ILLINOIS POLLUTION CONTROL BOARD

SIERRA CLUB, PRAIRIE RIVERS NETWORK, AND NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,	)	
Complainants,	)	
-vs-	)	PCB 18-11
CITY OF SPRINGFIELD, OFFICE OF PUBLIC UTILITIES d/b/a CITY WATER, LIGHT AND POWER,	)	
Respondent.	)	

OCTOBER 14, 2026

9:00 A.M.

REPORT OF PROCEEDINGS

in the above-entitled cause before

HEARING OFFICER CAROL WEBB via

WEBEX VIDEOCONFERENCING.

PAMELA S. MORGAN, CSR

084-001687

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ALSO PRESENT:

Mr. Joaquin Garcia

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HEARING OFFICER WEBB: We will go on the record now.

Good morning. My name is Carol Webb. This is Part 2 of the hearing for PCB 18-11 Sierra Club, Prairie Rivers Network, and the NAACP versus City Water, Light, and Power, also known as CWLP. It is October 14th and we are beginning at nine o'clock am.

This hearing was noticed pursuant to the Act and the Board's rules and will be conducted pursuant to Sections 101.600 through 101.632 of the Board's procedural rules.

We do not presently have any members of the public to make public comments, but we will take comment at various intervals as agreed off the record. Written comment may be filed with the clerk by November 16th, 2026.

At Part 1 of this hearing the parties reserved their opening statements and we heard testimony from Complainants' expert witness. Today, I will again offer the parties an opportunity to make an opening statement and then we will proceed with the remainder of Complainants' case.

At this time I will ask the parties to please make their appearances on the record.

MS. BUGEL: Faith Bugel appearing on behalf of Sierra Club, Prairie Rivers Network, and NAACP.

MS. DESAI: Priyam Desai on behalf of Sierra Club.

MS. BUGEL: And I will just say again, Faith Bugel on behalf of Sierra Club, Prairie Rivers Network, and NAACP.

MS. WILLIAMS: Deborah Williams, regulatory affairs director of the City of Springfield, Office of Public Utilities, also known as City, Water, Light and Power. Today I am appearing on behalf of them as a special assistant corporation counsel.

MS. ROSENBERGER: Emily Rosenberger, regulatory affairs operations manager for CWLP.

HEARING OFFICER WEBB: Thank you.

Are there any discussions you would like to have on the record before we begin?

MS. BUGEL: Yes.

At our last hearing we had -- we raised the issue of arsenic. There was an objection, and the hearing officer -- I want to just say that,

once again, we are raising the issue of arsenic, we are trying to keep it within the bounds of your order from the last hearing which was, you know, that we may raise it but in a very limited nature, and that was our intention again.

HEARING OFFICER WEBB: Well, what I was going to add was looking back on your expert's testimony, it appears that the arsenic -- the presence of arsenic is being used to argue issues relating to the closure plan, is that correct?

MS. BUGEL: The way I would state it is that the Board has -- the Illinois Environmental Protection Act lays out five factors that the Board must consider under a certain section, 33C, and one of the factors is the degree of harm, and it is that factor that makes arsenic relevant from our perspective.

We acknowledge that there was no liability claiming arsenic. We fully acknowledge that. We are not trying to raise arsenic for the purposes of liability, but we do believe it is relevant to the Section 33C factors.

HEARING OFFICER WEBB: But is that in relation to the closure plan or just the presence in and of

itself?

MS. BUGEL: Well, the Board is required to consider those factors in every order. So let me start by saying that generally that is what makes it relevant.

This is a remedy hearing and, obviously, at issue is then the remedy, and we have asked for a specific remedy of removal. And, yes, it is relevant to the remedy as well because the remedy is related to the degree of harm.

HEARING OFFICER WEBB: Okay.

MS. WILLIAMS: I thought your point made sense at the eclipse. What Faith is saying, she's focusing only on the 33C factors which include, you know, the degree of injury -- the degree of injury or interference with the protection of health and welfare.

So to some extent I feel that factor needs to be to the violation, right, it's the violation that's causing the injury.

So I think we need to be very careful here. I made the decision and was clear in my pre-hearing briefs that I am relying on this order about the limited nature of the testimony, to keep

it very limited, but to the extent there's an attempt to argue there are violations of any arsenic standards, that has not been proven and we would be prejudiced by that argument, and we are not going to put on a rebuttal case the violations that were not in the Board's order, we think that's a waste of everyone's time.

So I just want to lay that out for the record. I think Carol is giving you a life line here but if you take it too far we will continue to object on the record and we will see where that goes.

But Faith has explained to me what she's going to try to do.

HEARING OFFICER WEBB: Well, let's address it when we come to it. How's that?

Okay. Were there any other separate issues? Anything about exhibits or anything? Are we good to go?

Okay. Miss Bugel, would you like to make an opening statement?

MS. BUGEL: Yes, we would, thank you.

OPENING STATEMENT BY:

MS. BUGEL: Good morning. Again, my name is

Faith Bugel.

Thank you to the hearing officer and the Board for allowing us the opportunity to appear today.

To start with, the Board ruled in favor of Complainants on summary judgment, concluding that CWLP was violating both state regulations and the Environmental Protection Act. Now this proceeding turns to remedy.

CWLP will argue today that the Board was concluded from imposing its cease and desist order for the violations that the Board found because Illinois Administrative Code Part 620 allegedly no longer applies to CWLP's ash ponds.

According to CWLP, the violations has ceased and there's no ongoing violations for the Board to apply a cease and desist order to.

The Board, however, examined an argument in CWLP's motion in limine and rejected it as applied to the evidence -- that same argument as applied to the evidence.

Further, CWLP fully ignores the fact that the (inaudible) in this case was not limited to Part 620 but also included Illinois Environmental

Protection Act violations, and the Board on summary judgment found that there were Environmental Protection Act violations.

Those violations continue to the present. The Act still applies. The ash ponds are still leaking and there are ongoing violations onto the Act.

The task at hand is now for the Board to consider public facts and circumstances of this case are weighed under the Act's Section 33C factors.

Complainants' evidence will show that five factors support the Complainants' requested remedy and are also aggregated.

First, the character and degree of injury supports Complainants' remedy. Multiple pollutants have been detected above background at multiple wells from 2010 through the present. 15 years, going on 16, multiple pollutants from multiple ash ponds, contaminant-after-contaminant, well-after-well, year-after-year. These are the complete opposite of isolated violations. If that doesn't show the degree and gravity of violations, I don't know what does.

Second, the pollution sources are unsuitable to the area. The pollution sources are adjacent to Lake Springfield, a source of drinking water for the City of Springfield, and the water body extensively used for swimming, fishing, and boating. The pollution sources are also in the proximity of residential neighborhoods. That makes the sources unsuitable to the area.

Third, Complainants' requested remedy is both technically practical and economically reasonable. We are requesting removal, which has been a closure method used at hundreds of ash ponds across the country, demonstrating the technical practicability and economic reasonableness.

Fourth, CWLP's subsequent history of compliance is marked by ongoing exceedances. CWLP is going to provide a long list of activities that they have undertaken in the name of compliance. However, despite loss of reports and plans and applications, the fact remains that the exceedances continue. If you look at the actual groundwater, the pollution levels are the same, the contamination has not abated, and none of

CWLP's reports, plans, or applications have translated into actual compliance on the ground in the groundwater.

Finally, a polluting source's value is the final factor to consider. CWLP's ash ponds are no longer actively receiving waste, which means they have no value as waste disposal units. Also, a pollution source's value depends on its ability to achieve overall compliance with the Act.

In this case, the social and economic value of ash ponds is undermined by CWLP's continued failure to make the improvements necessary to control the contamination of the groundwater. For this reason, the pollutions sources have no social and economic value. The factors clearly weighed in favor of Complainants' recommended remedy and the Board has the authority to require CWLP to implement it.

Thank you.

HEARING OFFICER WEBB: Thank you.

Miss Williams.

OPENING STATEMENT BY:

MS. WILLIAMS: Good morning.

In September 2023 following submittal of stipulated facts by the parties, the Board issued a liability finding in this matter.

The Board found violations of Section 12A of the Environmental Protection Act and Part 620 of the Board's regulations for boron, sulfate, and TDS exceedances at wells AP-1, 2, and 3.

At that time CWLP argued that those violations had ceased upon the adoption of Part 245, as that was the intent of the Illinois EPA on adopting the proposal and CWLP pointed to the clear records stating such. The Board found that this intent may have been clear but the plain language was not.

So following this 2023, Sierra Club, Prairie Rivers Network, and NAACP versus CWLP's decision, the larger regulated community and the Agency submitted clean up of this language in the open pending proceeding to amend Part 620. These changes were finalized March 28, 2025, and although the CWLP case was clearly identified as the basis for this amendment, Respondents did not oppose the change.

This fact doesn't make the prior

violations that the Board found disappear, but it does make them wholly past violations to remedy and not ongoing violations.

The Environmental Protection Act has only one remedy for wholly past violations: Civil monetary penalties. Respondents have made clear in these hearings they are not seeking monetary penalties, and CWLP agrees that monetary penalties are not warranted under Section 42H of the Act.

There's been no economic benefit. CWLP is a municipal utility and all expenses, including civil penalties, are paid from the only source of funds in the electric rates paid by our citizen rate payers.

Since we do not know if the Board will entertain civil penalties on its own motion, CWLP will enter testimony on the, quote, due diligence on the part of the Respondent in attempting to comply with the requirements of this Act and regulations thereunder will securely release their (inaudible) provided in the Act, unquote.

To establish the Complainants' position that monetary penalties are not appropriate in this case is accurate. Another factor under the

section that they are looking at under 33C is any subsequent compliance.

If a violation were ongoing, the Board would have one other tool more enforcement outside of monetary penalties, a cease and desist order. A cease and desist order is not appropriate here because the violations are already in the past. However, even if the Board were to find otherwise, it would be an extreme and radical departure from the concept of the cease and desist order to think that the Respondents requested relief, removal of the remedy would encompass our cease and desist.

It's clearly injunctive relief, which the Act leaves to the Attorney General and the Circuit Court.

And finally, even if the Board were to make such an extremely -- to conclude otherwise, in a case like this where there's no evidence, pollution has left the site or impacted the public or the environment, CWLP will spend its time here proving it's completely unnecessary.

Unlike any other facility in Illinois and possibly across the country, CWLP has the advantage of a state permitting program and a

consent order with the U.S. EPA that both separately lay out a comprehensive process for confirming that CWLP's closure plan will leave the technical standard before it is implemented.

There's no reason for the Board to step in and interfere. This case is moot. We are wasting resources of everyone in this room by being here to take factual testimony today.

But more importantly to me is the members of the public who care about what's in our closure plan and want to have an opportunity to comment on it.

Part 845 gives the public the right to have their input on our closure plan to be considered in the final approval of that plan. That is important. CWLP supports that. But this process where the Board has no authority to change that plan or issue a permit for a different plan means those comments, unfortunately, are not going to be relevant or considered by the Board. I appreciate them being here today giving their time.

Finally, as we discussed already, the hearing officer has ruled to limit the

introduction of evidence that there may have also been exceedances for arsenic, Complainants have appealed and the Board has not ruled.

In relying on the hearing officer's decision, we will not further waste time presenting evidence that arsenic levels found in the groundwater or the site are not caused by the ash ponds.

But were the Board to overrule the reason compromised of the hearing officer after the hearing has closed, CWLP will be prejudiced if it is not allowed to present such evidence.

Thank you.

HEARING OFFICER WEBB: Thank you.

Miss Bugel, you may call your next witness.

MS. BUGEL: Priyam Desai is going to take the lead.

MS. DESAI: I would like to call Caroline Weinberg, please.

HEARING OFFICER WEBB: You may sit here.

Court Reporter, would you swear in the witness, please.

(The witness was duly sworn.)

CAROLINE WEINBERG,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. DESAI:

Q. Can you please state and spell your name for the record?

A. Caroline Weinberg. C-A-R-O-L-I-N-E. Weinberg, W-E-I-N-B-E-R-G.

Q. Where do you work now?

A. I work for Earthjustice. One word.

Q. When did you start working at Earthjustice?

A. I started in January of 2022.

Q. And what is your position at Earthjustice?

A. I am a senior research and policy analyst.

Q. Describe what you do in your current role at Earthjustice?

A. So I am a senior research and policy analyst on the clean energy team at Earthjustice. I support our attorneys in our casework as we fight for pollution-free electricity grid. I also

conduct background research to support our (inaudible) more generally.

Q. How does your work at Earthjustice involve coal ash issues?

A. So, I've been working on coal ash issues since I started in January of 2022. I conduct background research to understand the entire landscape of coal ash units in their federal regulations in the U.S. I manage our internal data on all coal ash units in the U.S. and I also look into specific sites that are causing harm to the extent that has come up in our specific cases.

Q. Does your coal ash work involve Earthjustice's online resources that are posted on their website?

A. Yes.

Q. How so?

A. So I help maintain almost -- many of our public websites and particularly our maps that the public can learn about where coal ash units are in the U.S. and some specifics about their status. Yeah, we maintain several different maps and they're all housed on our public website.

Q. I have a demonstrative exhibit that I

would like to circulate. I will be placing exhibit labeled D6 that we used at the last hearing.

For the record, the title of this first page is "Earthjustice Coal Ash Contaminate Our Lives."

Are you familiar with the first three pages of this document?

A. Yes.

Q. They are front and back. Can you please describe what these pages are?

A. So this is the landing page for the website that Earthjustice maintains that houses reports, school kids, press releases, as well as our maps that have data on coal ash units throughout the U.S.

Q. Does this appear to be a true and accurate representation of Earthjustice's website?

A. Yes.

Q. Are the resources that you just mentioned available for any member of the public to use?

A. Yes.

Q. Looking at Page 3 of the printout, are you familiar with this section of Earthjustice's

website?

A. Yes. This is where we house many of those maps and fact sheets that I've been referring to.

Q. Do you see the section labeled "Mapping the Coal Ash Contamination"?

A. Yes, I do.

Q. If I were to click this link, what would it lead to?

A. So this would lead you to a map underlying data that 746 coal ash units where Earthjustice has compiled information as of October 2022 about the status of those units. You can click on the map and explore that information or you can go to the page directly.

Q. Are you aware of any example of how the public might use the information that Earthjustice makes available on this website?

A. Yes. We regularly field inquiries from concerned citizens, from reporters, from academics regarding all this information.

Q. Beginning on the second set of several pages which is marked with a blue flag, and for the record that would be the fourth page in this

set of documents, are you familiar with this page of the document and the following two pages?

MS. WILLIAMS: How are we counting pages here?

MS. DESAI: So it would be the PDF Page 4 but I tabbed it for easy reference for us in the hearing room.

MS. WILLIAMS: So we should rely on the blue method number?

MS. DESAI: Yes. Yes.

