Gas line is on the property?

15 MS. BRICE: The North Shore Gas line is the
16 one that goes diagonal on this map.

17 MR. GRANT: All right. Thank you.

18 BY THE WITNESS:

19 A. It goes from the west and then it goes
20 northeast --

21 BY MS. BRICE:

22 **Q. Correct.**

23 A. -- on the top from this, yes.

24 **Q. They are actually -- they do not line up**

1 between AECOM's, WCG's, as well as Gobelman's.
2 Gobelman's is set a little bit further north of what
3 WCG AECOM's is located at. If you look at that line
4 itself, you can see that the darker blue is not
5 shaded by a lighter blue, which indicates that it is
6 actually further north.

7 A. Okay. Thanks.

8 Q. If you could turn to 205 again, and I'd
9 like to go to 45, 205-45. Have you seen this map
10 before?

11 A. Yes, I have.

12 Q. In what context?

13 A. In review of this proceeding probably
14 even back in previous years. I can't say when the
15 first time I saw it though.

16 Q. Did you use this map in any way to
17 generate your figures?

18 A. Oh, no, no, not at all.

19 Q. I'm sorry, you talked over me, so they
20 can't hear you.

21 A. No, I did not.

22 Q. Why not?

23 A. Well, first off, it's a draft, so it
24 wouldn't be any kind of reliability because it

1 wouldn't be any kind of final document. It appears
2 to have been scanned in once, twice or so, so the
3 actual factor of it is going to be slightly skewed.
4 It doesn't have any reliable scale to it. The scale
5 on there doesn't appear to be correct.

6 **Q. And how do you know the scale is not**
7 **correct?**

8 A. You can actually take that as a
9 measurement. You're going to say that the reference
10 scale that you see on the bottom right corner will
11 actually have that, and then they actually have a
12 measurement that is 50 feet between those borings,
13 and it's actually measured, so you can see that it
14 looks like it's been slightly stretched.

15 **Q. And does that sometimes happen with**
16 **copying?**

17 A. It does, yes. Copying, as well as when
18 you're scanning, because the machines themselves are
19 going to pull the paper, which actually can end up
20 inhibiting the product you get.

21 **Q. And what is your understanding of how**
22 **Mr. Gobelman used this map?**

23 A. From my understanding, he used this to
24 lay out borings.

1 **Q. Which borings? Site 3 borings?**

2 A. The Site 3 borings.

3 **Q. And what was -- other than it being draft**
4 **and to scale, is there anything else wrong with this**
5 **map for using it to plot site borings?**

6 A. Well, I wouldn't -- it doesn't have any,
7 you know, reference of its --

8 **Q. Does it have northings and eastings?**

9 A. No, there is -- it's just -- has a north
10 arrow, but it doesn't let you know where it is. It
11 doesn't even have any kind of reference onto like
12 the west or east side that it's going to be -- where
13 is it along Greenwood Avenue?

14 **Q. Okay. Do you see state plane coordinates**
15 **or do you have GPS locations on here at all?**

16 A. None.

17 **Q. And would that be useful information to**
18 **have?**

19 A. Sure.

20 **Q. 205-46, next page, what is this document?**

21 A. Document from AECOM's plans, and it shows
22 Greenwood Avenue's proposed excavation areas.

23 **Q. I'm going to represent to you that this**
24 **came from revision two of the remedial action work**

1 **plan, not the final work plan. Did you use this map**
2 **to generate any of your maps?**

3 A. I didn't need to. I had AECOM's overall
4 site. I do know that this does show the Site 3
5 that's up on the top left area and the northwest
6 excavation area, which is that pink patched area.

7 **Q. But you didn't use this map, correct?**

8 A. Correct.

9 **Q. Okay. Let's go to 67 in your binder, and**
10 **I'm going to turn to 67-536. Do you see this?**

11 MR. GRANT: What page?

12 MS. BRICE: 67-536.

13 BY MS. BRICE:

14 **Q. And then at the same time, if you can**
15 **turn back to 208-11, and I believe you referenced**
16 **this Document 208-11. Can you, for the record,**
17 **explain where you referenced this Document 67 --**

18 A. Okay.

19 **Q. -- 536?**

20 A. From the 67-536, you'll notice that the
21 Site 3 is up in the upper right-hand corner noted,
22 as well as the northwest excavation --

23 **Q. Wait, wait, wait. Which one are you on?**

24 A. On 67-536.

1 Q. No, no, no. I want you to go to 208-11,
2 sorry.

3 A. Oh, okay.

4 Q. 208-11, if you go toward the upper
5 left-hand area, it says excavation tested samples 1S
6 through 9S per AECOM doc 67-536 excavation
7 coordinates of Site 6.

8 A. Yes.

9 Q. Do you see that?

10 A. Yes.

11 Q. Okay. So how did you use 67-536 to plot
12 these boring locations?

13 A. Okay. Using as noted in the document
14 number, if you look at that document itself, it
15 actually has excavation limits that are on there.

16 Q. Okay.

17 A. Now, on that 67-536, if we look up at the
18 north right above the left corner, where we have the
19 site boundary three, you'll see little tiny numbers
20 that are along the excavation that is in Site 6 of
21 Greenwood Avenue.

22 Q. Okay. So how would you use -- so I see
23 number 33, for example; right?

24 A. Yes.

1 Q. At around like 9S --

2 A. Yes.

3 Q. -- right?

4 A. 33, 34. Then if you go more left, you'll
5 see 32, 31.

6 Q. Okay. So then you can use -- and then
7 even there are sort of like I see a three over three
8 on -- right by 2N, there's three; right?

9 A. Correct.

10 Q. And then there's a one and there's a 32
11 down on 1S --

12 A. Correct.

13 Q. -- is that correct?

14 A. Yes.

15 Q. Okay. So let's go to 32.

16 MS. BRICE: And can you blow that up -- can
17 you blow that up, Drew. Blow up the bottom picture
18 on the right, bottom down there, the coordinate
19 table.

20 BY MS. BRICE:

21 Q. Okay. So you see you've got 32 there,
22 right? Where is 32? 32. Okay. What's that's
23 giving you?

24 A. Those are the coordinates which are the

1 left line, as we had discussed before, which is on
2 the grid, that is on our plan, as well as the
3 previous plans that we had talked about. That
4 coordinate grid will actually let you know where
5 that location of 32 is. So on 32, which is along
6 the property boundary of Site 3 and Site 6,
7 aren't -- that's already noted, so you can actually
8 find it. It's coordinated, it's linked. And then
9 you can look up 31, you can actually map out that
10 whole box of the excavation that is within Greenwood
11 Avenue Site 6.

12 **Q. Okay. So you used these -- so you used**
13 **these latitudes and longitudes to confirm your**
14 **feature locations, is that correct?**

15 A. Correct.

16 **Q. Okay.**

17 A. And that's what's noted on 208-11.

18 **Q. Right. And 67, that this is 67-536, but**
19 **the 205-40 -- 46, I believe it is, that we were**
20 **looking at, does not have those lats and longs on**
21 **it, does it?**

22 A. No, it does not. It looks like it's very
23 similar, but it is not. It does not have those --
24 that coordinate table and actually locating all that

1 information.

2 Q. Okay. I'm also at the very back, there's
3 a Document 21A-26. Do you see that?

4 A. Yes.

5 Q. And I think it's also been labeled --
6 it's been relabeled as 21A26 dash one -- okay. It's
7 been relabeled 21A-26A. Okay?

8 HEARING OFFICER HALLORAN: Is this the one
9 Ms. Gale gave us?

10 MS. BRICE: Correct.

11 HEARING OFFICER HALLORAN: Okay. Thank you.

12 BY MS. BRICE:

13 Q. And did you -- what did you -- what is
14 this, and what did you do to it?

15 A. This is just a snapshot of IDOT's
16 documents. And I just narrowed it down to this area
17 that involves the Site 6 and Site 3 area on their
18 drawing, and all I did was add actual elevation
19 notes that are there just for clarity.

20 Q. Okay. Because it's not -- because it's a
21 bit hard to see --

22 A. It is.

23 Q. -- is that right?

24 A. It's from 1970 something, so, yes, it's a

1 hand-drawn document that's been, yeah, documented a
2 long time ago, so the clarity isn't as crisp as you
3 can get these documents.

4 Q. Okay. And then I'd like to go back
5 through 205 again. And I'd like to look at the
6 205-29, which is Gobelman figure eight. And it says
7 that that area that is hatched, correct, is 0.20
8 acres? Do you see that?

9 A. Yes, I do.

10 Q. Do you know if that's accurate?

11 A. I have no idea.

12 Q. Okay. You haven't looked at that?

13 A. I've seen it before. I don't know if
14 it's accurate. I may have checked it, but I really
15 couldn't tell you.

16 Q. Okay. Are all the figures you referred
17 from Mr. Gobelman that we just discussed typically
18 relied upon by environmental experts?

19 A. Yes.

20 Q. And is CAD a reliable method to generate
21 such figures if he's providing them?

22 A. Yes.

23 MS. BRICE: No further questions.

24 HEARING OFFICER HALLORAN: Thank you. IDOT?

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CROSS-EXAMINATION

BY MR. GRANT:

Q. Ms. Dunton, I'm Chris Grant. And we've met, but I represent IDOT. I want to ask you to turn to Exhibit 206. It's 206-22. I think you testified that -- or you testified that the boundaries don't line up between -- and were there three or four?