MS. WILLIAMS: Can you go back, I'm sorry?

MS. DESAI: I will have the witness describe what this is.

BY MS. DESAI:

Q. Are you familiar with this page of the document and the following two pages?

A. Yes. So if you had clicked on the mapping in the coal ash contamination on the previous web page that we discussed, it would bring you to this page. So this describes a little bit about the map that you see on the third page. And this map, as I described, represents 746 coal ash units throughout the U.S., you can click on any of these docs and get information about this unit, and all of that information that

you would get from clicking on those docs is also available in a public database that you can explore if you click on this download data button.

Q. Okay. So could you just explain one more time, then, what the download data button would lead to?

A. Yes. So that blue box is a link, and if you click on that it would lead you to a Google spreadsheet that's publicly available and has an explanation of how this information was compiled, as well as the data on the 746 coal ash units federally regulated as described by utilities on their CCR websites.

Q. Can you just define CCR, please?

A. Yes. CCR is coal combustion residuals, which is another term used interchangeably with coal ash.

Q. Beginning on the page marked with a green flag, for those of us in the room and for the record, that would be PDF Page 7 in this set of documents which, for the record, the title is "CCR Rule Compliance October 2022."

Are you familiar with this page -- the front and back of this page of this document?

A. Yes. You would click on the download data tab, this is the Google spreadsheet it would have taken you to, the Google spreadsheet has three tabs, as you can see at the bottom above the second page of this exhibit.

We are currently on the cover tab. So the cover tab explains what the data in this spreadsheet is. It explains how under the federal CCR rule utilities must maintain an appropriately available coal ash website where they post all of the necessary reports and documents on their coal ash units.

This cover page explains how this database represents a compilation of certain parts of -- certain pieces of information that are housed on those websites and that this spreadsheet was compiled in the first half of 2022, so it includes documents up to 2021 for the 746 units in this database.

Q. Beginning on the third page, which is marked with an orange flag, which would also be PDF Page 9, are you familiar with this page along with the next two pages?

A. Yes. So this is a snapshot of the second

tab, which is the definitions tab. What this tab does is it goes through and explains the values and the columns that we'll see in the full database and it explains what each of those values mean based on what they report on their CCR web pages.

Q. Great.

Turning to the last set of stapled pages, which is marked with a purple flag, PDF Page 12, are you familiar with this page and the following two pages?

A. Yes. So this is a snapshot of the third tab of the Google spreadsheet which is described as "CCR Rule Compliance Data" and this is all the data that would be -- Earthjustice's team has tabulated as of October 2022 on the 746 federally regulated coal ash units in the U.S.

Q. Can you explain why the columns are cut off in the Sierra table?

A. I think that was just a screen graph. So there are 45 total columns but we are only seeing maybe 10 here.

Q. Okay. What information is contained in this table?

A. So the full table, as I said, contains 45 columns and each row represents a coal ash unit in the U.S., landfill, and the 45 columns are a compilation of information that has been posted to utilities CCR web pages that describe the status of that unit as of October of 2022, as I mentioned. However, documents have been posted in the first half of 2022. I and other researchers have compiled this information. There are also several columns at the end, which we are not seeing here, that are other publicly available pieces of information, so largely demographic information about these facilities and the associated CCR units.

Q. There's a chance that I referred to this document as table or spreadsheet. Is that okay with you?

A. Yes.

Q. Did you work on this table?

A. Yes.

Q. When did you first start working on this table?

A. So essentially right when I started at Earthjustice in January of 2022, I began working

with a contract researcher and the two of us essentially went into all utilities CCR web pages for these 746 units and made sure that the information in the table was up-to-date; and if not, we changed it.

So originally, a version of this table was created in 2019 and when I joined Earthjustice in January, that was the beginning of our updating process where we published a new version of the table, that's what we're looking at here, that's the version that we published in October of 2022.

And, yeah, I managed the contract researcher and worked with him to update the information for all of these units and I checked his work to make sure that he --

Q. And when you say "we," who does that refer to?

A. Yes. I tried to be clear but if I said "we" about updating the table, I mean me and the contract researcher that I worked with.

Q. How is the information in this table collected?

A. We went to individual CCR websites that

are publicly available for the different utilities. We went into the relevant documents, so that includes inspection reports, closure plans, any sort of closure notifications, it includes groundwater monitoring reports and other reports they have to publish, and we pulled out the relevant pieces of information and tabulated them.

Q. When this table was published, did the information accurately reflect the data posted on the industry websites that you mentioned?

A. Yes. That was our entire process was to have this table reflect the information on industry websites for their CCR units as of the moment that we were publishing this table. So, in 2022.

Q. Do you know if it is possible to download this data which currently exists in a Google sheet?

A. Yes. You could click the file in the top left corner and you would have a download option, you could download it as an Excel spreadsheet.

Q. Do you know if the presentation of data remains the same when you download the document as

a Microsoft Excel spreadsheet?

A. Yes, it is all the same information.

Q. Does it include the tabs?

A. Yes.

Q. How do you know?

A. I've done it.

MS. DESAI: Complainants are going to move on to -- actually, I would like to move to admit demonstrative Exhibit D6 into the record.

MS. WILLIAMS: It's entered as demonstrative?

MS. BUGEL: Yes.

HEARING OFFICER WEBB: Yes. D6 is admitted.

(Complainants' Exhibit No. D6 was admitted into evidence.)

MS. DESAI: Complainants would like to move on to another exhibit as D7.

BY MS. DESAI:

Q. Looking at the pages up to the pink tab, which would be PDF Pages 1 through 136, are you familiar with this document?

A. Yes. This is the same Earthjustice table with all of the columns included, so you will see that the last column is AS, which is the 45th column, and it appears to be filtered, which you

can tell from the numbers on the left side not going consecutively, sometimes it skips numbers.

Q. How do you recognize this document?

A. I've worked extensively with this spreadsheet and table.

Q. To the best of your knowledge, is this a true and accurate representation of the table that you get if you were to download the data from the Earthjustice website?

A. Yes.

Q. Can you explain briefly how filters work in a Microsoft Excel spreadsheet?

A. Yes. So essentially, you can subset the row so that you are only looking at the rows where a certain value in a given column is a specific thing.

Q. Looking at Column C, what is this column?

A. So this designates whether a given coal ash unit is surface impoundment, or a pond, we use those terms interchangeably, or whether it's a landfill.

Q. In this version of the table that's marked in front of you, can you explain why the numbers are not sequential on the left-hand side

of the table?

A. Yes. As I mentioned, it seems like there's a filter applied, and I can tell in Column C there's a filter applied to Column C where we are only looking at the ponds in the database.

Q. What is the difference between a surface impoundment and a pond?

A. Those terms are used interchangeably.

Q. Beginning on the page marked with a pink tab through the second pink tab, which would be PDF Pages 137 to 184, are you familiar with this portion of the document?

A. Yes. This is the same Earthjustice table and spreadsheet.

Q. Looking at Column H, which starts on Page 7, what is this column?

A. So this column represents the closure status of the unit at the time that we updated the database in 2022. It appears that the filter is applied to this column, where in this version of the database we are only looking at those units that have closed.

Q. For closure statuses of closed, where

does the information listed in Column H come from?

A. So this information comes from closure certification documents that are posted by the owner/operators to their CCR website.

Q. And what does closed no certification mean?

A. Closed no certification means that at the time that we were updating the database for a given unit, there was clear explanation and description of closure of the unit by the utility in their documentation, so in an inspection report or some other report on their website, but for whatever reason there wasn't a formal closure certification document available at the time that we were updating the database.

Q. How did Earthjustice determine that the facility's surface impoundment was closed if it didn't have a formal certificate of closure?

A. If there was a formal closure certification document, a unit was fully designated as closed no certification, if there was clear description of the closure in a different document posted by the industry on their CCR website.

Q. And those documents would have still been publicly available?

A. Yes. Correct. It would have been inspection report, some sort of monitoring report or another report that were all available on the public CCR website.

Q. Does Column H represent any subjective interpretation from Earthjustice staff?

A. No. This is all based on industry description of the unit in those reports.

Q. Okay. Beginning on the page marked with the second green colored tab up through the third blue tab, which would be PDF Pages 185 to 216, are you familiar with this portion of the document?

A. Yes. This is the same Earthjustice database, it appears another filter has been applied.

Q. Looking at Column I, which starts on the numbered Page 5, what is this column?

A. So this is the closure method. If a unit is closed, this column -- the value of this column represents the closure method that was used to close that unit. If a unit is not closed, this column would represent the proposed closure

method, which is in the closure plan document that is posted on the CCR website.

Q. And then in this version of the table that is in front of you, why are the numbers not sequential on the left-hand side of the table?

A. Yes. So it appears another filter has been applied and, as you can see, all of the units that are represented in this portion of the exhibit closed by removal.

Q. From what you can see, are there any other closures applied to this version of the table?

A. Yes. So this version of the table has three filters applied. It's only ponds, it's only those that have closed, and it's only those that are closed by removal.

Q. Where does the information listed in the closure method Column I come from?

A. It comes from the closure certification which describes the closure process conducted or the closure plan, some combination of the two. And in the case of those units that have no certification, it could come from other publicly available reports that describe the closure.

Q. Can you explain how Column H and Column I in this table are related?

A. Yes. So as I mentioned, if a unit is closed, as described in Column H, or if it's designated as closed in certification, then the value in Column I represents the actual closure method that was used. If Column H has a different status, such as open, then the value in Column I would represent the proposed closure method as is described in the closure plan.

Q. Does Column I represent any subjective interpretation from Earthjustice staff?

A. No. This is a tabulation of the information in the industry documents on the public CCR website.

Q. I am going to refer to this table that we've been discussing as the Earthjustice table. Is that okay with you?

A. Yes.

Q. Have you reviewed Table 1 in the expert report of Complainants' expert Mark Hutson?

A. I have, yes.

Q. Can you compare the Earthjustice table now filtered by pond closure status and closure

method to Table 1 of Mark Hutson's January 2025 expert report?

A. Yes. So the Earthjustice table filters are applied on the closed or closure certification, there are 100 rows representing 100 compounds that are closed by removal and Table 1 in Mark Hutson's report also has 100 rows, and I went through and assured that these are the same units represented in each. In other words, Mark Hutson's table is the same as the Earthjustice table filtered in this way. So Table 1 does not contain all 45 columns of the Earthjustice table, it's a sub-separate amount of columns, yes.

Q. Have you independently verified that the information in this filtered version of the Earthjustice table matches the information in Table 1 of Mark Hutson's January 2025 report?

A. Yes, I have confirmed that it is all the same 100 units. I have also gone through and gone to the publicly available CCR websites for each of these 100 units and confirmed -- found the precise document that describes that the unit was closed by removal.

Q. Beginning on the page marked with the third blue colored tab through the end of the document, which would be PDF Page 217 onwards, are you familiar with this portion of the document?

A. Yes. This is the same full Earthjustice table but we are only looking at one row.

Q. Looking at Column F, what is this column?

A. This is the state in which the facility is located.

Q. And in this version of the table in front of you, is there a filter applied to Column F?

A. Yes. So it is only Illinois and I believe that in the filtered version of the Earthjustice table with the three filters that we have been discussing, or Mark Hutson's Table 1, this row is the only row in the State of Illinois in that version of the table.

Q. And could you just repeat again what the facility is?

A. Hennepin Power Station.

Q. Looking at Column E, what is this column?

A. That's the URL for the industry public CCR website.

Q. And can you just once again discuss what

a company would normally include in its CCR website?

A. Yes. So all of the reports that are mandated under the 2015 CCR rule are posted to these websites. That includes lots of different reports but would include things like closure plans, closure notification, annual inspection reports, and annual groundwater corrective action reports.

MS. DESAI: Complainants move to admit demonstrative Exhibit D7 into the record.

HEARING OFFICER WEBB: I have a question.

Is there anything more specific we could call the table, like Table of National CCR Data? Is there anything more descriptive?

MS. DESAI: Sure. We could call it the Earthjustice CCR Guidance or CCR Compliance, if that works.

HEARING OFFICER WEBB: Yes. Let me just write that down.

MS. WILLIAMS: Are we sure that print matches what we're looking at?

HEARING OFFICER WEBB: The printout with Mark Hutson's testimony?

MS. WILLIAMS: I don't -- I thought maybe it was my printer problem. I don't think what we are looking at matches what you filed, like the pages, like there's no 185, that starts over.

MS. DESAI: So there's four bundles of each document and we bundled them together for the sake of, you know, being a clean grouping. So they are independently numbered within like their subsections, but I think it's just easiest to reference which number that you are looking at the PDF.

MS. WILLIAMS: Okay.

MS. DESAI: So there's multiple ways to define the pages.

MS. BUGEL: There are obviously colored tabs separating the bundles and we are identifying things by those colored tabs. When the documents get scanned in, it's possible that those colored tabs will disappear, which is why we were giving PDF page numbers as well. But within the bundle of documents, the page -- the actual page number start over with each set of documents, if that makes sense.

MS. WILLIAMS: Thank you.

HEARING OFFICER WEBB: So you don't have any objection to admitting?

MS. WILLIAMS: No. I am actually curious why we are not admitting it as a substantive exhibit and as a demonstrative.

MS. BUGEL: Well, the substantive exhibit is Table 1 of Mark's report. That's where the substance is. These are all just to explain how Mark's report was created. These are demonstrative because they illustrate Caroline's testimony.

MS. WILLIAMS: We are going to want to ask her some questions, too. At the end we can admit all the demonstratives.

MS. BUGEL: We are admitting the demonstratives as we go through. She will do a motion -- would have done a motion for each set of exhibits, so they will be in at that point.

Does that make sense, Debbie?

MS. WILLIAMS: I was just suggesting that we might have questions first before I say no objections. I have questions.

HEARING OFFICER WEBB: I see what you are saying.

MS. WILLIAMS: I am not anticipating a problem with demonstrative.

HEARING OFFICER WEBB: Okay. We will do it at the end.

MS. DESAI: I will move that at the end for admission. We are going to move on to the next exhibit -- demonstrative exhibit which will be labeled D8.

BY MS. DESAI:

Q. Are you familiar with the first page of this document?

A. Yes. This is Luminant, the utility, it is their CCR rule compliance web page and this is where that link in the database would have taken you.

Q. How do you recognize this document?

A. I've been to this web page many times.

Q. To the best of your knowledge, is this printout a true and accurate representation of Luminant's website?

A. Yes.

Q. Beginning on the second page, are you familiar with this page of the document?

A. Yes. So on that first page, all these

blue states are links. And so if you were to click on the Illinois link, it would take you to this, which is all of the Illinois facilities owned and operated by Luminant that are regulated under the 2015 CCR rule.

Q. Beginning on the third page, are you familiar with this page of the document?

A. If you were to click on Hennepin, the way Luminant organizes its CCR web pages by years, so if you were to click on Hennepin, then you'd get folders for each year, we've also clicked on the 2020 year, and so these are all of the reports that Luminant filed under the 2015 CCR rule for Hennepin in 2020.

Q. Do you see the notification of completion of closure for the Old West Polishing Pond towards the middle of the list here?

A. Yes.

Q. What is a notification of completion of closure?

A. So this is a type of document that can be posted when closure has been completed, and it likely has. It's also the formal closure certifications.

Q. Based on your understanding, is this the same pond that was represented for Hennepin --

A. Yes.

Q. -- that we just looked at?

Moving on to the next page, which has a front and a back, are you familiar with these last few pages?

A. Yes. So this is the two-page report that would be opened if you clicked on that notification of closure and it has a short explanation of the closure. And then the second page of the document is the closure certification signed by a national engineer.

Q. To the best of your knowledge, is this a true and accurate representation of the notice of closure and certificate of closure for Hennepin Power Station that is available on Luminant's website?

A. Yes. For the Old West Polishing Pond, yes.

Q. How do you know?

A. I have looked at it and this matches what I've seen on the website.

Q. What is a certification statement?

A. It certifies that the closure has occurred.

Q. And how does Earthjustice use these certification statements or notices of closure in the context of the Earthjustice table?

A. Yes. So it is the exact type of document that we would look at and see that the closure has occurred. So you see on the second page, a professional engineer signed the statement saying, "I certify that the CCR from the Old West Polishing Pond has been removed." That would be the type of statement that we would use as a basis to designate something -- designate a CCR unit as closed and closed by removal.

Q. Did Earthjustice rely on any subjective analysis to populate the Earthjustice table based on these certificates or notices?

A. No. All of that information came from these documents themselves.

MS. DESAI: Complainants have no further questions.

HEARING OFFICER WEBB: Would you like a recess before cross-examination or are you ready to go?

MS. ROSENBERGER: I am ready to go.

CROSS-EXAMINATION

BY MS. ROSENBERGER:

Q. Miss Weinberg, you said you created the documents. Did you create the document with anyone else?

A. As I mentioned, yes, I worked with a contract researcher who created it. It was also based off the original version of the table that was published in 2019, as I worked with the creator of that original version.

The contract researcher's name was Dan, I don't know his last name off the top of my head, and the person who originally created the 2019 version of the table is named Flora.

Q. And you said the document was created in January of 2022. When was the document saved?

A. It was saved regularly at all times and we worked on creating it from January through October of 2022 when we published it on, I believe, October 14th of 2022, as described on the cover page of the document.

Q. What is your organization for attention and storage rule for the data for this document?

A. Because it lives on a Google spreadsheet,

it was saved at all times. In terms of retention, I would have to look at our retention policies, but because it's not specific -- I would have to look at our retention to see, generally our public resources state it online.

Q. And when was the table first posted?

A. We posted it publicly on, I have to look to get the exact date, October 14th of 2022.

Q. And who is the last person to update the spreadsheet?

A. Likely on that day.

Q. And has it been updated since 2022?

A. No.

Q. And why did you stop updating it?

A. It takes an impressive amount of resources to go through all of the publicly available web pages. We also were able to -- EPA posted a version of their internal database. And so, then we use that as the basis of our national assessment.

Q. And what was the criteria for adding a facility to the list?

A. If a utility posted documents about that facility.

Q. And how many of these sites involved removal of CCR to an onsite landfill?
A. I'm not sure.
Q. Do you know how this list is relevant to the CWLP's Dallman Ash -- Dallman Ash Pond?
A. I'm not sure.
Q. And how is removal of the fine for the purposes of this table if the action is not complete?
A. We only describe a unit as closed, and by removal, if the removal process was complete, the closure process was complete.
Q. So when it says complete, does it tell you where the CCR was taken?
A. Not necessarily in that closure certification document.
Q. And did you keep track of where the (inaudible) was moved to?
A. I did not.
Q. And why not?
A. It wasn't relevant to the information we were compiling for the public. I also don't believe that it is consistently reported.
Q. And do you agree that that information

could be informed to receiving communities?

A. It wasn't something that we -- that I and the contract researcher working on this database decided was relevant.

Q. So you can't distinguish the onsite and -- onsite outside removal?

A. I think I understand the question as whether it was excavated versus the pond was excavated and then taken to an offsite landfill?

Q. Yes.

A. That was not something that we distinguished between.

Q. So you can't tell me which of these sites is an outside landfill?

A. I cannot.

Q. So could removal mean replacing the material from a smaller unit to a different, larger onsite surface impoundment?

A. What we were documenting in the closure status and closure type was whether the waste has been excavated from a specific unit. And so, it's possible that that was moved into a different onsite.

Q. And do you know how many sites that includes, by chance?

A. I'm not sure I understand the question.

Q. When the material was moved to a smaller unit to a larger onsite surface, like on the same property, do you know how many sites that would include?

A. Because it's not the type of thing I calculated, I wouldn't be able to give you a number. My general understanding is that that's not a very regular practice.

Q. And would you agree that that would be -- Table 1 is a little misleading as it would to say that removal is a common alternative? If that makes sense. So Table 1, the one that was used as the exhibit, it kind of shows removal was commonplace. Do you agree with that?

A. I think what it shows is that removal occurred at 100 surface impoundments in the U.S.

Q. And do you know how long it takes when it is removed from -- sorry.

How long does disclosure take when it is removed for beneficial reuse?

A. I don't have exact (inaudible) in mind,

but I know that if you are actively processing the ash onsite for beneficial reuse, that can be kind of a limiting step in the process.

Q. And do you know what percentage of removal in deregulated states versus regulated states?

A. So, the information on state is represented in Mark Hutson's Table 1. And so, I know it's a mix between deregulated and regulated states.

MS. ROSENBERGER: That's all the questions I have. Thank you so much.

MS. DESAI: I have just a few questions.

REDIRECT EXAMINATION

BY MS. DESAI:

Q. Do you know if Earthjustice created this compliance table to provide an opinion on the type of remedies for the facilities?

A. No, that was not the purpose of the Earthjustice table.

Q. In your view, what was the intended purpose?

A. The intended purpose was to bring public visibility to information that was really hard to

access in a public way and to tabulate some of the information -- a snapshot of the information housed on all of these utilities CCR website for public use.

Q. And how have you seen the table used publicly outside of Earthjustice?

A. Citizens have used it to understand what type of waste units are located nearby them. Citizens have used it to write and provide public testimony to the EPA about the scale of this problem. Academics have used the table as the basis of peer-reviewed research.

Q. Does the fact that the table doesn't contain information about certain variables, such as it doesn't distinguish between onsite or offsite removal, affect the underlying data of the table?

A. No. As I said, those removals all occurred and where the waste was removed to I think does not take away the fact that those removals occurred.

MS. DESAI: I don't have any other further questions. Thank you.

HEARING OFFICER WEBB: Thank you.

MS. ROSENBERGER: I do have a couple follow ups, if that's okay.

HEARING OFFICER WEBB: Yes.

RECROSS-EXAMINATION

BY MS. ROSENBERGER:

Q. You mentioned that this data was used by public citizens, public testimony, and academics. Was it intended to be used by experts?

A. We didn't have necessarily like a distinct audience in mind when we created the table. It was for any member of the public to use.

MS. ROSENBERGER: I think that's all I've got. Thank you.

HEARING OFFICER WEBB: Thank you.

Are we done with Miss Weinberg?

MS. DESAI: I think so.

HEARING OFFICER WEBB: Thank you.

MS. DESAI: Complainants would move to admit demonstrative Exhibits D6 through D8.

HEARING OFFICER WEBB: Is there an objection?

MS. WILLIAMS: Is there a reason why we can't enter these as substantive?

MS. DESAI: No. Yes, we can do that.

MS. BUGEL: Which one, all three?
MS. WILLIAMS: No.
MS. BUGEL: Which one, 7?
MS. DESAI: Complainants would move to admit demonstrative Exhibits D6 and 8, as well as Exhibit -- actually, I don't know what it would be numbered.
HEARING OFFICER WEBB: Let's tack it on to 10 if you've already got all your exhibits numbered.
MS. DESAI: We need them to be substantive exhibits. What is currently labeled as D7 would be Exhibit 9 -- 29.
HEARING OFFICER WEBB: So that's not going to mess up your system for your remaining -- any remaining exhibits or you don't have any others?
MS. DESAI: I don't for this witness.
HEARING OFFICER WEBB: I mean, in total for the case, you don't have pre-numbered exhibits?
MS. DESAI: We do, but I believe that 29 would be the end of those. Correct?
HEARING OFFICER WEBB: Okay. So what was D7 is now going to be Exhibit 29?
MS. DESAI: Yes.
HEARING OFFICER WEBB: And that is admitted.

D6 and 8 are admitted. D7 is admitted and we will change its name to Exhibit 29.

(Complainants' Exhibit Nos. D6 and D8 were admitted into evidence.)

(Complainants' Exhibit No. 29 was admitted into evidence.)

MS. DESAI: And Complainants would also like to renew their motion for Table 1 from Exhibit 15, which is PDF Page 27 of Mark Hutson's January 5th, 2025, expert report.

HEARING OFFICER WEBB: I am going to defer that because it's already been fully briefed to the Board.

MS. WILLIAMS: For the record, we have no objection. All we asked for was authentication and we've had thorough authentication. So Respondents have no objections to moving Table 1 as we can now with Exhibit 29, our current, whether we think it may be misleading or not.

HEARING OFFICER WEBB: So Table 1 is admitted and the motions for objections and responses are moot. Is that correct?

MS. WILLIAMS: That is correct.

HEARING OFFICER WEBB: Okay, great.

Did Table 1 already have a number?

MS. DESAI: It was part of Mark Hutson's expert report which is Exhibit 15.

HEARING OFFICER WEBB: So in the final hearing report, I will change the exhibit list. Exhibit 15 will be reflected as admitted, it had previously said admitted for Table 1.

MS. BUGEL: Perfect.

HEARING OFFICER WEBB: Are you done with this witness?

MS. DESAI: Yes.

HEARING OFFICER WEBB: Thank you.

It is 10:15. Would anybody be interested in taking five or 10 minutes before the next witness?

We are going to take a 5-to-10-minute recess.

(Break.)

HEARING OFFICER WEBB: We will go back on the record and the Complainants may call their next witness.

MS. BUGEL: Complainants call Eric Staley.

HEARING OFFICER WEBB: Will the court reporter please swear in the witness.

(The witness was duly sworn.)

MS. BUGEL: Hearing Officer, Complainants would bring a motion to treat the witness as adverse and examine him as if he is under cross-examination pursuant to 101.624, being that Mr. Staley works for Respondents.

HEARING OFFICER WEBB: Okay.

ERIC STALEY,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BUGEL:

Q. Who do you work for?

A. I work for City Water, Light, and Power. I am in the environmental health and safety office, which is a division of regulatory affairs of CWLP.

Q. And I am going to refer to City Water, Light, and Power as CWLP. Okay?

A. Okay.

Q. How many years have you been with CWLP?

A. I have been at CWLP for 16-and-a-half years.

Q. And what is your position?

A. My current title is technical specialist.
Q. And did you hold any previous positions?
A. Yes.
Q. What were they?
A. I've had the title of engineer, supervisor of safety, environmental scientist, technical specialist I, technical specialist II, and now technical specialist III.
Q. And what are your responsibilities in your current position?
A. In my current position, I am primarily focused on the environmental compliance regulations, specifically for the CCR surface impoundments.
Q. What does CCR stand for?
A. Coal combustion residuals.
Q. And today we will refer to coal combustion residuals as CCR. Okay?
A. Sounds good.
Q. What tasks does your current position involve?
A. I am currently tasked with -- the best explanation is the day-to-day environmental regulatory compliance for the impoundments. So

everything from daily visits, weekly inspections, monthly groundwater elevations, all the quarterly reporting, anytime we have any contractors or anyone else on the facility, I am also the primary interface between us and consultants.

Q. Does any part of your day-to-day tasks involve groundwater monitoring at CWLP?

A. That is part of my task, yes, not daily but, yes, I am involved with groundwater monitoring.

Q. Do you receive the groundwater monitoring water results?

A. I do.

Q. And do you review groundwater monitoring results?

A. I do.

Q. Did you mention that one of your tasks involves CCR surface impoundment inspections?

A. Yes.

Q. Are you one of the people who actually conducts the CCR surface impoundment inspections?

A. Yes.

Q. Can you explain what's involved in doing an actual inspection?

A. The state and federal regulations require a weekly visual inspection of the impoundments in general, that's specifically the condition of the berms, the condition of any hydraulic structures, just overall structural stability, and we are tasked with identifying any issues or other conditions that might compromise the integrity of the impoundments.

Q. Does that include looking for erosion?

A. Yes.

Q. And does that include looking for seeps?

A. Yes.

Q. Can you explain what a seep is?

A. A seep would be a flowing of water at the ground surface.

Q. And how long have you been conducting CCR surface impoundment inspections?

A. Since approximately the middle of 2015.

Q. You've seen seeps at CWLP ash ponds, right?

A. Yes.

Q. Where have you found seeps?

A. The seeps have been identified in a portion of Lakeside Ash Pond.

Q. Can you explain where at Lakeside you had found those seeps?

A. Historically, when seeps were occurring, they were occurring in the northeast corner of Lakeside Ash Pond and they were also occurring historically along the west berm of Lakeside Ash Pond.

Q. And do you recall when you saw seeps in those two areas?

A. It would be documented in my inspection reports but in general those seeps would appear from time to time.

Q. When you say from time to time, how frequently over the past 11 years have you seen seeps?

A. I would have to check the records but it has been at least a few years since we have observed any seeps in Lakeside Ash Pond.

And then the other frequency determined on which portion of Lakeside Ash Pond was receiving waters and that seized in September of 2023.

Q. Can you describe generally what was done in response to those seeps?

A. For the seep that was identified on the western side of Lakeside Ash Pond, we took two measures. The first measure was we installed what is called the French drain along the berm -- the upper berm of Lakeside Ash Pond and those drains were tied into the existing discharge piping that went into the clarification pond. So, the seep was intercepting at that portion.

The second action we took was we installed a sump within an electric pump on the float that would collect water -- seepage water from a low lying area and it also pumped the water into an existing ash (inaudible) and was directed to the clarification pond.

Q. I want to turn back to the French drain that you mentioned.

Can you explain what a French drain is?

A. In simplest terms, a horizontal excavation is made to the point where it intercepts the water. A foundation of some kind of aggregate or pea gravel is laid in the base and then horizontal corrugated PVC pipe is laid within that trench at that level where it's intercepting the water and it is sloped and graded so that it

directs the water to the direction you would like it to go.

Q. And do you have an estimate of how long those French drains were that were installed? How many feet?

A. I would say roughly 150 feet in total.

Q. And I also want to ask, has CWLP ever installed toe drains in response to seeps at the ash ponds?

A. Unless you would consider the sump a toe drain, it potentially could be called a toe drain, but in my experience the reference of a toe drain would be something similar to the French drain.