A. There's four here.

Q. There's four, four surveys there. And the one that seems skewed the most is the blue one. Is that the Atwell survey?

A. Correct, that is.

Q. Okay. Could you rely upon this diagram to accurately locate someplace on the site?

A. You would have to verify which boundary is is.

Q. Right. So basically you need an accurate map is what you're looking for, correct?

A. Correct.

Q. Did you ever -- this is -- hold on a second, please.

MR. GRANT: This is actually from Mike Nguyen's binder.

1 MS. BRICE: Can you tell me a number, please?

2 MR. GRANT: I will, yeah. It's 205-42. It's
3 the one with the black in the middle lines.

4 MS. BRICE: Okay.

5 BY MR. GRANT:

6 Q. I'd like you to take a look at this,
7 205-42. So does this appear to be a hand drawing?

8 A. It could be. I didn't produce it, so I
9 have no idea what their baseline is.

10 Q. Okay. Did you ever see this before?

11 A. I have seen it before.

12 Q. Okay. Did you review -- you reviewed
13 Mr. Gobelman's expert report? I'll represent for
14 you that this was part of his report.

15 A. I have seen this, and I've seen an
16 excerpt of it.

17 Q. Okay. It's similar to the document you
18 prepared, 206-22, and that we've got several surveys
19 or several --

20 A. Boundaries.

21 Q. -- representations of the site that don't
22 line up?

23 A. Correct.

24 Q. Are you aware that Mr. Gobelman made a

1 new map to correct the problem that's represented by
2 this diagram I just handed you?

3 A. Which date?

4 Q. Oh, no. Just the fact of that he made a
5 new map to correct that same issue of the boundaries
6 not lining up?

7 MS. BRICE: Pardon me?

8 MR. GRANT: It's going to be his base map --

9 MS. BRICE: I'm sorry, I apologize.

10 MR. GRANT: No, that's fine. Go ahead.

11 MS. BRICE: I'm just trying to help. Maybe
12 if you will show her what document it is, Mike, that
13 might help, the exhibit number.

14 MR. GRANT: Yeah, I don't have it.

15 MS. BRICE: 207. It's the supplemental
16 report from Mr. Gobelman. And then 208 is our
17 response to that.

18 MR. GRANT: Okay.

19 BY MR. GRANT:

20 Q. And the map that I'm talking about that
21 was created is 207-13, essentially the base map --
22 showing you what's 207-13, are you aware that this
23 map was created in response to the boundary problems
24 that are shown in 206-22 and also the document

1 **binder?**

2 A. One second, I will confirm.

3 MS. BRICE: Do you have the date on that?

4 MR. GRANT: The date is August 2018.

5 BY THE WITNESS:

6 A. No, it's not actually, because all theirs
7 are August 2018. They didn't bother updating it
8 when they updated it in November. So it's harder to
9 tell which ones were done when. But judging by
10 where that line is in relation to some of the soils
11 of the grasses, I can tell which line that was for.

12 BY MR. GRANT:

13 **Q. So you're saying this is the older one?**

14 A. That mine is from the November one.

15 **Q. The one that is --**

16 A. The one from August from the north
17 property closer to the Greenwood Avenue, that one is
18 further south, so that one actually came later.

19 **Q. This --**

20 A. That's the November one.

21 **Q. Okay. Well, thank you.**

22 A. Uh-huh.

23 **Q. Getting back to, I guess, my question:**

24 **Are you aware that they made a new map in response**

1 to the boundary problems that's shown in this map
2 that doesn't have any details on it, the three
3 boundary lines?

4 A. Well, since I don't know if this was the
5 November one or the August one --

6 Q. Oh, no, not --

7 A. -- I can't confirm.

8 Q. No, a new map was made. Are you aware
9 that a new map was made?

10 A. Well, like I said, I'm not sure which
11 one -- what day this one was made.

12 Q. But you said that you've seen it?

13 A. I've seen it.

14 Q. Do you remember what it is -- you know,
15 in what context you saw it?

16 A. Well, since I've seen lots of these maps
17 that I've been comparing ours with what Gobelman is
18 representing for the past year-and-a-half, I really
19 couldn't discern which one -- time that I saw this
20 one versus another one.

21 Q. So you don't remember when you saw it?

22 A. No. I have seen it though.

23 Q. Okay. I'm going to have you turn to in
24 your binder 205-45. You said that you think it --

1 you thought it appeared like it was copied or
2 scanned?

3 A. Correct.

4 Q. Both?

5 A. Yes.

6 Q. Okay. You don't know if it was scanned,
7 do you?

8 A. At one time it was, because it turned
9 into a PDF format that we received, so it had to
10 have been scanned sometime.

11 Q. But as far as the document that's in
12 front of you, you don't know if that was scanned?
13 You don't have any personal knowledge --

14 A. No, I don't, because I did not scan it
15 myself.

16 Q. Correct. And the same with being copied,
17 you don't know if the document that was used was
18 actually copied?

19 A. Correct. I can just tell by the quality
20 of it.

21 Q. I was a little when you -- when Ms. Brice
22 asked you about the AECOM information, you said
23 that, I think, that you currently have the AECOM
24 information in your auto CAD; is that correct?

1 A. Yes.

2 Q. Do you know how it originally came from
3 AECOM?

4 A. Back in 2015, no, I don't.

5 Q. No. Do you know how it -- whether it was
6 paper, it was scanned as a PDF or --

7 A. I don't recall.

8 Q. Can you personally vouch for the accuracy
9 of the AECOM data?

10 A. I have no doubt -- no questions on its
11 quality or its accuracy. Plus the fact that I
12 believe the AECOM first time sent was actually
13 completed and approved by IDOT.

14 Q. So you do vouch for its accuracy?

15 A. Yes.

16 Q. Okay. Take a look at -- let's see.
17 First section 204, 204-40. Now, was the source
18 document from this from IDOT?

19 A. Yes.

20 Q. Okay. And it was approved. Was it
21 provided to Weaver as a PDF?

22 A. Yes.

23 Q. Okay. And then was it then scanned into
24 your auto CAD system or entered into your auto CAD

1 **system?**

2 A. Right. Yeah, you have to be careful with
3 scanned.

4 **Q. I see.**

5 A. We have like documents, and yes, I had it
6 into auto CAD and then drew it up from that, because
7 you can actually use those documents.

8 **Q. So the details in there with the roads**
9 **were added by Weaver Consultants?**

10 A. Per IDOT's --

11 **Q. Right. Using a base map that was this**
12 **IDOT map, is that correct?**

13 A. Yes, it's IDOT's map.

14 **Q. One sec. Did you provide an AECOM CAD**
15 **file after October 2018? And when I say provide, I**
16 **mean provide it to IDOT.**

17 A. Yes, we sent them auto CAD drawings.

18 **Q. Okay. Does that time frame make sense?**

19 A. About.

20 **Q. Okay. So October 2018, fall of 2018?**

21 A. About that, yeah. I couldn't tell you
22 what day, no.

23 MR. GRANT: That's all I've got. Thank you.

24 HEARING OFFICER HALLORAN: Ms. Brice?

1 MS. BRICE: Yes, just one question related to
2 his last question.

3 REDIRECTION EXAMINATION

4 BY MS. BRICE:

5 Q. You don't know for sure when those auto
6 CAD drawings were sent in 2018, do you?

7 A. No, I don't.

8 Q. Could it have been 2017?

9 A. It could have been. It was prior, so I
10 couldn't tell you when.

11 Q. Okay. So you don't know when those
12 documents were sent?

13 A. Correct.

14 Q. Okay. No further questions.

15 That auto CAD files were sent. Sorry.

16 HEARING OFFICER HALLORAN: All right. Thank
17 you, Ms. Dunton. I think you're finished for a
18 while anyway. Thank you.

19 MS. BRICE: Mr. Halloran, we would like to
20 move our exhibits into evidence. As you know,
21 previously filed before the Board, we agreed to
22 authenticate to authentication, foundation and
23 admissibility. Apparently there's now some issue
24 with respect to admissibility from the other side.

1 I'm not sure what that is. There were two or three
2 exhibits which we had issues with, one of which was
3 any maps or figures created by Mr. Gobelman and
4 Mr. Nguyen and ELM -- thank you.

5 Exhibit 57, which I don't actually think
6 that we talked about, an ELM figure 13, which is
7 205-45, I believe that we've talked about, the one
8 that has all of the soil borings on it, the draft
9 and that.

10 MS. O'LAUGHLIN: I'm fine with that.

11 HEARING OFFICER HALLORAN: You know what,
12 let's go off the transcript for a little bit, and
13 then we can come back on and talk about the
14 exhibits.

15 (WHEREUPON, a discussion was had off
16 the record.)

17 HEARING OFFICER HALLORAN: We're taking a
18 15-minute break.

19 (WHEREUPON, a recess was had.)

20 HEARING OFFICER HALLORAN: So I assume then
21 JM will rest their case in chief. What's on your
22 agenda?

23 MS. O'LAUGHLIN: So we'll be calling
24 Mr. Gobelman.

1 HEARING OFFICER HALLORAN: All right. We're
2 back on the record. We just took a little break for
3 logistics regarding the exhibits. And, Ms. Gale --

4 MS. GALE: Yes, sir.

5 HEARING OFFICER HALLORAN: Would you like to
6 read the agreed exhibits into the record.

7 MS. GALE: Yes, I would. So the agreed
8 exhibits for the second phase of the hearing,
9 understanding that the exhibits that were entered in
10 the first hearing are already admitted, I will just
11 repeat the ones simply for clarity's sake what we
12 have used for this hearing.

13 Mr. Hearing Officer, do you just want me
14 to read the numbers, or shall I also read the
15 description?

16 HEARING OFFICER HALLORAN: For now, just read
17 the numbers, and we might do it differently later,
18 but numbers are great and we'll give them.