And again, the French drain was installed to intercept the seepage point at a specific location, and then the overall length of the French drain was to provide conveyance to our desired discharge point, which was the clarification pond.

Q. You mentioned installing sumps, correct?

A. Yes.

Q. Can you explain what a sump is?

A. A sump, in general, is a circular excavation into which a pre-fabricated concrete

manhole would be placed and the solid bottom of the manhole would be the location where water would flow into. An electric sump would be placed within that manhole with a discharge outlet that would direct the water to where you would like it to go.

Q. Is a sump a type of pump?

A. Yes. You could call it a sump pump or a sump. To me, I call the sump the general location of the structure and the pump would be the electrical device inside of it which evacuates the water.

Q. And can you explain where at Lakeside Ash Pond sumps were installed?

A. To my knowledge, the only sump that we are discussing was installed along the west -- central western portion of Lakeside Ash Pond.

Q. And is there just one sump?

A. There's just one sump at that location.

Q. And in that hole, for lack of a better word, is there more than one pump?

A. No. There is only one electrical pump.

Q. And do you recall when the sump was installed?

A. I have a general timeframe but I could not give you a date.

Q. Could you give us the general timeframe?

A. Sometime after 2015.

Q. And is that sump and the pump still running?

A. To my knowledge, it is not currently evacuating water. Since cease sluicing material to the Lakeside Ash Pond, all of the drainage structures and conveyance lines and hydraulic structures are dry. There's no standing or free water that is being intercepted anywhere by the French drain or the sump.

Q. And do you know why -- sorry, let me rephrase that.

Do you know if the seeps were caused by deterioration of clay on the inside slope of the berms at Lakeside?

A. I don't know. I can't speak to the deterioration of clay. But in general, water under pressure will find the easiest route to exit. And so, without speaking to the integrity of the clay, the water found a natural outlet and then that's where the seep would be observed.

Q. I want to turn to flooding. You've seen flooding at the Lakeside/Dallman Ash Pond facility, correct?

A. I have seen flooding of Spring Creek which is adjacent to the ash ponds, yes.

I need to correct that. Sugar Creek, not Spring Creek. Sugar Creek.

Q. Okay. The flooding that you've seen of Sugar Creek, has that been in the vicinity of the ash ponds?

A. Yes. The creek is in the vicinity and adjacent to the ash.

Q. Do you know how many occasions you've seen flooding?

A. I would say annually there is a flooding event.

Q. And when you have seen flooding, has Sugar Creek come up out of its banks?

A. Yes.

Q. And have you seen rising water flood monitoring wells?

A. Yes.

Q. How many monitoring wells have you seen flooded?

A. I would say in the vicinity of monitoring well, part of U-3. There's a well designated as AP-6. There's a piezometer GP-7. And then there's two other piezometers, I can't recall off the top of my head, it's primarily on the north end of Dallman Ash Pond where that would occur.

Q. And have you -- you've seen AP-1, 2, and AP-3 flooded as well?

A. Yes. I have seen AP-1 flooded. AP-2 potentially could be if I were to think about it, as well as AP-3, yes.

Q. And can you explain the distinction between RW-3 and AW-3?

A. AW-3 was the original monitoring well, and typically if you have to replace a well, you designate it with an R, so it will be RW-3, and those wells would be drilled within a 10-foot radius of the existing well -- within a 10-foot radius of the initial well being replaced.

Q. And flooding has an impact on groundwater levels, correct?

A. Potentially, yes.

Q. In terms of flooding, as water levels rise in general, the potentiometric surface also

rises?

A. The effects wouldn't be immediate. There have been instances where I have collected my monthly elevations within -- immediately before or immediately after the creek would have risen and fallen and there's no appreciable difference. So, there's not an immediate response to a flooding event and rise of a potentiometric surface.

Q. Is there a response that occurs later in the potentiometric surface in response to a flooding?

A. It's possible that it would if the flooding were sustained for a long enough period of time.

Q. If it's not drought conditions, for instance, if it's not summer, as the water levels rise in general, the potentiometric surface would also rise, correct?

A. In theory, there is some lead lag influence between a rising creek and a potentiometric surface.

Q. I just want to make sure I am understanding your answer.

I understand that there's a lag, but with

a lag when it is not summer drought conditions, as water levels rise in general, the potentiometric surface would also rise even if it is with a lag, correct?

A. In theory, yes.

Q. We are placing an exhibit in front of you, which has been or will be marked Exhibit 30. If you give us a moment, Joaquin is just going to mark the exhibits.

So we are placing in front of you an exhibit that's previously been -- is being marked right now as Exhibit 30.

And for the record, this -- for the record, this is a Notification of Exceedances of Proposed GWPS First Water 2026.

Do you see that?

A. I do.

Q. And are you familiar with this letter?

A. Yes, I am.

Q. And you've reviewed it prior to today?

A. I wrote it.

Q. And your name appears in the very last sentence of this letter before the "Thank You"?

A. Yes.

Q. And can you explain in your own words the purpose of this letter?

A. The purpose of the letter is to notify the Illinois Environmental Protection Agency of the observed and/or confirmed exceedances of the proposed groundwater protection standard. There's a requirement in Illinois Rule 845 that orally reporting be conducted.

Q. And if you flip over to the backside there was an attachment to this letter, correct?

A. Yes.

Q. And does this attachment indicate that there were boron exceedances at four different wells in the first quarter of 2026?

A. Yes.

Q. And does this attachment indicate that there were sulfate exceedances at three different wells in the first quarter of 2026?

A. Yes.

Q. And does this attachment indicate that there were TDS exceedances at two different wells in the first quarter of 2026?

A. Yes.

Q. And does this attachment indicate that

there were arsenic exceedances at three different wells in the first quarter of 2026?

A. Yes.

MS. BUGEL: Complainants move for Exhibit 30 to be admitted into the record.

HEARING OFFICER WEBB: Exhibit 30 is admitted.

(Complainants' Exhibit No. 30 was received into evidence.)

BY MS. BUGEL:

Q. I am going to ask you some questions, and just to be clear, I am confining my questions to the period prior to March 28th of 2025, just so there's no regulatory confusion. Okay?

A. Okay.

Q. Do you know the significance of that March 28th, 2025, date for state standards?

A. Is that the date of 620 and 845?

Q. Yes.

A. Yes.

Q. So you do know the standards?

A. I am aware of that, yes.

Q. Are you familiar with Class I and Class II standards?

A. Yes.

Q. And again, we are talking about prior to March 28, 2025. Do you know where those standards are found?

A. Class I and Class II?

Q. Yes.

A. They are found in 620 of the Illinois Administrative Code.

Q. And again, prior to March 28, 2025, do you know if groundwater monitoring at CWLP showed boron exceedances?

A. I know they showed boron exceedances of our groundwater protection standard.

I assume you are asking about exceedances of 620?

Q. I am asking just you are aware of exceedances?

A. I know there's awareness of exceedances of the standard, yes.

Q. And that was for boron?

A. Yes.

Q. And would that be compared to background then, if there was exceedance?

A. Yes.

Q. And can you explain why you compare ash

ponds' monitoring results to background concentrations?

A. The background concentration for the purpose of the regulation is derived from monitoring well data that is unaffected by the operation of a regulated unit via a landfill or a surface impoundment. So the background is representative of unaffected groundwater quality.

Q. Do you recall when you began comparing ash ponds' monitoring results to background concentrations?

A. Sometime in 2015.

Q. Did you ever compare ash ponds' monitoring results to Class I or Class II standards?

A. For purpose of the ash ponds?

Q. For purposes of the ash ponds.

A. I believe when I -- there may have been a time period when we were operating under the Illinois 845 rules congruently with our agreement with Illinois EPA Bureau of Water, yes.

Q. What agreement are you referring to?

A. There was a groundwater monitoring program that was put into place prior to my

involvement in the facility under agreement with the Illinois EPA Bureau of Water.

Q. And you said that was prior to your --

A. Involvement.

Q. -- involvement, okay.

A. I was generally aware that -- I was in one of my other roles, and my predecessor, I was generally aware that we had a couple of events going at the same time.

Q. Do you know why CWLP stopped comparing ash pond monitoring results to Class I or Class II standards?

A. There was discussions had after 257 regulations had been in effect for some time, that those regulations -- that we were subject to those regulations, and somewhere in the introduction of the 257 regulations, U.S. EPA was advising state regulators to use those constituents as the best indicator contaminants for monitoring at surface impoundments.

Q. All right. So I want to turn back to boron. You would agree that between 2018 and 2021 groundwater monitoring results demonstrated boron exceedances at CWLP?

A. Yes.
Q. And that would have been under Part 257 that you just mentioned?
A. What are the dates again?
Q. 2018 to 2021.
A. Yes.
Q. And those exceedances were established by comparing boron's background?
A. Yes. Background would be used in developing a groundwater protection standard, yes.
Q. And the exceedances were not established by comparing boron to a state standard, correct?
A. At that time, no. Well, maybe rephrase your question.
Q. Between 2018 and 2021, CWLP did not compare boron monitoring results to a state standard, correct?
A. With the implementation of 845, we would have been subject to developing a state standard as well.
Q. And when was the implementation of Part 845?
A. It's one thing I forget.
Q. Does 2021 sound about right?

A. That sounds good to me.

Q. So let me just establish, then, prior to 2021, CWLP did not compare boron groundwater monitoring results to a state standard, and I am only going back to about 2018, correct?

A. Correct.

Q. After the Part 257 rules became applicable to the CWLP site, did you have any discussions with anyone at CWLP about what to do in response to the Part 620 state rules?

A. There were some general discussions on which regulatory path we were subject to and which we should follow, yes.

Q. And when Part 257 became applicable, did CWLP have Andrews Engineering shift over to doing groundwater monitoring for the purposes of complying with Part 257?

A. When you say groundwater monitoring, are you referring to acting as our consultant or the physical act of drugging groundwater?

Q. Acting as your consultant.

A. Yes, acting as our consultant.

Q. And do you recall a violation notice in 2014 from Illinois EPA?

A. I'm generally aware that there was a violation notice but I was not involved in the program at that time.

Q. And in 2015, CWLP stopped groundwater monitoring activities for the purpose of responding to the 2014 violation notice, correct?

A. I believe that is correct, yes.

Q. And so, we are going to place in front of you an exhibit that has been marked as Exhibit 31.

And for the record, this is a draft letter to Darin LeCrone at Illinois Environmental Protection Agency from January of 2018.

Do you see that in front of you?

A. Yes.

Q. And on the first page there's an e-mail from Sue Corcoran to PJ Becker and Eric Staley. Do you see that?

A. I do.

Q. So that's your name appearing there, correct?

A. Yes, it is.

Q. And if you flip over to the back page, there is a draft of a letter. Do you see that?

A. Yes.

Q. And you are familiar with this draft letter?

A. Yes.

Q. You reviewed it prior to today, correct?

A. Yes.

Q. Can you explain in your own words the purpose of this letter?

A. The purpose of this letter is to inform Darin LeCrone of the Illinois EPA that upon the effective date of the U.S. EPA's 257 rule, that CWLP is required to respond or to comply with that rule and that CWLP will be making transition from sampling for the 620 -- groundwater sampling list to the federally-regulated groundwater sampling list.

Q. And did CWLP, in fact, discontinue groundwater sampling under the Part 620.410 program?

A. Although some of the parameters are the same, you know, you are still collecting parameters that appear on both the 620 and the 845, we did stop comparing to the 620 standards.

Q. And do you know when CWLP actually stopped?

A. I do not know the specific date but it was not long after an official letter would have been sent to Mr. LeCrone.
Q. So sometime around 2018. Is that fair?
A. That's fair, yes.
Q. And CWLP never resumed groundwater sampling under the Part 620 program, correct?
A. Never resumed comparing groundwater results to the 620 standards, correct.
Q. Do you know if this letter was finalized?
A. I believe it was, yes.
Q. So it was sent?
A. Yes.
MS. BUGEL: Complainants move for Exhibit 31 to be admitted into the record.
HEARING OFFICER WEBB: Any objection?
MS. WILLIAMS: No.
You don't have the final letter?
MS. BUGEL: We will get to that, thank you.
HEARING OFFICER WEBB: Do you still want to --
MS. BUGEL: Yes, please.
HEARING OFFICER WEBB: Exhibit 31 is admitted.
(Complainants' Exhibit No. 31 was admitted into evidence.)

BY MS. BUGEL:

Q. So I am going to turn to detection monitoring under Part 257.

And off the top of your head -- well, let me start by saying there are two different types of monitoring in this type of program, right?

A. Correct.

Q. There's assessment monitoring?

A. Assessment and detection.

Q. Assessment and detection.

And I want to focus on the detection monitoring first. Can you explain how detection monitoring differs from assessment monitoring?

A. Under the Federal 257 rule, every facility starts with detection monitoring, which is for the -- what they call the Appendix 3 constituents. So, you are required to sample on a semiannual basis for the Appendix 3 parameters.

Q. And generally, do you know what parameters have exceeded standards under Part 257 detection monitoring at CWLP ash ponds?

A. In general, boron, sulfate, and TDS.

Q. And do you know if boron has ever exceeded standards?

A. Yes.
Q. And do you know if calcium has ever exceeded standards?
A. Yes.
Q. And do you know if PH has ever exceeded standards?
A. Yes. PH is a range, so it's either high or low, but yes.
Q. And do you know what wells Appendix 3 detection have occurred -- let me rephrase that.
Do you know what wells Appendix 3 exceedances have occurred at?
A. Appendix 3, AP-1, AP-2, AP-3, AP-6 -- I take that back, I have to check on AP-6. AP-14. We have incorporated some wells at G-120 and AW-1, off the top of my head.
Q. How about AW-3?
A. AW-3 historically, yes, and now RW-3, yes.
Q. And did any of your consultants express any conclusions about the exceedances in detection monitoring that we just identified?
A. What do you mean by conclusions?
Q. Have they expressed -- have they

expressed any opinions that next steps should be taken in response to the exceedances that we've just identified?

A. Ourselves and our consultants both agree that the next step under the rule was to go into assessment monitoring.

Q. And did anyone at CWLP suggest that anything should be done in response to boron, TDS, or sulfate exceedances other than going into assessment monitoring?

A. That's a very leading question.

Q. It's supposed to be.

A. Yeah, okay. I mean, you can run the gamut of, you know, everything from, you know, closure, obviously. So, the rules and regulations lay out what your steps are. And so, yes, ourselves and our consultants have had many discussions over many topics about what needs to be done based on the results of detection monitoring.

Q. And --

A. I'm sorry, I got off track here.

Q. No. No. I apologize, I am thinking about your answer.

Did anyone at CWLP conclude that anything should be done -- I'm sorry, conclude that something should be done in response to the boron, TDS, or sulfate exceedances aside from the next step of assessment monitoring?