19 MS. GALE: Very good. Exhibit 21A, 65, 67,
20 79, 84, 120, 202, 203, 204, 206, 208, 209, 213, 214,
21 221, 225, 227, 229E-374, 229E-375, 229F-365,
22 229F-377, and then Exhibit 21A-26A and
23 Exhibit 204-41A and Exhibit 245.

24 The final three exhibits were new

1 exhibits that are not on the stipulated list filed
2 with the Board, and they are in the room and will be
3 handed to the Hearing Officer.

4 MS. BRICE: One second. Are those
5 demonstratives?

6 MS. GALE: Two are -- okay. I'll go again.
7 So Exhibit 21A-26A is what was described as the
8 modified version of the historic IDOT diagram.

9 204-41A is a demonstrative of
10 Mr. Dorgan's figure that was located on 204-41 that
11 he used and drew upon during his testimony.

12 Exhibit 245 is another demonstrative
13 entitled task buckets used as inputs by both experts
14 to determine oversight and support services task
15 bucket attributions.

16 HEARING OFFICER HALLORAN: Thank you. And as
17 Ms. Gale said, all the exhibits admitted in the
18 first hearing will also be admitted here by
19 agreement as incorporated in this record. Thank
20 you.

21 Now, Johns Manville, I understand, is
22 resting in their case in chief?

23 MS. BRICE: Yes, that is the case,
24 Mr. Halloran.

1 HEARING OFFICER HALLORAN: Thank you,
2 Ms. Brice. Ms. O'Laughlin --

3 MS. O'LAUGHLIN: Yes.

4 HEARING OFFICER HALLORAN: -- from the
5 Illinois Department of Transportation, you're on.

6 MS. O'LAUGHLIN: Okay. Thank you --

7 HEARING OFFICER HALLORAN: Thank you.

8 MS. O'LAUGHLIN: -- Mr. Halloran.

9 Now, for our first witness, we call
10 Steven Gobelman.

11 MS. BRICE: And, your Honor, just for the
12 record, we'd like to lodge our objection. As you
13 said, we would keep -- keep record of it as we go
14 that we are still maintaining our objection as to
15 Mr. Gobelman's expertise and as an expert witness
16 here his qualifications and his maps and figures,
17 documents that he generated and everything laid out
18 in our motion in limine as to Mr. Gobelman --

19 HEARING OFFICER HALLORAN: Okay. And those
20 are the ones I addressed in the October 31, 2019,
21 order, and the Board -- pardon me, June 18, 2020,
22 the record will submit. Thank you.

23 MS. BRICE: Thank you, sir.

24 HEARING OFFICER HALLORAN: Mr. Gobelman, if

1 you'd raise your right hand. The court reporter
2 will swear you in, please.

3 (WHEREUPON, the witness was duly
4 sworn.)

5 STEVEN GOBELMAN,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. O'LAUGHLIN:

10 **Q. Good afternoon, Mr. Gobelman. Can you**
11 **please state your name and position?**

12 A. Steve Gobelman. And I'm currently the
13 Springfield office director at Andrews Engineering.

14 **Q. I'm going to ask you some questions about**
15 **your qualifications. Now, you've testified to this**
16 **matter before, is that true?**

17 A. Correct.

18 **Q. Okay. So maybe we'll highlight your**
19 **qualifications. I'd first like to direct you to**
20 **Exhibit 205.**

21 A. Okay.

22 **Q. What is Exhibit 205?**

23 A. It's my expert rebuttal report rebutting
24 damages attributed to IDOT based on the Illinois

1 Pollution Control Board Order of September 15, 2016
2 dated August 22nd of 2019.

3 **Q. And describe your education.**

4 A. I have a bachelor's and a master's degree
5 in electrical engineering.

6 **Q. And do you have an engineering
7 certification?**

8 A. I do. I'm licensed currently in Illinois
9 and Indiana as a professional engineer, and I'm
10 licensed in Illinois as a professional geologist.

11 **Q. And how long have you held those?**

12 A. I've been a licensed engineer since 1993.
13 And I've been a licensed professional geologist -- I
14 forget what year, but it was the year that it was
15 created in Illinois.

16 **Q. And describe your work experience, your
17 professional career experience.**

18 A. I worked eight years with Illinois EPA
19 dealing with land permits, RCRA closures. I spent a
20 number of years doing state-funded cleanups. I also
21 oversaw hundreds of different voluntary cleanups
22 that they recalled at the time. Then I've --

23 **Q. Is that site remediation projects?**

24 A. Yes, site remediation. And then I left

1 the EPA and went to Illinois Department of
2 Transportation. I worked there for approximately 22
3 years dealing with the phase one and phase two
4 investigations along all state right-of-ways within
5 the state investigating soil impacts along our
6 IDOT's right-of-ways and their ongoing impact.

7 **Q. And what is involved in evaluating**
8 **highway authority agreements and IDOT right-of-ways?**

9 A. Well, highway authority agreements
10 would've been a part of my role at DOT, which we --
11 in essence, if the property owner who had a lease or
12 a contamination on site that impacted state
13 right-of-way, instead of being forced to remediate
14 and clean up within IDOT's right-of-way, Illinois
15 EPA allowed for them to have an agreement with the
16 Department of Transportation to leave contamination
17 in place. And what the DOT then on top of that
18 agreement was to require that property owner to
19 be -- to reimburse them for any past or future costs
20 associated with the department's or the state's
21 cleanup of that regarding any construction projects.

22 **Q. And what experience do you have with**
23 **remediation projects?**

24 A. Like I said, when I was with EPA, I

1 oversaw a number of state-funded cleanups, including
2 a \$12,000,000 mobile incinerator that cleaned up
3 some sites in lake cal -- not lake Calumet but in
4 the south Chicago area. And then with IDOT, I
5 focused on a number of cleanups, remediations that
6 involved IDOT projects or properties that IDOT
7 undertook that had to be cleaned up prior to
8 construction. And then when I left the state in --

9 **Q. Well, before leaving the state,**
10 **approximately how many remediation projects were**
11 **you -- did you become familiar with?**

12 A. I would say hundreds of remediation
13 projects between the state -- between both the state
14 employments.

15 **Q. With the Illinois EPA and with**
16 **Illinois --**

17 A. With DOT.

18 **Q. -- Department of Transportation?**

19 A. Yeah.

20 **Q. Okay. And then you left Illinois**
21 **Department of Transportation?**

22 A. Yeah, I left Department of Transportation
23 in 2015 and started work with Andrews Engineering.

24 **Q. Okay. And what are your responsibilities**

1 **with Andrews Engineering?**

2 A. Initially I was one of the project
3 manager or a project director in charge of a number
4 of different projects. I'm currently now the office
5 director of Springfield. But my role is mainly as a
6 project director role for remediations that Andrews
7 is involved with, whether it's underground storage
8 tanks or it's sites that are involved with state
9 remediation working with EPA or whether it's
10 involved with work that we have under contract with
11 the Department of Transportation and doing their
12 investigations along roadways.

13 **Q. Are there any other certifications or**
14 **education that you have obtained or received?**

15 A. I don't have necessarily other
16 certifications, but I have additional continuing
17 education. I figured early that professional
18 engineering requires certain continuing education,
19 but even when I was at EPA, I took continuing
20 education classes for them regarding certain
21 liability assessments with DOT. I dealt with earth
22 moving quantities, surveying in land acquisitions,
23 you know, IDOT financing, so I took pretty much all
24 the, in essence, continuing education requirements

1 with IDOT. They called them program development
2 that they had when I was there.

3 MS. O'LAUGHLIN: Mr. Halloran, is this still
4 being recorded?

5 HEARING OFFICER HALLORAN: Yes, it started
6 out this morning recording.

7 MS. O'LAUGHLIN: Okay. I just wanted to make
8 sure given the challenges with WebEx. Okay. Thank
9 you.

10 HEARING OFFICER HALLORAN: Yeah, it did go
11 off.

12 BY MS. O'LAUGHLIN:

13 **Q. Okay. So does that pretty much cover**
14 **your experience and education?**

15 A. Yeah, for the most part, yeah.

16 **Q. Okay. And what have you been tasked to**
17 **do for this hearing following the entry of the**
18 **interim order of December 2016?**

19 A. I was tasked with, in essence, developing
20 what IDOT's liability -- cost liability is
21 associated with the Board's rulings.

22 **Q. Okay. And what was one of the -- was one**
23 **of the first things you did was to create a base**
24 **map?**

1 A. Well, one of the first things I realized
2 basically what was done in the first grouping of
3 hearings was that either they -- a base map or a map
4 that I could rely on in regards to creating --
5 determining the liability to IDOT based upon the
6 utilities that are going to be associated within
7 that area and report that would be done. In
8 essence, the first maps that we had were all PDF
9 maps that we got from Mr. Dorgan, and we just sort
10 of PDF'd them and put them into CAD so that we could
11 add to the map and not really do anything else with
12 them. I needed to have something that was sort of
13 locked in to the site itself.

14 **Q. So if I could direct your attention to**
15 **205-6.**

16 A. Okay.

17 **Q. If you could read the first paragraph of**
18 **your -- after 5.1 and describe why you had to do**
19 **what you did.**

20 A. So as it states here, it says, As stated
21 by the Pollution Control Board's opinion and order,
22 IDOT caused open dumping of ACM waste along the
23 south side of Greenwood Avenue within Site 6, 1S,
24 group 4S, and adjacent area along the north side,

1 north edge of Site 3, B3-25, B3-16 and B3-15.
2 Additionally, IDOT allowed open dumping of parcel --
3 on parcel 0393, B3-25, B3-15, B3-16, B3-15 and B3-50
4 to the extent sample B3-50 falls on parcel 0393.