A. Of course, yes. We all decided something needs to be done, you know, and follow the rule.

Q. And what's the something being done to follow the rule?

A. It would be -- conceptually, it was our entire plan for, you know, the future coming up with the regulations, the retirements of the units, taking the ash ponds out of service. So it's kind of an all-encompassing umbrella of a holistic approach to what needs to be done.

Q. Is CWLP currently in assessment monitoring?

A. Under 257, yes.

Q. And how did CWLP end up in assessment monitoring?

A. The 257 rules require that if you have a statistically significant increase over background in your Appendix 3 sampling list, that you automatically go to Appendix 4 sampling, which

is assessment.

Q. And what were the initial results of CWLP's assessment monitoring?

A. The initial results of assessment monitoring showed that some of the Appendix 4 parameters exhibited statistically significant levels over backgrounds. So, there were exceedances of the groundwater protection standard or Appendix 4 parameters.

Q. And what parameters are those?

A. Arsenic and cobalt.

Q. And do you recall at what wells those have been -- where those exceedances have taken place?

A. Cobalt at RW-3 and previously AW-3, AW-1, G-120, and AP-8.

And then cobalt has periodically exceeded the groundwater protection standard at AP-2 and more consistently exceeds at AP-3.

I may have those two backwards, but one is more consistent slightly above the groundwater protection standard and some fluctuates between non-detect and a detection.

MS. BUGEL: And can I have the witness' answer

read back?

HEARING OFFICER WEBB: Yes. Read back the last answer, please.

(The record was read.)

BY MS. BUGEL:

Q. You said cobalt twice. Do you want to revise your answer?

A. I said arsenic and cobalt or I said cobalt twice?

Q. You said cobalt twice.

A. I need to revise my answer.

Q. Okay.

A. So exceedances of Appendix 3 cobalt is at monitor wells AP-2 and AP-3. Sometimes fluctuating between detect and non-detect.

Arsenic exceedances have been observed at RW-3, AP-8, G-120, AW-1.

Am I missing one?

Q. No, not according to what I wrote down.

A. Okay.

Q. Do you live in Springfield?

A. I do.

Q. So living in Springfield and working in Springfield, you are aware of residential

neighborhoods in the vicinity of the CWLP plant?

A. I live in one of them, yes.

Q. I am placing in front of you the first page of an exhibit -- demonstrative exhibit that we have marked as Exhibit D9.

A. Uh-huh.

Q. And that shows you a Google Earth image of the area around the CWLP plant and ash ponds. Do you see that?

A. I do.

Q. And this indicates that there's a residential neighborhood to the east of the CWLP ash ponds, correct?

A. Yes.

Q. And the neighborhood is accessed by Brittin Street?

A. I believe that's correct, yes. Greencastle Circle is the neighborhood, yes.

Q. And the second page of the exhibit.

So, we now have two Google Earth images, one is more zoomed in than the other. Do you see that?

A. I do.

Q. And would you agree that there's only a

single property separating CWLP ash ponds from the residences on the west side of Greencastle Circle?

MS. WILLIAMS: Excuse me to interrupt. I just got two marked 9, they're not the same.

MS. BUGEL: Yes. It's two pages of one exhibit. We can staple them at a break.

MS. WILLIAMS: Can we do D9 and D10, is that okay? I may want to use them. Is that a problem?

MS. BUGEL: Yes, we can make them D9 and D10. D9 can be the one with the highlighting. D10 will be the one that is zoomed in.

MS. WILLIAMS: Thank you.

BY MS. BUGEL:

Q. I am just going to re-ask my last question.

Would you agree that there's only a single property separating the CWLP ash ponds from the residences on the west side of Greencastle Circle?

A. That property is owned by the City of Springfield and it's where my office was formerly located. Yes, there is a property between the Lakeside Ash Pond and Greencastle Circle.

Q. And turning to demonstrative D10, do

you -- this indicates that the Spaulding Dam boat launch is just on the other side of East Lake Shore Drive from the Lakeside Ash Pond, correct?

A. Yes.

Q. And this indicates that the Tom Madonia fishing park -- fishing pier is just southeast of the Lakeside Ash Pond, correct?

A. I mean, Tom Madonia Park is located adjacent to, but, I mean, in my opinion it's separated from the Lakeside Ash Pond, but for purposes of this picture, it is located, yes, to the south and east of Lakeside Ash Pond.

Q. And do you have any reason to believe that these two Google Earth images are not accurate?

A. No.

MS. WILLIAMS: Are you going to try to enter these, because I have an objection?

MS. BUGEL: I was going to ask a few more questions before I try to enter them. I am hoping your objection can wait until I actually make the motion to enter them.

MS. WILLIAMS: Yes.

BY MS. BUGEL:

Q. And turning to the more zoomed-out version with the highlight in it, there are additional residential neighborhoods to the northeast of Greencastle Circle, correct?

A. The northeast? Yes.

Q. And there are additional residential neighborhoods to the east of Greencastle Circle, correct?

A. Yes.

Q. And there are residential neighborhoods to the southeast of Greencastle Circle, correct?

A. Yes.

Q. And do you have any reason to believe that this Google Earth image marked D9 is not accurate?

A. No.

MS. BUGEL: And I would move for Exhibits D9 and D10 to be admitted.

MS. WILLIAMS: Do you have any representation of when you think these were taken? They are very old with a 2026 date on them. Do you know when you downloaded them?

MS. BUGEL: I downloaded them in the last

month.

MS. WILLIAMS: No objection.

HEARING OFFICER WEBB: Exhibits D9 and D10 are admitted.

(Complainants' Exhibit Nos. D9 and D10 were admitted into evidence.)

BY MS. BUGEL:

Q. And have you ever recreated on Lake Springfield?

A. Yes.

Q. Have you ever swum in Lake Springfield?

A. Yes.

Q. Have you boated on Lake Springfield?

A. For over 35 years, yes.

Q. Have you fished on Lake Springfield?

A. Yes.

Q. And you've seen other people recreating on Lake Springfield, correct?

A. Yes.

Q. You've seen other people swimming on the lake?

A. Yes.

Q. And you've seen other people boating on the lake?

A. Yes.

Q. And you've seen other people fishing on the lake?

A. Yes.

Q. We are passing you what has been marked as Exhibit D11. Looking at the first --

Well, let me represent for the record that D11 states City Water, Light, and Power, and is a City Water, Light, and Power website -- a printout of City Water, Light, and Power website.

Looking at the first page marked "Lake Activity," do you see that?

A. I do.

Q. And this page provides information to anyone who visits the website about boating opportunities on Lake Springfield. Do you see that?

A. Yes.

Q. And if you turn to the backside, this page provides information to anyone who visits the website about swimming and fishing opportunities on Lake Springfield. Do you see that?

A. Yes.

Q. Does this appear to be a true and

accurate copy of a page from the CWLP's website?
A. In my opinion, yes.
MS. BUGEL: And we move for Exhibit D11 to be admitted into the record.
HEARING OFFICER WEBB: D11 is admitted.
(Complainants' Exhibit No. D11 was admitted into evidence.)
MS. BUGEL: And I have no further questions at the moment for the witness.
HEARING OFFICER WEBB: Thank you.

CROSS-EXAMINATION

BY MS. WILLIAMS:
Q. Eric, the map marked D9 --
A. Yes.
Q. -- is your house on it?
A. Yes.
Q. Can you just identify for the record where on D9 you live?
A. If you see the Church of Latter-day Saints identified on the map to the east of the Anchor Boat Club, my house is at the corner of that parking lot for the church.
Q. And when you've gone -- you referenced that you recreate on Lake Springfield, correct?

A. Yes.
Q. Do you take your family?
A. Yes.
Q. Do you have children?
A. I have two children.
Q. So you've gone with your children from where again?
A. I've been a member of the Anchor Boat Club for 26 years and we keep our boat -- plural, boats, there along with other family members or members and boaters there.
Q. Did the ash pond give you any cause for recreating on Lake Springfield?
A. They do not.
Q. Can you tell me why?
A. The ash ponds are separated from the lake by the Spaulding Dam. The ash ponds are not part of the watershed that discharges into Spaulding Dam.

Knowing what I know about lake elevations and the elevations of the potentiometric surfaces, on the north side of Spaulding Dam, specifically within the ash ponds, there's no indication by any state, federal, local authority that the ash

ponds' location has ever been a threat to Lake Springfield, we've never been ordered, to my knowledge, to take any measures because of the location of the ash ponds, and there's no way that the ash ponds would be leaking through the dam and into Lake Springfield.

Q. Take a look at the other map that goes in there a little more, I know you identified that this is an accurate map, and I am not going to dispute your testimony, would you say it's an accurate representation of what the site looks like today as you sit here?

A. No.

Q. Can you kind of date this photo by looking at it at all, in estimation?

A. I would say it's prior to 2023. It's prior to September of '23 in my best estimate.

Q. You said prior to. Well, what happened in September of 2023?

A. September of '23 we ceased receipt of all waste into the Dallman and Lakeside Ash Ponds.

Q. And why would that tell you this picture is wrong -- not wrong, out of date? What is missing on the picture?

A. Oh, well, first of all, as I referenced earlier, the lime lagoons the utility constructed at the location of the property that separates Lakeside from Greencastle Circle is not present on this picture.

Q. And when were those built?

A. Those were completed in the fall of 2023, put into service around the same time as this stopping receiving waste in the Lakeside Ash Ponds.

Q. So how long did it take to build those?

A. It took over a year to build the new lime processing area.

Q. So would you say this photo was at least a year before September of 2023?

A. Yes.

Q. Since then, as part of that project, were there measures taken to separate the residential neighborhoods from --

A. Yes.

Q. -- the lime lagoons?

Can you describe that at all?

A. From the excavation of the lime lagoons, the excess dirt was piled along the property line

that's separates the Greencastle Circle from the CWLP property, at least 10 foot in height, and it's meant to be a barrier between the properties.

MS. WILLIAMS: I have a couple other follow ups. Since we are calling him as a witness, also, I won't go through everything but I do want to cover a couple more areas.

BY MS. WILLIAMS:

Q. You also talked about seeps at the Lakeside Ash Pond.

A. Yes.

Q. And it's Lakeside only, not the Dallman, I believe you said?

A. Correct.

Q. When you talked about how the water influenced -- can you explain a little more for us about what you meant when you said the water that was coming in influenced when we saw seeps coming in?

A. Specifically, we correlated when -- in the former Lakeside Ash Ponds, when the different cells, you know, we call them center, middle, center, west and east, depending on when one of those were placed into service that was receiving

the sludge from the water purification plant, when the eastern cell was in service is typically after a period of time we would notice some slight seepage at the northeast corner of Lakeside Ash Pond.

Q. And what's changed since then? Or is it any different today?

A. It's dry. There's no standing water in Lakeside Ash Pond. All of the (inaudible) that you see here is no longer present. The lime sludge has settled. The channels and everything that diverted all of the flows from that into the clarification pond are dry.

Q. Is it your testimony, understanding that by building the lime lagoons that you just described in the site of the Old West Polishing Pond, you testified that was removed to build the lime lagoon?

A. Yes.

Q. And the water -- the drinking water plant, waste water, was transferred to the new lime lagoon, that that activity of CWLP took care of the seeps at Lakeside Ash?

A. Yes. There has -- to my knowledge, there

have been no additional seeps since that process has changed.

Q. They asked you about the sampling going from the 620 sampling list to the 257 sampling list. Can you explain a little bit about the parameters that you saw sampling for and what is the justification for that?

A. The parameters that -- the 620 parameters included, as I recall, volatile and semi-volatile organic constituents that were being monitored, as well as a slew of inorganic parameters under the 620 standard.

And again, when 257 became effective and when the decision was made to go to the 257, it was also at the urging of U.S. EPA, the state directors, to go that route when trying to --

Q. To what?

A. Those were more indicative of releases, better monitoring lists for CCR services.

Q. Specifically for CCR services?

A. Specifically.

And the 257 still included a couple of additional parameters that maybe 620 didn't.

Q. 257 had a couple of new parameters but

620 also had a lot longer list of parameters, correct, because it's for everything?

A. Yes, it's for everything.

Q. I am almost done.

Can you just describe in a little more detail what you mean by a flooding event, how it occurred, what leads up to it, and how it dissipates, at Sugar Creek specifically?

A. At Sugar Creek, depending on the amount of rain received in the Lake Springfield watershed, that can cause the lake levels to rise and we tried to maintain the lake at a certain level, the utility does, and if the lake level were to rise higher than the desired level, they would lower the dam gates, which will allow water to flow into the spillway and continue down Sugar Creek, which would allow waters and the creek to rise.

There are instances where significant amount of rainfall is received north of the Lake Springfield watershed, specifically north of the dam here, and all of that rain would flow into Sugar Creek, it flows in the Sangamon River and eventually the Illinois River.

We have had flooding events in the past that are a result of rain that did not fall within our watershed, and because of the volume of water that backed up, and the Sangamon, Illinois, and Sugar, slowly waters would come towards, spill back. Those waters are typically very slow moving and stagnant.

Q. So because you are out there on a regular basis, you probably see the results of flooding as much as anybody, you think. Do you agree?

A. I would agree.

Q. Do you have concerns about the impact of flooding on the berms?

A. I do not.

Q. Can you explain why not?

A. The manner -- from my observations over the past however many years that I've been directly involved with it, regardless of the situation that creates the flooding, the velocity of the water is very slow, it rises slowly, specifically around Dallman, the way it was constructed with the riprap at the toe, which is preventative for scouring, just the velocity -- in my observation, any velocity has never been there

to cause any type of concern, it's a very slow rise and then a sudden fall.

MS. WILLIAMS: Okay. I don't have any further questions at this time.

MS. BUGEL: I have just a couple.

REDIRECT EXAMINATION

BY MS. BUGEL:

Q. I want to talk a little bit about this pile of dirt that was created to be a barrier between the lime ponds and the areas further east.

A. Uh-huh.

Q. You said that's a 10-foot pile of dirt?

A. I would estimate it to be approximately 10-foot high.

Q. Is there anything else in that dirt pile?

A. It is vegetated and -- it has tall vegetation.

When you say "anything else in it," what do you mean?

Q. Other material.

A. Other material is constructed, from my recollection, it's constructed from the overburden from the removal to the lime processing area, it was placed there by haul trucks and

scrapers and compacted. I can't speak to the design of it but consultants that engineered the whole thing, there was a specific construction standard for design, height, length, width, and everything on that wall. It was intentionally designed as a buffer between the neighborhood and the property.

Q. You said that the dirt was compacted. Do you know what standard it was compacted to?

A. That would be in the engineering specifications but I do not have that off the top of my head.

Q. Do you know if the dirt pile constitutes a composite liner under the federal rules?

A. Without knowing the material or the hydraulic or the advancing testing, no, I can't attest to that.

Q. And dirt doesn't create a water-type barrier, does it?

A. Standalone dirt that hasn't been impacted or something, not necessarily.

Q. But dirt that's been compacted doesn't create a water-type barrier?

A. Water -- effectively, nothing would be

considered water type under that scenario.

MS. BUGEL: All right. Thank you. I have no further questions.

MS. WILLIAMS: One more follow up.

RECROSS-EXAMINATION

BY MS. WILLIAMS:

Q. So the purpose of -- the dirt that we just discussed, the purpose of the dirt is what?

A. It is my understanding the discussion with the engineers at the time of construction, the purpose of it was to create a physical sound barrier and I believe a potential dust barrier, noise barrier between the property that is occupied by the lime processing area and the adjoining neighborhood.

Q. Do you have any knowledge or recollection whether the neighbors were consulted in the design of that area?

A. I believe letters were sent to all of the residents of that neighborhood, and I want to say there was an offer of a public meeting but I can't recall specifically.

Q. Was there any intent to -- well, let me -- I was asking you if this barrier was to

prevent groundwater from flowing through --

COURT REPORTER: I'm sorry, I can't hear anything that you're saying.

MS. WILLIAMS: Okay. Sorry.

COURT REPORTER: Not a word.

BY MS. WILLIAMS:

Q. Eric, can you explain for us if it would be possible for groundwater to flow in the direction of the Greencastle neighborhood on the CWLP site in general, or where it would be possible?

A. In relation to the berm?

Q. You can start with the berm if you want. I am not really referring to the berm, just in general. In which way does groundwater flow there?

A. In general, groundwater flows from the property we are discussing. In general, groundwater flows to the north and west from that location.

Q. Is that towards the neighborhood or away from the neighborhood?

A. It is away from the neighborhood.

Q. Do you know if there's any potable

groundwater wells in that area?

A. Potable water wells, no, there are no potable water wells in that vicinity. You know, there's also the ordinances that are put in place about, you know, use of groundwater potable resources that the city has for certain areas.

We did a water well study at the onset of all of these and the closest water well -- private potable water well was more than, for sure, 1500, if not 2500, feet was the radius that we were just required to investigate.

So whatever that given radius was, there was only one potable water supply identified within that radius and it was closer to our Tansey Substation off of 29 which is well north of the creek.

MS. WILLIAMS: That's all I've got.

MS. BUGEL: I just have one follow up.

REDIRECT EXAMINATION

BY MS. BUGEL:

Q. The dirt pile that we've been talking about, the intention of that was to be a sound barrier?

A. Yes.

Q. And a dust barrier?
A. From my recollection, yes.
Q. And a noise barrier?
A. Yes.
Q. And the dirt pile would not prevent groundwater from -- should it flow in that direction, from flowing in that direction?
A. It would not. Groundwater at that location is 15 to 18 feet below ground surface and this berm was placed on top of the groundwater. It was never intended to be any type of groundwater barrier.
MS. BUGEL: I have no further questions.
HEARING OFFICER WEBB: Okay. Thank you.
It's a quarter to 12:00. Would this be a good time to break for lunch?
MS. BUGEL: Yes.
HEARING OFFICER WEBB: Do you want to take an hour --
MS. BUGEL: Yes.
HEARING OFFICER WEBB: -- for lunch?
Okay. We will take an hour for lunch. We will be back at 12:45. Thank you.
(Lunch Break.)

HEARING OFFICER WEBB: All right. We will go back on the record.

We are back from lunch and the Complainants may call their next witness.

MS. BUGEL: The Complainants call PJ Becker.

HEARING OFFICER WEBB: Would the court reporter please swear in the witness.

(The witness was duly sworn.)

MS. BUGEL: Miss Hearing Officer, Complainants move to treat the witness as adverse and examine him as if he is under cross-examination pursuant to Rule 101.624(a) because he is an employee of Respondent.

HEARING OFFICER WEBB: Yes, okay.

MS. BUGEL: Thank you.

PATRICK JOSEPH BECKER,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BUGEL:

Q. What is your name?

A. My name is Patrick Joseph Becker. I go by PJ Becker.

Q. And where do you work?

A. I work at City Water, Light, and Power.
Q. And today I am going to refer to City Water, Light, and Power as CWLP. Okay?
A. Okay.
Q. And what is your title at CWLP?
A. I am the environmental health and safety manager.
Q. And how many years have you been at CWLP?
A. I think I am going on 24 or 25. I think 24 years.
Q. And what are your responsibilities in the position of environmental health and safety manager?
A. Sure. I oversee regulatory compliance on the environmental side, air, waste, water. I also oversee safety, work comp, and safety training as well for the utility.
Q. And do you oversee waste?
A. Yes.
Q. And what are your day-to-day responsibilities in your position?
A. I have a staff of 10 individuals, you know, some of those folks, like Eric, will do environmental work with the air, water, or waste.

Safety, I have three safety employees that oversee safety for roughly 600 employees at CWLP.

I also oversee a work comp manager who deals with all the work comp.

And then I oversee a safety trainer who does all of our training for safety.

So, some days are busier than others with air, water, waste, or safety, but it's not very consistent from day-to-day.

Q. I see.

And the Dallman Ash Pond was built in the mid to late '70s, correct?

A. That sounds about right.

Q. Does 1976 sound about right?

A. Yes. I think that's when Dallman Prairie was commissioned, yes.

Q. And if I refer to just Dallman, I am referring to the Dallman Ash Pond. Okay?

A. Okay.

Q. And Dallman was not lined when it was originally constructed, right?

A. Correct.

Q. And Dallman has never had a liner

retroactively installed, correct?

A. Correct.

Q. The Lakeside Ash Pond was built even before Dallman, right?

A. Yes.

Q. And do you know when?

A. I'm not a hundred percent sure but probably like in the 1950s maybe, but I am not sure.

Q. And if I refer to just Lakeside, I am referring to the Lakeside Ash Pond. Okay?

A. Okay.

Q. And Lakeside was not lined when it was originally constructed, right?

A. Correct.

Q. And a liner has never been retroactively installed at Lakeside, correct?

A. Correct.

Q. I want to turn now to the Part 620 rules. In starting around 2010 to 2011, CWLP had been monitoring groundwater under the Part 620 rules, right?

A. I believe so. My role as environmental and safety manager started in 2011. So, the 620s

with IEPA started before my role, so I wasn't really involved until around 2011. But, yes, I believe it started in 2009, 2010, yes.

Q. And groundwater monitoring at the CWLP site has revealed exceedances of the Part 620 standards, right?

A. The past monitoring, yes.

Q. And CWLP has never evaluated potential corrective action for groundwater contamination under Part 620, correct?

A. I would not say that's correct, no.

Q. Okay. And why -- let me rephrase that.

Can you explain to me when CWLP did -- let me take that back.

I want to -- I want to go back to the year of 2018. Okay?

A. Okay.

Q. And prior to 2018 CWLP had not evaluated potential corrective action for groundwater contamination, correct?

A. No. I believe we had evaluated back in our -- when Gary from the IEPA, on the 620s, I think we sat down with him on a few occasions to discuss possible compliance action.

Q. And what was the scope of your evaluation of ground -- of corrective action under Part 620?

A. Well, I think we were talking about moving the dry fly ash handling of Dallman 33 to get rid of some of the ash going to the impoundments.

I think there was discussion that 33 was going to continue operating partially doing a composite liner for half of Dallman, Dallman 33 was going to continue running. So I think there was a lot of scenarios we were going through, not really understanding what the future of the utility for 31, 32, and 33 were going to be at the time.

Q. CWLP received a notice of violation from the state in 2014, correct?

A. Yes.

Q. And following the notice of violation, there was some communications back and forth with IEPA, correct?

A. Correct.

Q. Okay. So we are placing an exhibit in front of you and it's being marked as Exhibit 32.

And for the record, it is an April 2nd,

2014, letter to IEPA.

Do you have that in front of you?

A. Yes, I do.

Q. And you are familiar with this document, correct?

A. My previous boss Christine Zeman signed it but, yes, I got cc'd.

Q. And can you explain what this letter is?

A. I believe it was our discussion with IEPA about possible compliance commitment agreement based on the 620 violations we were discussing previously.

Q. And this letter contains a proposal for next steps in response to the notice of violation, correct?

A. Correct.

Q. And it contains -- I would describe it as the bare bones of a proposal for a compliance commitment agreement. Is that fair?

A. I would not know how to define that.

Q. And I am going to refer to a compliance commitment agreement as a CCA. Okay?

A. Yes.

MS. BUGEL: And Complainants move for

Exhibit 32, that April 2nd, 2014, letter to IEPA to be admitted into the record.

HEARING OFFICER WEBB: Any objection?

MS. WILLIAMS: No objection.

HEARING OFFICER WEBB: Exhibit 32 is admitted into the record.

(Complainants' Exhibit No. 32 was admitted into evidence.)

BY MS. BUGEL:

Q. Okay. You can set that aside and you can put it in that little stack there.

And we are placing in front of you an exhibit that we are marking as Exhibit 33. It is an April 11th, 2014, letter from IEPA.

Do you have that in front of you?

A. Yes, I do.

Q. And you are familiar with this document as well, correct?

A. Yes. I believe this was just the correspondence going back and forth between IEPA and CWLP concerning the next steps for the CCA.

Q. And this letter indicates that both IEPA and CWLP were trying to move forward with coming to an agreement for purposes of entering a CCA,

correct?

A. Yes.

MS. BUGEL: Complainants move for Exhibit 33 to be admitted into the record.

HEARING OFFICER WEBB: Exhibit 33 is admitted.

(Complainants' Exhibit No. 33 was admitted into evidence.)

BY MS. BUGEL:

Q. And we are placing another exhibit, which we are marking as Exhibit 34, we are placing that in front of you.

And this letter, for the record, is an April 23rd, 2014, letter from IEPA.

Do you have that in front of you?

A. Yes.

Q. And you are familiar with this document as well, correct?

A. Yes. Once again, I think just the correspondence going back between IEPA and CWLP for the CCA.

Q. And this letter indicates that a meeting between IEPA and CWLP, in fact, occurred, correct?

A. Yes.

MS. BUGEL: Complainants move for Exhibit 34

to be admitted into the record.

HEARING OFFICER WEBB: Exhibit 34 is admitted into the record.

(Complainants' Exhibit No. 34 was admitted into evidence.)

MS. BUGEL: And we are making Joaquin exercise.

BY MS. BUGEL:

Q. We are marking an exhibit as Exhibit 35. And this, for the record, is a May 12th, 2014, letter to IEPA.

Do you have that in front of you?

A. I do.

Q. And you are familiar with this document, correct?

A. Yes, I am.

Q. And your name appears -- if you flip over to the backside, your name appears as receiving a copy of this letter, correct?

A. Correct.

Q. And can you explain what this letter is?

A. Yes. I think it was after our meeting we put together a CCA for IEPA based on our meeting we had in April.

Q. And turning to the elements of the compliance commitment agreement, I am looking at Page 2, there are a series of bullet points at the bottom of Page 2. Do you see that?

A. Yes.

Q. And one of the elements proposed was an assessment monitoring plan, correct?

A. Correct.

Q. And that assessment monitoring plan was for just boron, sulfate, and TDS, correct?

A. I do not know that.

Q. You do not know that?

A. I do not know that.

Q. Let me ask that a different way.

Did CWLP ever undertake assessment monitoring for boron, sulfate, and TDS under Part 620?

A. Yes, I believe we did. I'm not sure if that's the only constituents but I do know those three are for sure, but I don't know if there's others. I'm not familiar enough with it.

Q. And when did CWLP undertake that assessment monitoring?

A. Well, I believe we proposed it and I

think later on IEPA rejected the CCA. So, we just continued to monitor per our agreement with IEPA until 257 came in place.

Q. And then if you continue reviewing the bullet points -- actually, let me turn to Page 3, there are a series of bullet points on Page 3. Do you see those?

A. I do.

Q. And one of the elements proposed was a dry ash handling system for Dallman Unit 33. Do you see that?

A. I do.

Q. And did CWLP ever install dry ash handling on Dallman Unit 33?

A. No.

Q. And then if you look at the last bullet point on Page 3, this proposes dredging part of the Dallman ash pond and retrofitting it with the compliant liner. Do you see that bullet?

A. I did.

Q. Did CWLP ever do this?

A. No. We decided to shut down Dallman 31, 32, and 33. There was no need to retrofit the ash ponds based on eventually shutting down Dallman

31, 32, and 33.

Q. And the Dallman Ash Pond still contains ash, correct?

A. Correct.

MS. BUGEL: Complainants move for Exhibit 35 to be admitted into the record.

MS. WILLIAMS: It's No. 7 on our list, is that right?

HEARING OFFICER WEBB: I am not following along with the pre-filed exhibits.

MS. WILLIAMS: No worries. No objection.

HEARING OFFICER WEBB: Exhibit 35 is admitted.

(Complainants' Exhibit No. 35 was admitted into evidence.)

BY MS. BUGEL:

Q. And IEPA rejected CWLP's proposed CCA, correct?

A. Yes. I believe so, yes.

Q. And after rejecting the CCA, IEPA went silent on the subject of the notice of violation, correct?

A. I don't think we received anymore official correspondence from IEPA, as I recall.

Q. And shortly thereafter, the federal CCR

rule was proposed?

A. It was proposed well before that. There's many proposals on 257. It was final in 2015. So, yes, it was proposed probably in 2010 and it took many, many years to go through, yes.

Q. And in the context of the federal rule, you have an interpretation of the state going silent on the subject of the NOV. Do you recall that?

A. Well, yes, I believe the state was also working on 841, their initial CCR rule, and turned it into 845. So, they were moving forward on rulemaking as well. So, I think in their mind the 620s didn't pertain to the ash ponds anymore because the federal rule was moving forward -- or was proposed and almost final and the state rule was also moving forward.

Q. And your interpretation was that the state more or less just kind of went silent with it to allow CWLP to follow the CCR rule, correct?

A. Yes. That would be -- that's logical, yes.

Q. Has anyone at IEPA ever communicated to you that CWLP did not need to comply with

Part 620?

A. I don't think there was any official correspondence. I think we sent a letter later on saying we are following the CCR rule, we're done sampling for 620, and we are going to follow the regulation.

And then eventually the state also developed a regulation for the surface impoundments as well.

Q. And you've never had any conversations with anyone at Illinois IEPA that communicated that CWLP did not need to complete with Illinois Rule Part 620?

A. It didn't seem germane at the time.

Q. So that's a no?

A. I can't recall conversations I had with IEPA whether or not it was germane or not. We were looking at the federal rule, the proposed state rule, the 620s that didn't pertain to ash ponds.

Q. And have you had any conversations with anyone at Illinois IEPA that support your belief that you don't need to comply with -- the CWLP didn't need to comply with Illinois Rule 620?