5 Q. Okay. And to map this out, if you could
6 describe the process that you went through. I'd
7 also direct you to 207-29. No, no, no, I'm sorry.
8 Your source material for 205-45.

9 A. 205?

10 Q. 45.

11 MS. BRICE: Just objection for the record.
12 This is one of the documents that was not a figure
13 created by Mr. Gobelman that we objected to with
14 respect to admissibility.

15 MS. O'LAUGHLIN: And I'm going to object to
16 her objection. It's not an objection to the direct
17 testimony -- it's my examination of Mr. Gobelman.
18 It's just an opportunity for her to put her
19 narrative argument into the record, and it's
20 entirely inappropriate.

21 HEARING OFFICER HALLORAN: I don't think
22 the --

23 MS. BRICE: Objection, lack of foundation as
24 to the document. You haven't laid a foundation.

1 MS. O'LAUGHLIN: I am trying to.

2 HEARING OFFICER HALLORAN: Okay. The record
3 so notes both your comments. Thank you. You may
4 proceed.

5 BY MS. O'LAUGHLIN:

6 Q. So, Mr. Gobelman, turning to 205-45. And
7 to refresh your recollection, you can look at the
8 documents from 205-45 through 205-50. And this is
9 Appendix D to your report. So what did you do, and
10 why did you create a map?

11 A. Well, like I said, I needed to come up
12 with a map that was sort of locked in spatially to
13 the site limits. And so based upon Mr. Dorgan's
14 report, he provided us with an Atwell survey. So I
15 made the assumption that the Atwell survey was a
16 true and accurate representation of the site because
17 it gave me northering and eastering locations that
18 were sort of outside of the area but at least was
19 provided that they used as part of their survey. So
20 I had our -- so I gave that PDF to our --

21 Q. Okay. You can -- and Mr. Dorgan's
22 report, which is 204, can you identify the Atwell
23 survey?

24 HEARING OFFICER HALLORAN: Where are we, Ms.

1 O'Laughlin?

2 MS. O'LAUGHLIN: I'm asking Mr. Gobelman to
3 direct us to at the Atwell survey that he just
4 referenced.

5 BY THE WITNESS:

6 A. It's Appendix G, 204-112.

7 BY MS. O'LAUGHLIN:

8 **Q. Okay. Describe what this document is.**

9 A. It's a plat topographic survey of the
10 area that includes Site 3 and Greenwood Avenue from
11 Pershing Road to some part way east of this area
12 along Greenwood Avenue.

13 **Q. And what information is contained in this**
14 **survey that would be helpful in creating your base**
15 **map?**

16 A. Well, it provided northering and
17 easterings along this area and matched out that
18 the -- where the northering and eastering crosses
19 that they're giving is a point that we can then have
20 our CAD person, they can geospatially locate in CAD
21 instead of it being a PDF that's just out there
22 floating, it's locked down into a system into a
23 site.

24 **Q. So these contain the actual points of**

1 reference that begins the basis of CAD? And can you
2 please excuse me if my question is not proper,
3 because I've learned a lot about CAD over the past
4 two months.

5 A. I am too not an expert at CAD. It at
6 least allows us to spatially lock in a point in that
7 we can then lay in the PDF so that it is -- gets
8 scaled appropriately along those northering and
9 easterings.

10 Q. And what was the date of the Atwell
11 survey?

12 A. 7/22 of '13.

13 Q. Did you use any other information or --

14 A. I'm sorry, this one is -- it had a
15 revision date that I can't -- it looks like
16 August 23rd of '17.

17 MR. GRANT: Can I give him a magnifying
18 glass?

19 HEARING OFFICER HALLORAN: Yes, you may.

20 BY THE WITNESS:

21 A. June 23rd of '17.

22 BY MS. O'LAUGHLIN:

23 Q. Okay. And where did you get this
24 document?

1 A. It was in Mr. Dorgan's report.

2 **Q. And where did Mr. Dorgan get this**
3 **document as far as you know?**

4 A. As far as I know, I assumed he -- I don't
5 know where he got it from. I can speculate, but I
6 don't know for sure.

7 **Q. Okay. What other information did you use**
8 **to create your base map?**

9 A. Well, having this created in CAD, I
10 wanted to make sure it was accurate, so I had in the
11 final report, which was -- this is 205-49, the
12 Site 3 --

13 **Q. I'm sorry, what is the final report?**

14 A. The final report that was submitted to
15 U.S. EPA on what was done by AECOM.

16 **Q. And that was the report that was**
17 **generated following the remediation that was**
18 **submitted by AECOM on behalf of Johns Manville to --**

19 A. Correct.

20 **Q. Okay. I just want to understand what the**
21 **final report was.**

22 A. Yes, correct. It provided the northering
23 and easterings of the corners of the areas defined
24 as Site 3, so I had our CAD operator put in those

1 corners to see how they matched up with the Atwell
2 survey, assuming that I would assume that they would
3 have been exact to the same scales as what was in
4 the Atwell.

5 **Q. Okay.**

6 A. And I found that those were -- they were
7 off whatever, was a scaling issue or something, but
8 that those coordinates and the two layouts didn't
9 lay out together. So then I took Mr. Dorgan's map
10 that he provided in his report and put it in -- gave
11 it to our CAD person. And since it wasn't --
12 couldn't be geo locked to the site, I had him lock
13 it in based upon a common corner, a portion of the
14 site to say, okay, if it's locked here, how does it
15 line up for the rest of the site? And I think I
16 used the westering side or maybe even the southwest
17 corner -- I can't remember right now for sure how I
18 locked it in -- and then I laid it out. And I found
19 that those three lines gave me three different --
20 different layouts of Site 3.

21 **Q. Okay.**

22 A. So I wasn't confident enough of which one
23 was the most accurate one, so I decided to proceed
24 with, in essence, creating my own base map of a site

1 utilizing sort of known information that I could
2 gather from various reports and in scaling and
3 offsetting based on measurements boring locations
4 and creating a base map that I could accurately then
5 assess allocations of the four regarding IDOT.

6 Q. Okay. And is that -- did you do any --
7 did you use any other information to create your
8 overall base map? We'll talk about Site 3 and
9 Site 6 and utilities in a second. But just the
10 overall map, did you use any other information?

11 A. Well, I used -- I used the ELM report to
12 spatially grid out the locations of the borings that
13 the Board assessed as IDOT's responsibility.

14 Q. And can you direct us to the ELM report?

15 A. That's the 205-45.

16 Q. Okay.

17 MS. BRICE: Objection, lack of foundation.

18 HEARING OFFICER HALLORAN: I'm sorry,

19 Ms. Brice?

20 MS. BRICE: Lack of foundation, Mr. Halloran.

21 HEARING OFFICER HALLORAN: Ms. O'Laughlin?

22 MS. O'LAUGHLIN: Let me try and establish it.

23 Let me try and lay a foundation.

24 HEARING OFFICER HALLORAN: Okay. Thank you.

1 BY MS. O'LAUGHLIN:

2 Q. So this 205-45, where did you obtain
3 this?

4 A. It was --

5 Q. You mentioned ELM report?

6 A. Right.

7 Q. So was the ELM report used during the
8 first phase of this hearing?

9 A. Yes.

10 Q. And I can -- here, let's grab it,
11 Exhibit 57.

12 MS. BRICE: Mr. Halloran, I believe it was
13 not admitted as an exhibit in the first hearing, but
14 I could be wrong. I have to check that.

15 MS. O'LAUGHLIN: Well, it is an -- it is part
16 of the exhibit list for --

17 MS. BRICE: It was admitted?

18 MS. O'LAUGHLIN: -- and it is part of the
19 exhibit list that we filed for this portion, so.

20 MS. BRICE: Okay. But we did object to it
21 with respect to lack of foundation on this.

22 HEARING OFFICER HALLORAN: Okay. Yeah, I'm a
23 little at a disadvantage. Was exhibit -- are we
24 talking about Exhibit 57 or --

1 MS. O'LAUGHLIN: Yes.

2 HEARING OFFICER HALLORAN: Okay. And that
3 was admitted over objection or what? I see Ms. Gale
4 had a list. That wasn't the list that you showed me
5 or read into the record?

6 MS. BRICE: But I do remember objecting on
7 it, but I'm not exactly -- I'd have to go back
8 through the records, your Honor, I'm sorry, to just
9 figure it out. And obviously our objections at that
10 time were different because it's being used in a
11 different way in this hearing. But there were at
12 that time objections to portions of the record in
13 Exhibit 57 during those hearings, but now there's
14 other portions of it being used, so --

15 HEARING OFFICER HALLORAN: You sufficiently
16 lost me on -- yeah, I was thinking all of this would
17 be worked out considering the first hearing we had
18 problems. But what is Exhibit 57? And it was not
19 admitted in the first hearing?

20 MS. BRICE: It says on the list here that it
21 was admitted, but I think we objected to it.

22 HEARING OFFICER HALLORAN: Okay. Well, then
23 objection overruled. It's admitted.

24 MS. O'LAUGHLIN: Well, we'll move it in for

1 evidence then at the close of our -- but I'm trying
2 to lay a foundation for 205-45, the exhibit that you
3 relied upon.

4 BY MS. O'LAUGHLIN:

5 Q. Is this where you -- and this ELM report
6 marked as Exhibit 57, is this the report that you
7 obtained 205-45 from?

8 A. Give me a minute, I have to find it.
9 Yes.

10 Q. And did you find the map in Exhibit 57?
11 I thought you just had it. If you don't, that's
12 fine, but you have it in front of you, I'm going to
13 refer to the record.

14 A. Yes, it's Exhibit 57-540.

15 Q. Okay. And why did you look to the ELM
16 report to get these soil borings, is that what this
17 is?

18 A. Let me make sure it's the right one.

19 Q. Okay. So is it --

20 A. It is. 57-536.

21 Q. 536.

22 MS. BRICE: Also Bates No. JM 565.

23 HEARING OFFICER HALLORAN: Let's hold on a
24 minute. Where are we, Ms. O'Laughlin? This is

1 getting --

2 MS. O'LAUGHLIN: Well, it's because they're
3 objecting to -- I'm trying to lay a foundation for
4 him to be able to use this --

5 HEARING OFFICER HALLORAN: Is two --

6 MS. O'LAUGHLIN: -- and it's in his --

7 HEARING OFFICER HALLORAN: 205-45?

8 MS. O'LAUGHLIN: Right. So I'm just letting
9 him know about where this map came from.

10 HEARING OFFICER HALLORAN: What's
11 Mr. Gobelman looking at now?

12 MS. O'LAUGHLIN: He's looking at the original
13 source of the report that 205-45 came from. So
14 counsel objected to foundation, so I'm trying to lay
15 a foundation to show where Mr. Gobelman obtained the
16 map that he relied upon in creating his base map.

17 HEARING OFFICER HALLORAN: Okay. Okay. But
18 I've got 205-45 in front of me, and you're going
19 back to try to use some other --

20 MS. O'LAUGHLIN: No, just to establish a
21 foundation to establish where 205-45 came from.

22 HEARING OFFICER HALLORAN: Okay. Where is
23 that?

24 MS. O'LAUGHLIN: It's Exhibit 57.

1 HEARING OFFICER HALLORAN: Okay. And I don't
2 have that, right?

3 MS. O'LAUGHLIN: I don't know if you have it.
4 You should have a copy of all of them.

5 HEARING OFFICER HALLORAN: You know, you can
6 proceed, because, again, my understanding is it was
7 admitted in the first hearing, so there's just a lot
8 of exhibits on there.

9 MS. O'LAUGHLIN: Absolutely.

10 HEARING OFFICER HALLORAN: Proceed.

11 MS. O'LAUGHLIN: Thank you, your Honor.

12 BY MS. O'LAUGHLIN:

13 **Q. So tell me about 205-45. Why did you use**
14 **this figure 15 soil boring location map Site 3?**

15 A. It gave me the layout of the borings in
16 the northern part of Site 3 that the Board used in
17 their assessment of liability toward IDOT.

18 **Q. Okay. And did you give that to your CAD**
19 **person?**

20 A. I gave them -- in essence, I used this to
21 scale off the -- how far south those borings were to
22 the northern edge of Site 3 and then spatially
23 east-west associated with that.

24 **Q. Okay. Did you use any other information**

1 **in creating your base map?**

2 A. I utilized 205-46.

3 **Q. And what is 205-46?**

4 A. It is a figure that AECOM created. It's
5 from their final work plan, I believe, which --

6 MS. BRICE: Objection, mischaracterizes the
7 document.

8 MS. O'LAUGHLIN: What's the document from?

9 MS. BRICE: From the final work plan.

10 BY MS. O'LAUGHLIN:

11 **Q. From the final -- is it from the final**
12 **report?**

13 **MS. BRICE: No.**

14 BY THE WITNESS:

15 A. No. Did I say final report?

16 BY MS. O'LAUGHLIN:

17 **Q. No, so the --**

18 MS. BRICE: Final work plan.

19 BY THE WITNESS:

20 A. Oh.

21 BY MS. O'LAUGHLIN:

22 **Q. Would it be referenced in your report?**
23 **If you could turn to 205-8.**

24 A. Well, the bottom of 205-7, I say that

1 this total boring -- total engagement was 1S through
2 9s, the one south of Site 6 were marked based on
3 AECOM's work plan revision two March 2013, 14C-0022.

4 **Q. Okay. So where did this document then**
5 **come from?**

6 A. It was AECOM's work plan revision two.

7 **Q. And why was this useful to you?**

8 A. It gave me some distancing and spacing
9 between the western edge of Site 6 to 9S. It gave
10 me some distances between, you know, other Site 6 to
11 site -- I mean boring location 6S to 8S and
12 distances from the western edge of Site 6 to Site 3.
13 And it gave me the scale to sort of scale out within
14 those -- the locations of the southern borings from
15 1S to 9S, to locate those boring locations on Site 6
16 in an east-west direction.

17 **Q. Okay. So this was for the Site 6 --**

18 A. Boring that -- it was before the -- to
19 locate the borings that were -- that the Board ruled
20 were attributed to IDOT, and it also include the
21 borings that Mr. Dorgan used in his report and then
22 it also include sites 9S just as a reference that we
23 used for measurement.

24 **Q. Okay. And on this Document 205-46, you**

1 can see on the top left, 1S, 2S, 3S, 4S; is that
2 right? Do you see on the top left on the south side
3 of Site 6?

4 A. Yes.

5 Q. And then this is continuous and -- this
6 is continuous, and it shows all the way -- the
7 second bar up to 56S and 56M?

8 A. Correct.

9 Q. What is the distance between an S, 1S and
10 2S or 2S and 3S, if you know?

11 A. This figure doesn't show it, but I scaled
12 off and I believe utilized in my drawing, I came up
13 with a spacing of 45 feet between 1S and 2S.

14 Q. Okay. In your report, on page 205-7, you
15 said in the third from the last paragraph --

16 A. Okay.

17 Q. -- Mr. Dorgan does not explain in his
18 report how he developed figure one. Do you see
19 where you say that?

20 A. Yes.

21 Q. Can you explain that, what you mean by
22 that?

23 A. Well, there wasn't anything that I found
24 in his report how he created the -- in essence, his

1 base map and that. It just provided us the map and,
2 you know, and stated this is the base map.

3 **Q. Okay. Did you rely on any other**
4 **information in creating your base map?**

5 A. I utilized 205-49 and -- for the
6 locations of the utilities and able to keep
7 utilities.

8 **Q. Okay. And 205-49, what is the -- some of**
9 **these exhibit numbers are -- they have holes in**
10 **them. What is the name of the document that you're**
11 **referring to?**

12 A. This is the active underground utilities,
13 clean corridor and engineered barrier --

14 **Q. Okay.**

15 A. -- dated October of 2017.

16 **Q. And this document shows the gas line and**
17 **some of the other utilities?**

18 A. Shows the two gas lines, the City of
19 Waukegan waterline, the location of what -- of --
20 it's -- in here, it's called stormwater, but it's
21 called -- future reference, it's called the ramp.
22 That's the only utilities that shows on this.

23 **Q. Okay. What is the source of this**
24 **document?**

1 A. This is -- I believe comes from the final
2 report that was sent by the U.S. EPA from '85.

3 **Q. Did you rely on any -- did you use any**
4 **other information in creating your base map?**

5 A. I utilized the figures that we had in the
6 past on the phone lines and layouts once I knew
7 where the -- how I was going to use my base, I had
8 from the previous PDFs laid -- we laid in the AT&T
9 and the fiberoptic lines as best we could in their
10 system, and so it's no longer clear CAD documents or
11 drawings after the fact that they made clearer
12 information on the utilities, the utility locations.

13 **Q. Is there anything else?**

14 A. (No audible response.)

15 **Q. It's referenced in your report though,**
16 **right?**

17 A. Yes.

18 **Q. Okay. What about parcel 0393, how did**
19 **you locate that on your base map?**

20 A. We utilized the legal description within
21 Appendix E to laying it in. The key to all this is
22 that once we sort of laid things in, they didn't
23 line up. The maps that I was trying to utilize
24 didn't line up with their thing, so I made a

1 decision that we would use the -- since we had a
2 good Google Earth map of the existing site, to
3 utilize -- once everything was weighed in, to
4 utilize the fence line that was put in place as the
5 location of Site 3, because there was nothing that
6 spatially could be put together that came up with an
7 accurate map that could say one line was more
8 accurate than another line. So I made the
9 assumption that if I had then just utilized the
10 site, an existing site as it was laid out, and that
11 when they did the final report, they fenced in
12 Site 3, because they wouldn't fence in to the north
13 beyond that, because that would be encroaching on
14 transportation right-of-way, that the northern line
15 would be set by that fence line, that that would be
16 right on the -- or that maybe something that -- that
17 would be the property line of the property. And
18 that it had seemed that for the most part the other
19 boundaries, you know -- you know, maybe the average
20 was basically that fence line. So I utilized that
21 as the -- as the base of this map, the original, the
22 first map.

23 **Q. And if you could turn to Exhibit 205-22.**

24 **A. Yes.**

1 **Q. Is this the map that you initially**
2 **generated?**

3 A. Yes.

4 **Q. Okay. And this contains the information**
5 **that you just described?**

6 A. Yes.

7 **Q. Now, at some point, you, I don't know,**
8 **corrected some things? Do you want to describe that**
9 **process?**

10 A. Yeah, unfortunately. In Mr. Dorgan's
11 rebuttal to mine, he noted in the report that I was
12 incorrect in my layout of 0393.

13 **Q. I'm sorry, in your what?**

14 A. That he stated in his report that my
15 layout location of right-of-way 0393 was incorrect.
16 And I was taken aback by that, because we utilized
17 the land -- the legal description associated with
18 it.