A. I don't recall.

Q. Is there anything that would help refresh your recollection?

A. Like I said, that was a long time ago, we've been going through lots of different rules and following different programs for the impoundment. So if my memory isn't accurate eight years ago, then I mean it's been some time since this happened.

Q. Would your deposition in this matter help refresh your recollection?

A. Sure.

Q. Okay. For the record, we are looking at Mr. Becker's deposition taken on November 29, 2018, and I am referring to Page 85, Line 8, and I will direct your attention to Line 8 through Line 12, if you could please read that silently to yourself.

A. Okay.

Q. I am going to take it back now.

A. Sure.

Q. I am just going to ask the question again.

Have you had any conversations with

anyone at Illinois EPA that support your belief that, I am going to rephrase this, that CWLP doesn't need to comply with, it says Illinois regulatory rules, I am going to limit my questions to Part 620. Do you have any recollection whether you've had conversations to that effect with anyone at Illinois IEPA now that you've looked at your deposition?

A. I don't recall. I know during 841, when we were developing 841, which then turned into 845, there was many conversations we had with IEPA just saying when the 845 or 841 become effective, those will regulate the impoundments.

So I don't recall having exact conversations or correspondence, but that's just the logical manner.

Q. Okay. Do you recall giving a deposition in this matter?

A. Yes, but I think that question is different than the question you gave me.

Q. I tried to narrow it to make it a little more focused.

A. Correct.

Q. In this deposition do you recall me

asking the question and you giving the answer:

"Have you had any conversations with anyone at Illinois EPA that support your belief that you don't need to comply with Illinois regulatory rules?"

And the answer you gave is "No, I have not had conversations with" and that's where your answer ended.

Have I read that correctly?

A. Yes. Yes.

MS. BUGEL: And, Hearing Officer, do you want the page of the deposition admitted into the record or is reading it sufficient?

HEARING OFFICER WEBB: Reading it is sufficient.

MS. BUGEL: Thank you.

BY MS. BUGEL:

Q. I want to turn to the federal coal combustion residuals rule. And you are aware of the regulations codified at 40 CFR Part 257, right?

A. I am.

Q. And I am going to refer to those regulations as the federal CCR rule. Okay?

A. Okay.

Q. And CWLP had been monitoring groundwater under 620 before the federal CCR rule went into effect, right?

A. Correct.

Q. And once CWLP started monitoring under the federal CCR rule, CWLP did not continue monitoring under Part 620, correct?

A. Incorrect.

Q. Incorrect?

A. Yes. We monitored under 620 from, I believe, 2011 until the last quarter of 2017, that was in the letter we sent IEPA, we told IEPA because the CCR rule is in place, that we are going to follow the CCR constituents sampling list, but we let IEPA know we sampled for two additional years after the effectiveness of the CCR rule.

Q. Okay. Thank you for the correction.

And do you believe it's very difficult for the industry to follow two sets of regulations?

A. Oh, yes, it's very time consuming and it's very -- yes, it's time consuming as well as,

you know, just -- yes, it's difficult.

Q. And do you believe that the state believes that it's easier to be able to follow just one regulation for industry?

A. Well, yes, I would think that would be the case. Yes.

Q. And once the federal CCR rule came into effect by about 2018, CWLP was exclusively following the CCR rule -- the federal CCR rule?

A. Yes. I believe at that point in time the 845s were still being developed, so we weren't following 845 I believe until 2021, the state rule. The federal rule, yes, we've been following it since its implementation, yes.

Q. And it's your view that it was easier for CWLP to follow just one set of groundwater regulations instead of two?

A. We were following the groundwater regulations that were written for surface impoundments, ash ponds, which makes the most sense for regulatory compliance, yes.

Q. And my question was do you believe it's easier for CWLP to do that than follow two sets of regulations?

A. Of course.

Q. And that was a sufficient justification for CWLP to follow just the federal CCR rule instead of the federal CCR rule and Part 620, correct?

A. Yes. Again, I think I misspoke. You have to say that again.

Q. Yes.

That was a sufficient justification for CWLP to follow just the federal CCR rule instead of the federal CCR rule and Part 620, correct?

A. I am missing the first part of your question. What was?

Q. Well, the fact that it's easier to follow just one set of groundwater regulations.

HEARING OFFICER WEBB: Is she mischaracterizing your testimony? What is your testimony? The question is, is it easier to just follow one.

THE WITNESS: I think I answered yes.

MR. BUGEL: Mr. Becker testified that it's easier to follow just one set of regulations and then my question is that was a sufficient justification for CWLP to follow just the federal

CCR rule instead of the federal rule and Part 620.
BY THE WITNESS:
A. Well, partially, yes. The other justification is the constituents of concern, 620, although a lot of them were similar to 257, they didn't pertain to ash impoundments, so a lot of the sampling we were doing, I think Eric mentioned this before, the organic volatile and semi-volatile, didn't really pertain to ash ponds. And so the utility being the utility, we look at our rate payer, we just don't like spending money to spend money, so it's not cheap doing groundwater monitoring. So we felt it was pertinent just to follow one set of regulations that were developed for ash impoundments, which was the 257 rule -- the federal 257 rule.
BY MS. BUGEL:
Q. And we are placing in front of you an exhibit that we are marking as Exhibit 36. And for the record, this is a January 11, 2018, letter to IEPA.
Do you have that in front of you?
A. Yes.
Q. And if you flip over to the backside,

does your signature appear on this letter?

A. Yes, it does.

Q. And can you explain what this letter is?

A. Yes. I believe we've been kind of alluding to this during this conversation, but this was CWLP letting IEPA know that we were going to exclusively just follow the 257 list that U.S. EPA recommended and not continue the 620 list that we've been doing since 2011, and this was just more or less a head's up to IEPA as to how we are proceeding.

Q. Okay. And were there constituents that CWLP was no longer sampling as a result of the changes indicated in this letter?

A. Yes, I believe so, but I do not know those constituents offhand.

Q. And was it a cost saving for CWLP to stop sampling the full state list and just follow the Part 257 list of constituents?

A. Yes, it was cost savings and just -- yes, it was -- part of it was cost savings but it was just the ease of following one regulation and not having two lists of 620s, 257s, every quarter. It was getting hard for my staff to -- to keep track

of.

Q. Okay. And is it fair to say that this letter communicates CWLP's intention to cease sampling the complete groundwater parameter and risk from Part 620.410?

A. Well, yes, we stopped at 620 but many of the constituents were the same as the 257s.

Q. And once CWLP was no longer sampling the Part 620.410 list, there were no other measures that CWLP could take to comply with Part 620, correct?

A. Not necessarily, because a lot of the constituents we had hits on 257 were the same that were in 620, sulfates, TDS, PH, chlorides. So a lot of those constituents were the exact same as 257.

MS. BUGEL: Complainants move for Exhibit 36 to be admitted into the record.

HEARING OFFICER WEBB: Exhibit 36 is admitted into the record.

(Complainants' Exhibit No. 36 was admitted into evidence.)

MS. BUGEL: And, Hearing Officer, could we take a minute just to give Joaquin a chance to

pull the next exhibits?

HEARING OFFICER WEBB: Yes.

MS. BUGEL: Thank you.

(Pause.)

MS. BUGEL: Hearing Officer, I think we are ready to resume.

HEARING OFFICER WEBB: Okay. Resume, please.

BY MS. BUGEL:

Q. We have placed in front of you Exhibits 37, 38, 39, and 40.

Do you have those in front of you?

A. I do.

Q. Okay, excellent.

And looking at Exhibit 37, I will represent for the record that this is the 2022 State Groundwater Monitoring Report. Do you see that?

A. Yes.

Q. And then looking at Exhibit 38, I will represent for the record that this is the 2023 State Groundwater Monitoring Report. Do you see that?

A. I do.

Q. And looking at Exhibit 39, I will

represent for the record that this is the 2024 State Groundwater Monitoring Report. Do you see that?

A. I do.

Q. And looking at Exhibit 40, I will represent for the record that this is the 2025 State Groundwater Monitoring Report. Do you see that?

A. I do.

Q. And you are familiar with these documents, correct?

A. Yes. I am familiar with them, yes.

Q. And you've reviewed them prior to today?

A. At some point, yes. Yes.

Q. And collectively, can you just tell me what your understanding is of what these documents are?

A. Yes. So for the state rule, which is 845, which I will refer to 845, it's a summary of the year before. Yes. So this is 2023, so the year of 2022, just kind of what's going on with the impoundments, what's going on with groundwater monitoring, what's going on with just any issues that you see in the future, and just any type of

corrective action that you are proposing or moving forward on. So it's just kind of like a summary of the year before, sampling analysis and just assessment, I guess, of the impoundments.

Q. Okay. I am going to ask you some questions about these reports and I will give you the time you need to look at them to answer the questions.

Collectively, do you agree that these groundwater monitoring reports show boron exceedances every year from 2022 to 2025?

A. Yes. Yes. I know it's -- yes.

Q. And collectively, do you agree that these groundwater monitoring reports show TDS exceedances every year from 2022 to 2025?

A. Yes, I would think that would be accurate.

Q. And can you explain what TDS is?

A. Total dissolved solids.

Q. And collectively, do you agree that these groundwater monitoring reports show sulfate exceedances every year from 2022 to 2025?

A. I would assume that is correct as well.

MS. BUGEL: Complainants move for Exhibits 37,

38, 39, and 40 to be admitted into the record.

MS. WILLIAMS: No objection.

HEARING OFFICER WEBB: Exhibits 37 through 40 are admitted.

(Complainants' Exhibit Nos. 37, 38, 39, and 40 were received into evidence.)

BY MS. BUGEL:

Q. We are going to turn to our next exhibit. We are in the process of marking Exhibit 41.

And for the record, I will represent that this is the 2025 Federal Groundwater Monitoring Report.

Do you have that in front of you?

A. I do.

Q. And are you familiar with this document?

A. Yes.

Q. And you have reviewed it prior to today?

A. Yes, I have.

Q. And can you give us your understanding of what this document is?

A. Yes. Similar to the state rule but looking at the federal constituents which are slightly different than the state constituents.

Q. And can you explain -- can you explain what sort of information is contained in this report?

A. Yes. Once again, it's just the -- it's the summary of the analyticals for the entire year. It's looking at the different constituents in all the wells and just kind of giving a summary of the groundwater levels at the ash impoundments.

Q. And can you please turn to Page 4 of this exhibit.

For the record, we are looking at Page 4 but it has a Bates number of SC_006 on that page.

Do you see that?

A. I do.

Q. Looking at the second paragraph, this report indicates the total arsenic concentrations exceeded the groundwater protection standard at groundwater monitoring well AP-7.

Do you see that?

A. Yes.

Q. And AP-7 is a downgradient monitoring well, correct?

A. Yes.

Q. And this report also indicates that total

arsenic concentrations exceeded the groundwater protection standard at groundwater monitoring well RW-3, correct?

A. Yes.

Q. And RW-3 is also a downgradient monitoring well, correct?

A. Yes.

Q. And the narrative that we were just looking at, that paragraph doesn't mention AP-8, right?

A. It does not.

Q. But if you look at the table at the very bottom of the page, there is a box under AP-8 that has an X marked in the "Arsenic" row. Do you see that?

A. I do.

Q. And can you turn to Table 1 at the back of the -- well, not at the back, at the end of the narrative portion of the report, and I can get you -- and it is Bates No. SC_017, I believe, if I got that right.

A. Okay.

Q. Are you on that page?

A. I am.

Q. And does this table indicate that arsenic exceeded background -- I am sorry, let me rephrase that.

Does this indicates that arsenic exceeded background at AP-8?

A. Yes, it does.

Q. And background for arsenic is 0.0239?

A. Yes. Milligrams per liter, correct.

Q. And is that also the groundwater protection standard for arsenic under the federal rule?

A. Yes.

Q. And is that true for all four quarters of 2025?

A. No.

Q. Okay. And you are looking at the page for arsenic?

A. I was looking at AP-7. Yeah, it looks like AP-7 was not in the fourth quarter. Yeah, for AP-8, yes, it was.

Q. And is the groundwater protection standard set at background?

A. Yes.

MS. BUGEL: Complainants move for Exhibit 41

to be admitted into the record.

MS. WILLIAMS: No objection.

HEARING OFFICER WEBB: Exhibit 41 is admitted.

(Complainants' Exhibit No. 41 was admitted into evidence.)

BY MS. BUGEL:

Q. Just one more question about that exhibit.

Were you aware that there was a discrepancy between the narrative and what appeared in Table 1 prior to today?

A. No, I was not. Otherwise, we obviously would fix it in the narrative.

Q. Can we please move to our next exhibit? We are marking Exhibit 42.

And for the record, I will represent that Exhibit 42 is Part 1 and 2 of the U.S. EPA Notice of Violations Dallman and Lakeside Ash Ponds.

Do you have that in front of you?

A. I do.

Q. And this very first page of Exhibit 42 is an e-mail. Do you see that?

A. I do.

Q. And does your name appear on this e-mail?

A. Yes, it does.
Q. As the recipient?
A. Correct.
Q. And the date on this e-mail is November 28, 2022, correct?
A. Yes.
Q. And this is part of a longer document where a cover letter is attached to the e-mail. Do you see that?
A. I do.
Q. And the cover letter on this document is also directed to you?
A. Yes, it is.
Q. And attached to the cover letter is Attachment A, correct?
A. Uh-huh.
Q. Have you read this package of documents before today?
A. I have, yes.
Q. And including Attachment A, have you read Attachment A before today?
A. Yes, Attachment A.
Q. And Attachment A contains a 60-page discussion of violations at the Dallman and

Lakeside Ash Ponds, correct?

A. Potential violations. Some of this was just needing more information or additional work that needed to be done for compliance, but it wasn't exact violations, it was a correspondence between us and the U.S. EPA. After their site visit, they did a records request, we gave them a bunch of information and they tried to assess compliance. So, some of it was just potential violations, it wasn't exact violations.

So, we've been working with U.S. EPA to correct most if not all the violations -- or potential violations with just additional information from our work that needed to be done at the impoundments.

Q. I think you said there's a distinction -- strike that. Let me start over.

You mentioned potential violations in your answer and then you also mentioned exact violations.

A. Yes. I mean, some was easy stuff to fix, they're just little things in reports. I mean, there's a vast amount of information that we have to give to U.S. EPA in all these reports.

As you know, 257 was self-implementing. So, we did the best we could trying to be in compliance and, obviously, any regulatory agency is going to come in and find probably some issue with whatever report, whatever assessment you are doing yourself.

So, a lot of these things were kind of easy fixes, some of them were a little harder fixes. But like I said, working with U.S. EPA trying to rectify any issues that they have with the structural stability groundwater issues at the ash ponds.

Q. And is it fair to say Attachment A is 60 pages?

A. Is this including the pictures and stuff?

Q. That is Attachment A-1. I don't know. We can move on.

Can you turn to Page 30497.