19 **Q. Okay.**

20 A. So I had my CAD person redo it, and he
21 confirmed that we were incorrect in its layout. And
22 that was caused by a lot of our -- in locking things
23 in, a lot of the information was locked to the
24 northern limit of Site 3. So when I made the

1 decision to move the boundary of Site 3 to the fence
2 line, it sort of moved everything, including the
3 right-of-way, I think was approximately 10 feet
4 north. So I contacted the Attorney General's Office
5 and said, Hey, there's a problem with my map.

6 **Q. Okay. Then what did you do?**

7 A. I asked them if I should fix it or not,
8 and they told me that I should fix it and write a
9 supplemental report addressing the fixes associated
10 with that map.

11 **Q. Okay. Before we go further on the map, I**
12 **want -- I had it right before me, but you created a**
13 **figure that shows the different boundaries of**
14 **Site 3, not without the base map in the background,**
15 **just with the boundaries, or maybe it is the**
16 **boundaries. It's 207-29.**

17 A. That was after the fix.

18 **Q. Okay. So what is -- actually, let's talk**
19 **just generally about Exhibit 207. What is**
20 **Exhibit 207? Not just that particular page, the**
21 **whole document.**

22 A. It's my supplemental report regarding
23 this rebuttal.

24 **Q. Okay.**

1 MS. BRICE: Just for the record, same
2 objection we had before with respect to this
3 document.

4 HEARING OFFICER HALLORAN: With the what?

5 MS. BRICE: With 207, that that has matched
6 figures and it's the same objection --

7 HEARING OFFICER HALLORAN: Wait, that's the
8 one I've already addressed?

9 MS. BRICE: Yes, where the --

10 HEARING OFFICER HALLORAN: Okay. You can
11 have a standing objection.

12 MS. BRICE: Thank you.

13 HEARING OFFICER HALLORAN: Thank you.

14 BY THE WITNESS:

15 A. It's basically taking my original report,
16 redoing the figures with the correct location of
17 Site 3's -- of 039's location and pulling it back
18 down ten feet. Because the boundary of the
19 right-of-way on the north is -- was always laid out
20 as the northering boundary of Site 3, which has
21 always been depicted. So then it -- I went through
22 and sort of corrected the maps that -- the change
23 associated with that and the intent of the areas
24 that the allocations also changed that were

1 assessed -- that I assessed to IDOT.

2 BY MS. O'LAUGHLIN:

3 Q. Okay. And did they increase or decrease
4 the allocations to IDOT?

5 A. My allocations to IDOT increased.

6 Q. It increased with the corrected map?

7 A. Correct.

8 Q. Okay. Turning to 207-29, can you talk
9 about each of these colored lines and the -- that
10 shows the boundaries of Site 3 or different
11 depictions of the boundaries of Site 3?

12 A. Yeah. The sort of green line depicts the
13 layout of the Site 3 limit to that CQM, the final
14 report from JM0040322 is laid out as. The blue line
15 is the Atwell survey that I have from Mr. Dorgan's
16 report. The red line is the limit, Site 3 limit,
17 that I got from figure one of Mr. Dorgan's report.
18 And the black dash line is the boundary that I'm
19 utilizing in this report as the Site 3 boundaries.

20 Q. Okay. And is -- what boundary are you
21 using when you created your figures, figure --
22 Gobelman figures 1 through 8, I believe?

23 MS. BRICE: What do you mean are you using?

24 MS. O'LAUGHLIN: 207.

1 BY THE WITNESS:

2 A. In the supplemental, I'm using the black
3 dash line that's in 207-29 is what I'm using in
4 207-13 as my base map for Site 3 and site -- well,
5 and (inaudible) above it --

6 BY MS. O'LAUGHLIN:

7 Q. Okay.

8 A. -- in essence -- in essence, didn't
9 change.

10 Q. Okay.

11 A. I mean, the width of it got changed, but
12 it doesn't -- spatially it doesn't -- it didn't
13 change the location of boring locations.

14 Q. Okay. So what was the -- tell me again,
15 what did -- well, you -- it's in the records, but it
16 shifted your boundary south?

17 A. In essence, the northern boundary of
18 Site 3 got shifted. I had to move it down, I think,
19 if I remember correctly, approximately ten feet.

20 Q. And what is the date of your supplemental
21 report, Exhibit 207?

22 A. It was dated November 7th of 2018.

23 Q. Okay. At some point following the
24 issuance of this report, you learned of the

1 **existence of an AECOM CAD file; is that right?**

2 A. Yes, I believe it was after this time,
3 yes.

4 Q. Okay. I'd just like to represent that
5 that was produced to us -- we learned about it in
6 Mr. Dorgan's second deposition, did not know that
7 that was being used. And so you could not use that
8 AECOM CAD file because you did not know of its
9 existence because we did not give it to you, is that
10 correct?

11 A. No. I was under the assumption that
12 Mr. Dorgan was creating all this stuff, sort of what
13 I did, as utilizing PDFs and figuring out a way to
14 spatially lock it into the site somehow.

15 Q. Okay. Have you -- okay. So I -- okay.
16 These are just blowups of the figures from his
17 207 -- report in 207. So, for instance, this figure
18 one, and this would be 207-13.

19 Now, this map -- these maps were included
20 as part of your supplemental report dated
21 November 7, 2018?

22 A. Yes.

23 Q. Okay. And what is the date of Gobelman
24 figure one?

1 A. August of '18.

2 Q. And why does it -- why is it August of
3 '18 and not November of '18?

4 A. I failed to have our CAD person change
5 that.

6 Q. But those are the updated figures, is
7 that right?

8 A. Correct.

9 Q. Okay. So to start out with, I want to
10 have you briefly describe what IDOT's area of
11 liability is per the Board's order per your report.

12 MS. BRICE: What are you looking at?

13 MS. O'LAUGHLIN: It's figure one, 207-13.

14 BY MS. O'LAUGHLIN:

15 Q. Is that right?

16 A. Yes, that's correct, 207-13. Could you
17 state your question again for me?

18 Q. Pardon me?

19 A. Could you repeat the question for me?

20 Q. Sure. So I want you to -- just briefly
21 we're going to -- I'm going to ask you about what
22 IDOT's area of liability following the Board's
23 interim order is through this map. Okay?

24 A. Okay.

1 Q. Actually, let's use Gobelman figure eight
2 to do that, and then we'll go back to each of these.
3 And Gobelman figure eight is 207-20. And all these
4 figures are part of your supplemental report, is
5 that right?

6 A. Correct.

7 Q. Okay.

8 A. Okay.

9 Q. On this figure eight, can you describe
10 what IDOT's area of liability is?

11 A. Well, according to the Board's ruling,
12 IDOT's liability is associated with boring B3-25,
13 B3-36, B3-15, B3-50, B3-50 if it falls within the
14 right-of-way of 0393.

15 Q. Okay. I'm going to stop you right there
16 just to -- so this is -- looking at this, these are
17 the borings you just listed; is that right?

18 A. Correct. But I also included B3-26 in
19 this -- in these figures as well.

20 Q. And is B3-26 listed in the Board's order?

21 A. No.

22 Q. Okay. And why did you include B3-26?

23 A. Because it is the next boring to the west
24 of B3-25 and was a clean -- and according to the

1 analytical, it was -- did not contain any asbestos,
2 so I was going to utilize it in my calculations of
3 area based upon going to the next cleanest boring.

4 **Q. And that would be?**

5 A. B3-26.

6 **Q. Okay.**

7 A. And then I have in here the Board's
8 ruling of responsibility on Site 6 as 1S, 2S, 3S,
9 4S. Then I included 5S, 6S, 7S, 8S because
10 Mr. Dorgan included those in his report, and then
11 I --

12 **Q. Wait, I'm going to slow you down.**

13 A. Okay.

14 **Q. Okay. So you included 1S, 2S, 3S and 4S**
15 **as part of IDOT's area of liability?**

16 A. Correct.

17 **Q. And is that shown here?**

18 A. Yes.

19 **Q. Okay. And it goes halfway between 4S and**
20 **5S on your map?**

21 A. In this figure where we were assessing
22 IDOT's financial liability regarding filling and
23 capping, I utilized the area halfway between 4S and
24 5S as IDOT's liability since 5S was already -- was

1 also contaminated with asbestos.

2 **Q. Okay. And then on your maps, you have**
3 **5S, 6S, 7S and 8S shown, and why do you have those**
4 **shown?**

5 A. I have 5S through 8S shown because that
6 was what was in Mr. Dorgan's report. And I also
7 have 9S sort of falling off the side of the map
8 because I utilized it for its scaling reference to
9 the different -- in me creating Site 6.

10 **Q. Okay. Okay. Back to figure one, 207-13.**
11 **What does figure one show?**

12 A. Figure one shows, in essence, the base
13 map that can be utilized for all the figures
14 following regarding the location of the
15 right-of-way, the location of the borings that will
16 be utilized in Site 3 and the boring locations that
17 will be utilized in Site 6.

18 **Q. Okay. So just by a little way of**
19 **background, how did you treat the costs that were**
20 **set out in Mr. Dorgan's report? I mean, did you**
21 **question the costs? Did you have -- how did you**
22 **treat them?**

23 A. I basically decided that I wasn't going
24 to be an account forensics to try to go in detail of

1 the multiple pages and in number two font of all the
2 data invoicing numbers that were in there, so I made
3 the -- an assumption, which I would -- I would
4 believe would be accurate is that if JM pays the
5 bill, they would have done their own due diligence
6 of making sure that the information and the work was
7 done accurately and they weren't overpaying for the
8 work. So I made the assumption that the numbers
9 that were being put into the task buckets as what
10 was divvied up for Site 3 and Site 6 and Site 3 and
11 6 was as accurate as one could be.

12 **Q. Okay. What did you think about the task**
13 **buckets?**

14 A. I thought it was an appropriate way of
15 bidding up the cost associated with the complexity
16 of both sites.

17 **Q. Okay. And did you utilize the task**
18 **buckets as the same figures and costs from Dorgan's**
19 **report?**

20 A. I utilized the task bucket process they
21 utilized but asserting my own calculations on
22 assessing liability associated with it and not
23 utilizing how he assessed liability.

24 **Q. Okay. Gobelman figure two, that is**

1 **Exhibit 207-14.**

2 A. Okay.

3 Q. And this is just a blown up version of
4 that Gobelman figure two. And if you could look to
5 the legend, which is on the right of the page --

6 A. Okay.

7 Q. -- where it says Nicor location map.

8 A. Oh, okay. I see what you're talking
9 about.

10 Q. Right. I just want you to identify
11 with --

12 A. Yeah, this is the Nicor location map that
13 just lays out the location of the Nicor Gas line as
14 it runs through Site 3.

15 Q. Okay. And you created a number of
16 figures to show each utility as opposed to
17 Mr. Dorgan who had the one figure that showed
18 everything?

19 A. Yeah, for -- for -- you know, for
20 referencing purposes, I thought it was cleaner to
21 create a figure based on each individual utility
22 that's being discussed.

23 Q. Okay. And on this Gobelman figure two,
24 where is the Nicor --

1 A. The Nicor Gas line roughly runs through
2 the center running east-west through Site 3.

3 Q. Okay. And did you interview any -- per
4 the Board's order, and I'll just -- yeah.

5 Yeah, per the Board's order, did you
6 attribute any liability to IDOT based on the Board's
7 order for the Nicor Gas line?

8 A. No, I did not assess any liability. It
9 falls outside of the Board's --

10 Q. Okay. And that's because it's neither
11 within these borings or within the 1S to 4S --

12 A. Correct. It's not even -- it doesn't --
13 it doesn't cross 0393 or Site 6 --

14 Q. Right.

15 A. -- within the Board's order.

16 Q. And part of Mr. Dorgan -- and Mr. Dorgan,
17 similarly, excluded Nicor Gas line from --

18 A. Correct.

19 Q. Okay. Is there anything else regarding
20 Gobelman figure two before I move on to figure
21 three?

22 A. No, I don't believe so.

23 Q. Okay. Turning to Gobelman figure three,
24 which is 207-15. And if you look at the right-hand

1 **side, what do you call this, the Andrews**
2 **Engineering? I'm calling it just -- what is it?**

3 A. It's just the figure, figure name.

4 **Q. Okay. Figure name. And what is -- what**
5 **does Gobelman figure three show?**

6 A. It's the City of Waukegan -- the figure
7 for the -- representing the City of Waukegan
8 waterline location.

9 **Q. Okay. And where is the City of**
10 **Waukegan's waterline located?**

11 A. It's basically -- in my depiction, sort
12 of runs east-west in or around right-of-way 0393 and
13 then goes north out of Site 3.

14 **Q. Okay. And did you allocate any of the**
15 **costs involved with the task bucket city of water --**
16 **excuse me, City of Waukegan waterline?**

17 A. Yes.

18 **Q. You did?**

19 A. No, sorry, I didn't. Never mind.

20 **Q. Okay.**

21 A. Yeah, I didn't assess any IDOT allocation
22 because it didn't -- it didn't cross within the
23 board borings of B3-25 through -- by the way,
24 through the borings east of B3-25 or site -- in

1 Site 6, 1S to 4S.

2 Q. And it also -- your map shows B3-26,
3 which was the first clean boring that's referenced?

4 A. Right.

5 Q. Now, the City of Waukegan waterline,
6 there was some testimony earlier about it changed
7 locations, they didn't know where it was.

8 Approximately where was the City of Waukegan
9 waterline believed to be during the first hearing
10 time period in 2016?

11 A. I believe it was roughly about 50 feet
12 south.

13 Q. Okay. So south of here?

14 A. Yeah.

15 Q. Okay. But still through 0393?

16 A. Correct. It still went to the west of
17 any of the borings that were liable for.

18 Q. Okay.

19 MS. BRICE: Object to the characterization of
20 the document. I don't know this would've been
21 within our time period.

22 MS. O'LAUGHLIN: Okay. That's fine.

23 BY MS. O'LAUGHLIN:

24 Q. Some of it would have been in 03 --

1 A. South --

2 Q. -- 93?

3 A. Yeah, right. It was set to be farther to
4 the south more of the line with outside of 0393,
5 then I have to --

6 Q. Okay. But some of it, as it was earlier
7 thought, would have gone through 0393?

8 A. It crossed through 0393 --

9 Q. Okay.

10 A. -- to the -- that it went north.

11 Q. Okay. And given that, the Board still
12 only referenced these borings, it didn't reference
13 borings -- it didn't reference all 0393 the Board's
14 order, that specific language that you relied upon
15 referenced B3-25; is that right? That's the
16 furthest west boring on 03 --

17 A. Yes, I took the order as being the direct
18 borings referenced were the borings referenced in
19 association with 0393.

20 Q. Okay. And did you allocate any of the
21 City of Waukegan waterline to Site 6?

22 A. No, I did not.

23 Q. And what did Mr. Dorgan do?

24 A. I believe he assessed the cost to IDOT's

1 liability because it crossed the right-of-way of
2 0393.

3 Q. Is there anything else we should talk
4 about on this exhibit, on this figure?

5 A. No. I think that covers it.

6 Q. Okay. I'm going to have you pull out
7 Exhibit 202. Leave those there. We're going to
8 come back to them. Leave them there. Don't close
9 your binders. We'll come back, but I want you to
10 look at Exhibit 202. Do you have that?

11 A. Is it in one of these things? Oh, yep,
12 sorry. I mistakenly looked at another binder.

13 Q. This is -- you're on Exhibit 202?

14 A. Yes.

15 Q. Okay. And this was talked about in
16 Mr. Dorgan's testimony, yes?

17 A. Yes, I believe it was.

18 Q. What is this figure?

19 A. It's a figure that Andrews created, I
20 created, based upon the figure that we were provided
21 by Mr. Dorgan in the first group of hearings,
22 rebuttal of his first report, I think it was, that
23 that was a long time ago.

24 Q. And this was considered by the Board in

1 **the first hearing case, is that to the best as you**
2 **know?**

3 A. Yes. And then we took his figure and
4 then added the red circles or hexagon noting
5 asbestos contamination at those different areas.

6 **Q. And can you locate the waterline on this**
7 **document?**

8 A. Yes. It's roughly, I don't know, maybe a
9 third of the way from the northwest corner down
10 going east-west by a dash line with a W in it, and
11 then turns to the north at a certain point between
12 B3-40 and B3-31.

13 **Q. And, again, this was part of the first**
14 **hearing?**

15 A. Correct.

16 **Q. Okay. Anything else to bring up**
17 **regarding the City of Waukegan waterline and IDOT**
18 **allocation that you can think of now?**

19 A. Not in regards to the Waukegan waterline.

20 **Q. Okay. Moving along --**

21 HEARING OFFICER HALLORAN: Ms. O'Laughlin, I
22 know you're in a zone, but we're at 4:33. And I
23 don't want to interrupt you, but I'm hoping to be
24 done by quarter to 5:00 at the latest.

1 MS. O'LAUGHLIN: Right.

2 HEARING OFFICER HALLORAN: I don't know when
3 a good time to take a break is.

4 MS. O'LAUGHLIN: Yeah, we can really stop at
5 any time. You know, we went through these figures
6 with Ms. Brice, so you have sort of an idea of the
7 process, and we can stop anytime. I would suggest
8 maybe we'll do one more figure and stop after this.

9 HEARING OFFICER HALLORAN: Okay. Yeah. I
10 didn't want to mess you up.

11 MS. O'LAUGHLIN: No, no, no, you're not.
12 Thank you.

13 BY MS. O'LAUGHLIN:

14 Q. However, having said that, we're on the
15 next figure, figure four. Okay. Gobelman figure
16 four.

17 A. Okay.

18 Q. Which is document --

19 A. It's the location --

20 Q. Wait, wait, let's get the exhibit number
21 referenced.

22 A. Exhibit 207-16.

23 Q. Correct. Okay. Thank you. And what is
24 Exhibit 207-16?

1 A. It is the AT&T location map, lines map.

2 Q. Okay. What is the AT&T location map?

3 A. It depicts the multiple telephone AT&T
4 lines that crisscross through Site 3 and Site 6.

5 Q. Okay. Can you describe them? So they're
6 marked with a T?

7 A. Yes. There are hash lines, and the
8 dashes are filled with the letter T in the middle of
9 it.

10 Q. Okay. So how many telephone lines are
11 exhibited on this figure?

12 A. There are roughly three lines that are
13 within Site 3. There is one line that is within
14 Site 6 and another line --

15 Q. Is that area that's -- that would be this
16 one on the north side of --

17 A. South --

18 Q. -- Site 6?

19 A. Well, the one on the south side that sort
20 of comes in between boring 3S and 4S and then heads
21 east. And then the other line on the north side
22 comes in to Site 6 at the beginning of Site 6 to the
23 west and then falls along the north boundary of
24 Site 6 --

1 **Q. Okay. And --**

2 A. -- on the other side of Greenwood Avenue
3 in Site 6.

4 **Q. Okay. And what about the telephone lines**
5 **in Site 3?**

6 A. Well, there are three of them. They sort
7 of come in as one and then in one area, and then
8 they split into three different areas. One of the
9 telephone lines is roughly -- falls to the southeast
10 outside of right-of-way 0393. And the other two
11 lines sort of continue diagonally to the northeast
12 into -- one goes -- the middle one goes into Site 6.
13 The other one sort of comes out of Site 3 into --
14 and then goes north on the western side of the
15 boundary of Site 6.

16 **Q. Okay. So what is this -- on your map, on**
17 **your figure four, what is the diagonal lines?**

18 A. The hatching --

19 **Q. The hatching, what is the --**

20 A. -- of the lines show the telephone
21 line -- the area -- not the area, but the length of
22 the telephone line that I've assessed that -- that I
23 assessed IDOT's liability begins and ends within
24 Site 3 and Site 6.

1 Q. Okay. So this -- this, I'm sorry, hatch?

2 A. Hatched.

3 Q. Hatched -- hatched area, that shows the
4 area that you're assessing IDOT liability?

5 A. That is correct.

6 Q. Okay.

7 A. That is the area that I define that
8 IDOT's liable for.

9 Q. Okay. And how did you determine IDOT's
10 liability based on the task bucket that involved --
11 for Site 3, let's do Site 3, that involved the task
12 bucket of all the telephone lines for Site 3?

13 A. Well, I had my CAD person measure out the
14 length of each line as noted on this figure that it
15 is -- that it is in Site 3 and then hatched the area
16 that's assessed with liability and its distance
17 within that Site 3 area.

18 Q. Okay. So what was -- what was the total
19 linear feet of the three telephone lines that were
20 within Site 3?

21 A. I have to go back into the report.

22 Q. Okay.

23 A. Within Site 3, the three AT&T telephone
24 lines equate to approximately 1,060 linear feet.

1 **Q. Okay. So that would be the total of**
2 **these three total lines within Site 3?**

3 A. Yes.

4 **Q. Okay. And then how did you -- then what**
5 **did you do to determine the liability for the**
6 **hatched area --**

7 A. So then I -- within the hatched line, I
8 have the distances that those lines cross IDOT's
9 liability. And as I stated earlier, IDOT's
10 liability and what's being assessed begins at boring
11 B3-26, which is the first clean boring to the west
12 of B3-25, which is the boring that is referenced in
13 the Board ruling. So the hatching from that point
14 until it exits Site 3, I have a total length of 199
15 linear feet.

16 **Q. Okay. And does that include this area --**
17 **this portion up here as well?**

18 A. Yes.

19 **Q. Okay. And so that totals 199 feet. Then**
20 **what did you do?**

21 A. Well, then I basically took the 199 feet
22 that is IDOT's liability and divided it by the total
23 length of the -- the length that's within Site 3
24 and --

1 **Q. The 1,060 linear feet?**

2 A. The 1,060 linear feet and came up with
3 a percentage of 18.8 percent of the cost -- total
4 cost for the AT&T line in Site 3.

5 **Q. Okay. And then you applied that**
6 **percentage of 18.8 to the task buckets --**

7 A. Within the task bucket or the -- within
8 the total costs that were laid out in the
9 spreadsheets.

10 **Q. Okay. So basically IDOT -- you're saying**
11 **IDOT is liable for 18.8 percent of the telephone**
12 **lines on Site 3 based on linear feet?**

13 A. Correct.

14 **Q. Okay. Is there -- I guess we should do**
15 **Site 6 too. Sorry this took me longer. So let's do**
16 **Site 6.**

17 **How did you figure out IDOT's proportion**
18 **for Site 6?**

19 A. I sort of utilized the same process for
20 the length that is assessed to IDOT. There is
21 roughly 90 feet that's within IDOT's liability as
22 where it crosses into Site 6. And I took the -- I
23 basically assumed that the -- that IDOT's liability
24 ends at a point halfway between 4S and 5S, as 5S was

1 also contaminated, and I came up with a linear
2 distance of 90 feet.

3 **Q. Okay. And then what did you do with**
4 **coming up -- after coming up with linear distance of**
5 **90 feet?**

6 A. Well, based on the information I had, I
7 calculate -- I measured the distance of what was the
8 right-of-way distance of Site 6 to the north and
9 south and came up with a distance of -- total
10 distance of 5,470.

11 **Q. Okay. And so, again, what is that**
12 **distance, that -- 5,470?**

13 A. 5,470.

14 **Q. And so what -- again, what does that --**

15 A. That incorporates a length of 2,820 on
16 the north side and 2,650 on the south side.

17 **Q. Okay. So that would be for the entire**
18 **length of Site 6?**

19 A. Yes, that would be the end points.

20 **Q. And you included both the north side and**
21 **the south side figure in determining the overall --**

22 A. Yes, because both sides are impacted with
23 the telephone line.

24 **Q. All right. So there's a telephone line**

1 on the north side, there's a telephone line on the
2 south side?

3 A. Correct.

4 Q. And Site 6 extends --

5 A. Way beyond.

6 Q. -- way beyond? Okay.

7 So that's how you came up with the 5,470.

8 And how did you figure out -- you figured out a
9 proportion, the 90 --

10 A. The same proportion that I used in --
11 regarding Site 3, I divided the 90 by the five --
12 5,470 and came up with a percentage of 1.6 percent.

13 Q. And what did you do with the 1.6 percent?

14 A. I put it back in the task bucket like
15 Mr. Dorgan did with his system. And I -- yeah, I
16 used 1.6, then put it in to assess that percentage
17 to the cost associated.

18 Q. Okay. And for the Sites 3 and 6 task
19 bucket, what are those costs?

20 A. Well, those costs were the costs that --
21 that according to Mr. Dorgan and his report couldn't
22 be sort of split between Site 3 or Site 6 but were
23 costs associated with those sites.

24 Q. Okay. So how did you treat the costs for

1 **Site 3 and 6, which applied to those sites?**

2 A. I calculated proportions that -- for
3 Site 3, the allocations that were calculated by
4 dividing the portion of the costs attributed to IDOT
5 equally as defined by the Control Board, which was
6 the 24 -- a total -- total of the adding up what
7 IDOT's proportion costs for Site 3 and Site 6,
8 IDOT's liability is \$24,973.

9 Q. Okay. And you figured that by figuring
10 out the percentages from Site 3 and from Site 6,
11 from figuring out the percentage overall and
12 applying that percentage to both Sites 3 and 6
13 overall costs?

14 A. Yes, I -- once I calculated the Site 6 or
15 Site 3, I assessed the liability -- IDOT's
16 attributed liability for Site 3 and the site's
17 liability for Site 6, and that came up with a total
18 of nine -- \$24,974 and then I divided it by the
19 total cost associated with the Site 3 and the
20 Site 6, which was \$392,917 and then that gave me a
21 6.4 percent that I attributed to the cost associated
22 with the Site 3 and 6 costs.

23 Q. Okay. Do you recall how Mr. Dorgan
24 attributed the liability (inaudible) AT&T location

1 **for Site 3?**

2 A. I believe he assessed it basically if
3 one -- if a line was in the right-of-way, it was --
4 it was 100 percent attributed to the IDOT's
5 responsibility. If a line was outside of the
6 right-of-way, it was not. So, therefore, if -- of
7 the total costs, he assessed basically two-thirds
8 was to IDOT's.

9 Q. Right. And that was because two of the
10 lines, even though they're much shorter --

11 A. Right.

12 Q. -- two of the lines which were in even
13 his expanded -- you know, I'll call it expanded
14 0393, two of the lines were within 0393 and one line
15 was not?

16 A. Correct.

17 Q. Okay. So he included two of the lines
18 rather than -- and then excluded one line, but you
19 can see the linear feet for the two lines is a much
20 shorter distance, which would be an IDOT liability,
21 than the much longer line, which is clearly outside
22 of it?

23 A. Correct.

24 Q. Okay. Is there anything else we should

1 **point out on the AT&T location map, figure four?**

2 A. Well, just to follow-up what you were
3 talking about on Site 6, there were two lines, one
4 in the south, one at the north, and Dorgan assessed
5 liability 50 percent based on that one line was in
6 and one line was out.

7 **Q. Okay. So he assessed all of site south**
8 **of --**

9 A. All costs associated with the lines to
10 the south were assessed to IDOT.

11 **Q. Okay. So half of all Site 6 costs for**
12 **the AT&T he assessed to IDOT --**

13 A. Correct.

14 **Q. -- rather than just the portion that --**
15 **per linear feet that you calculated?**

16 A. Correct.

17 **Q. Okay. Is there anything else?**

18 A. I don't think so.

19 MS. O'LAUGHLIN: Okay. I think this would be
20 a good time to break.

21 HEARING OFFICER HALLORAN: Okay. Any
22 thoughts before we close and continue, Ms. Brice?

23 MS. BRICE: No. I just wanted to remind
24 everyone that after they finish their case, we do

1 have a rebuttal case by Mr. Dorgan.

2 HEARING OFFICER HALLORAN: Yeah, I heard
3 that, not on record, but thank you. Another great
4 job today. I'll see you all tomorrow at 9:00 a.m.
5 And we'll be here. Thank you so much.

6 (WHEREUPON, the hearing was
7 adjourned at 4:49 p.m.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF W I L L)
4

5 I, JENNIFER L. WIESCH, a Certified
6 Shorthand Reporter of the State of Illinois, do
7 hereby certify that I remotely reported in shorthand
8 the proceedings had at the hearing aforesaid, and
9 that the foregoing is a true, complete and correct
10 transcript of the proceedings of said hearing as
11 appears from my stenographic notes so taken and
12 transcribed under my personal direction.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand this 13th day of November, 2020.

15
16
17 Certified Shorthand Reporter
18 C.S.R. Certificate No. 84-4528.
19
20
21
22
23
24

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