A. 30497, yes.

Q. This is part of Attachment A and it lists 10 categories of violations, is that correct?

A. No. It's potential violations.

Q. It lists 10 categories of potential violations, is that correct?

A. Yes, it does.

MS. BUGEL: Complainants move for Exhibit 42 to be admitted into the record.

HEARING OFFICER WEBB: Exhibit 42 is admitted.

(Complainants' Exhibit No. 42 was admitted into evidence.)

MS. BUGEL: We are in the process of marking Exhibit 43.

MS. WILLIAMS: Can we object to it?

MS. BUGEL: Maybe. Maybe not.

HEARING OFFICER WEBB: 43?

MS. WILLIAMS: Yes. We aren't going to object to any of her exhibits, except for this one, which is No. 14 on the list.

MS. BUGEL: That's not the one I'm on, though.

MS. WILLIAMS: Never mind, okay.

BY MS. BUGEL:

Q. And so we are placing in front of you what has been marked as Exhibit 43.

And for the record, I will represent that this is the ash pond closure NOV letter and Attachment A to that letter.

Do you have that in front of you?

A. I do.

Q. And this letter is directed to you as well, correct?
A. It is.
Q. And turning to the backside, Page 2, this letter is signed by Michael Harris, correct?
A. Yes, it is.
Q. And it is dated -- in the signature it's dated October 4th of 2023, is that correct?
A. Yes, it is.
Q. And I am looking at the very first paragraph of this letter. It says -- the second half of that paragraph says "The United States Environmental Protection Agency, Region 5, EPA has determined that CWLP is in violation of the requirements of 40 CFR Part 257 Subpart D."
Do you see that?
A. I do.
Q. And that doesn't say potential violations, does it?
A. No, it does not.
Q. Okay. And Attachment A -- attached to this cover letter is Attachment A. Do you see that?
A. I do.

Q. And you've read this document before today, correct?
A. Yes.
Q. And Attachment A provides the details regarding CWLP's violations of 40 CFR Part 257 Subpart D for the Dallman and Lakeside Ash Ponds, correct?
A. Yes.
Q. And specifically, this attachment provides details as to how CWLP's 2016 and 2022 closure plans for the surface impoundments violated 40 CFR Part 257 Subpart D, correct?
A. Yes.
As I said before, I just think we needed to give them additional information based on our previous reports and we've been going through that process with U.S. EPA, and we are still going through that process with U.S. EPA, to correct whatever violations or whatever perceived violations that we've had, and this is the beginning of that conversation with them, yes.
Q. Now, in correcting the violations identified by U.S. EPA, CWLP didn't stop at just giving U.S. EPA more information, correct?

A. Correct. We've done some -- put additional wells in, got additional information, did some more work on the impoundments themselves to look at the structural integrity to make sure that it would hold up during closure and whatnot. So, we've been working through that with U.S. EPA. So it's not just giving them more information, it's going out and doing additional work at the impoundments.

Q. And CWLP had to do an assessment of corrective measures in response to the U.S. EPA NOV, correct?

A. I believe so. I can't recall exactly but, yes. I think we are working with them right now on assessment and corrective measures but I'm not a hundred percent sure at this point.

Q. And one only does an assessment of corrective measures in response to violations, correct?

A. Well, we had to do assessment of corrective measures because of groundwater issues. So no matter whether it's U.S. EPA or not U.S. EPA, we had to do corrective measures because of the groundwater issues we've had at the

impoundment. So whether U.S. EPA asked for it or the rule asked for it, we had to do it anyway.

Q. And by groundwater issues, you are referring to groundwater exceedances, correct?

A. Yes.

Q. You also -- you were mentioning having to give U.S. EPA more information. CWLP also had to complete a new closure plan in response to the U.S. EPA Notice of Violations, correct?

A. I believe that was part of our discussion with the U.S. EPA, that they -- the closure plan they felt was, I guess, lacking some information, so we updated our closure plan with additional corrective measures and additional items that we thought would be beneficial to the closure of the impoundments.

Q. And the updated closure plan proposes a different -- it proposes different action -- I am trying to figure this out. I apologize. Let me pause and rephrase this.

The updated closure plan actually proposes closing Lakeside Ash Pond in a different manner, correct, from the previous -- from the 2022 closure plans?

A. Yes. The Dallman and Lakeside Ash Pond is -- both their closures are different, we view them as a single unit, they are going to close together.

So, yes, we are looking at consolidating Lakeside Ash Pond to the Dallman Ash Pond and that's the updated closure plan.

Q. So that's not just more information but it's actually different action, correct?

A. Yes. Yes. Correct.

MS. BUGEL: Complainants move for Exhibit 43 to be admitted into the record.

MS. WILLIAMS: No objection.

HEARING OFFICER WEBB: Exhibit 43 is admitted.

(Complainants' Exhibit No. 43 was admitted into evidence.)

BY MS. BUGEL:

Q. We are marking Exhibit 44. And for the record, Exhibit 44 is the U.S. EPA Landfill Notice of Violation.

MS. WILLIAMS: We object to the relevance of this document.

THE WITNESS: Thank you.

MS. BUGEL: I haven't made my motion yet. Can

I finish my introduction of this?
BY MS. BUGEL:
Q. We placed in front of you what has been marked as Exhibit 44.
Do you have that in front of you?
A. I do.
MS. BUGEL: Now I'm ready.
MS. WILLIAMS: Objection, relevance. We have not objected to any other documents on Miss Bugel's list, in fact we've been helpful in getting the ones she wants.
However, the landfill is not an issue in this proceeding, that was established quite long ago. Any discussions with U.S. EPA about the landfill are not relevant to this case.
Also, we did not object to entering the final CAFO, which talks about the landfill, but I think it's clouding the record and unnecessary and confusing to enter in a document solely pertaining to the landfill that has nothing to do with ash ponds.
MS. BUGEL: And our response is that one of the Section 33 factors that the Board is required to consider is subsequent compliance. Not only do

the ash ponds continue to call for more exceedances but this letter actually shows that there's a broader pattern of violations at CWLP's facility and it extends to CWLP's broader practices at the ash ponds and at the landfill.

In addition, another factor is the character and degree of the injury. And again, where you have broader violations, it goes to -- it shows there's a broader degree of injury. Therefore, it's relevant.

HEARING OFFICER WEBB: I mean, what are you going to -- just that it shows violations that also belong to CWLP?

MS. BUGEL: Yes.

MS. WILLIAMS: Why does the exhibit of the consent agreement and final order address that? That's where all the supportable issues are found already. This is just duplicative of potential violations.

MS. BUGEL: I disagree that it's duplicative. You know, I think if we are going to have the NOVs and CAFO, it leaves a gap in the record to not have the notice of violation that's behind --

HEARING OFFICER WEBB: Are you going to go

into detail or just say there were violations?

MS. BUGEL: I am not going to go into detail.

HEARING OFFICER WEBB: If it's just being used to show that there were violations, I am going to admit it.

(Complainants' Exhibit No. 44 was admitted into evidence.)

BY MS. BUGEL:

Q. So turning again to the first page of the e-mail, this e-mail is directed at you, Mr. Becker?

A. Yes.

Q. And the date on the e-mail is July 6, 2023, correct?

A. Correct.

Q. And if you turn to the first page that is the attachment to the e-mail, there's an unsigned letter attached to the e-mail, correct?

A. Correct.

Q. And that letter is also directed to you?

A. Correct.

Q. And attached to the -- attached to the cover letter are Attachments 1, 2, and 3, correct?

A. Correct.

Q. And you have read these attachments before today, correct?
A. Correct.
Q. And Attachments 1, 2, and 3 just says the alleged violations at CWLP's coal combustion residuals landfill, correct?
A. Correct.
Q. And Attachment 1 includes Landfill Unit 2 location restriction violations, correct?
A. Correct.
Q. And location restriction violations are not limited -- let me rephrase that.
Location restriction violations are not just information violations, correct?
A. This one was. We just didn't document something that U.S. EPA needed for the location restriction. I believe we rectified that. So I don't know, off the top of my head, but I do recall this was just a minor issue with U.S. EPA at the time.
Q. And turning to landfill -- strike that.
Attachment 2, which is on Page 30638, do you have that in front of you?
A. I do.

Q. And this contains groundwater monitoring violations for Landfill Unit 2?

A. Yes. Yes, it does.

Q. And I would like to turn to Attachment 3. And Attachment 3 is at Page 30663.

Do you have that in front of you?

A. Yes.

Q. And Attachment 3 includes violations regarding closure and post-closure review at Landfill Unit 2, correct?

A. Correct.

MS. BUGEL: Complainants move for Exhibit 44 to be admitted into the record.

HEARING OFFICER WEBB: I think I already admitted it.

MS. BUGEL: Oh, thank you.

BY MS. BUGEL:

Q. And now we can turn to Exhibit 28. We are placing in front of you an exhibit that was previously admitted in this proceeding, it is Exhibit No. 28. And for the record, this is the consent agreement and final order.

So this is the consent agreement and final order covering the U.S. EPA's Notice of

Violations to CWLP, is that correct?

A. Correct.

Q. And you are familiar with this document as well?

A. I am.

Q. And if you turn to Page 30771, do you have that in front of you?

A. 771?

Q. 30771.

A. Yes.

Q. And your name appears in this document, correct?

A. Yes, it does.

Q. And it indicates that documents submitted to Respondent shall be sent to PJ Becker?

A. Yes.

Q. And I am going to refer to this consent agreement and final order as a CAFO. Okay?

A. Yes.

Q. Looking at Page 30790, do you have 30790 in front of you?

A. The signature page?

Q. Yes.

A. Yes, I do.

Q. Do you agree that the City of Springfield doing business as CWLP signed this -- or agreed to this document?

A. Yes.

Q. And it was signed by Misty Buscher, Mayor of the City of Springfield?

A. Yes.

Q. And turning to Page 6, which is 30711, do you have Page 30711 in front of you?

A. Yes.

Q. And that's Page 6 of the CAFO?

A. Correct.

Q. And this delineates CWLP's violations, correct?

A. Alleged violations.

Q. And the pages delineating CWLP's alleged violations go all the way to Page 53. Do you see that?

A. Yes.

Q. And this document discusses the steps that CWLP agreed to in order to remedy the alleged violations, correct?

A. Yes.

MS. BUGEL: I have no further questions.

HEARING OFFICER WEBB: Okay.

MS. WILLIAMS: I just have a couple of things. Do you want to pass the microphone?

CROSS-EXAMINATION

BY MS. WILLIAMS:

Q. PJ, I just want to talk about a couple of things that Faith brought up but we will talk about most of the issues in your direct testimony.

She was showing you your deposition from 2018 and asking about following 620 versus following Part 257. Do you recall that?

A. Yes.

Q. Can you tell me what is your experience with following multiple sets of rules? Do you have experience beyond CCR of the difficulty with following multiple sets of rules?

A. Well, yes, of course. I mean, with air compliance or water compliance, whatever, we have a federal rule, a state rule, and you are trying to comply with both of them, it's a condition of doing business, you do the best you can. But, yes, we have issues -- not issues, but it's difficult to follow two sets of rules, yes.

Q. And today you are following 257 and 845?

A. Yes. For the CCR service impoundments we're following two sets of rules, we're following 257, which is a federal rule, and following 845, which is a state rule.

Q. So is there something that you are aware of in Part 620 that would require CWLP to sample groundwater?

A. No.

Q. Why was CWLP sampling 620 constituents?

A. We did it out of an agreement with IEPA. It's an understanding or just discussion with them that we were going to start to assess groundwater at the impoundments prior to 257 or 845.

Q. And 620 is what they had available?

A. That was the only regulation that they had at the time for groundwater.

Q. Are you aware of any 620 constituents that were a problem that you stopped sampling when you switched to 257?

A. No.

Q. So 257 covered all the contaminants of concerns at this site, as far as you are aware?

A. Yes.

Q. Faith also asked you about, you know, if

you had any conversations with IEPA about whether 620 applied. I am going to ask you a little differently.

Are you aware, and if you don't know, you don't know, but are you aware of whether the EPA has taken the position that 845 substitutes for 620?

A. I would not say I am aware, but just -- being in the regulatory, you know, world for 30-plus years now, there's an understanding that when a new reg comes into place that pertains to your industry, that you will follow that regulation, and maybe an old reg like 620, which was good at its time, doesn't really pertain to the impoundments anymore since there's a state rule and a federal rule that now pertains to surface impoundments.

Q. Do you know if the agency advocated to clarify that point in 620?

A. I believe they did during the recent rulemaking, was it 620, to clarify their intent.

Q. I just have one more -- two more quick things.

You mentioned that in the violation

notices from U.S. EPA there was some easy fixes, there were some harder fixes. Were there also some things that they dropped altogether and recognized there wasn't an issue from our presenting them additional information?

A. Yes. I mean, I think there was just sharing of information with U.S. EPA, and I don't know specifics because we've been working through this since 2003, so we are going on almost four years now. So, yes, there's been lots of conversations, lots of discussions with them, yes. So there's been some things that were pretty much cleaned up pretty quickly but some other items have taken a little bit more work.

Q. Since you were asked about the landfill at the end, I would like at this time for you to give a little background to why, just at a very high level, what was the dispute between CWLP and U.S. EPA over regulations applicable at the landfill? Can you just kind of summarize that for us, please?

A. Yes. It was CWLP's interpretation that the CCR landfills -- our CCR landfill was built at the same standards as a municipal solid waste

landfill. And in the CCR rules it says if you have a municipal solid waste landfill, these rules don't pertain to you. And since we believe the intent of the rule was any landfill that was built at the same level as the municipal solid waste landfill, although we didn't take garbage and put it in our landfill, it's a chemical special waste landfill, that the CCR rules would not pertain to us because they were constructed at a level that a municipal solid waste landfill was constructed.

So, we went ahead and used it because it was regulated under IEPA since 1995, it had its own set of the groundwater monitoring program, it had its own set of regulations, it was already being regulated by the state, we felt that we didn't want to do duplicative -- once again, duplicative regulations at the landfill, and we followed the state landfill regulations, which we have been since 1995, and we kept them out of the CCR landfill, but obviously U.S. EPA had a little bit different interpretation than we do.

But I still believe that was the intent of the CCR rule, if you build a landfill at the same level as a municipal solid waste landfill,

then that landfill should not pertain to the CCR regulations.

Q. And was the decision just made to reach an agreement with the U.S. EPA rather than litigate over the interpretation?

A. Yes. Since we already had many of the groundwater monitoring wells, we had a lot of the data, we had all the information, it was, just once again, a matter of resources, time, and money to update the landfill, to put the pertinent groundwater monitoring program, which we already had with the state, but we had to update it for U.S. EPA regs as well as all the reporting and all the other items that the CCR rule required us to do. And so, we went ahead -- instead of fighting it, we went ahead and just rolled it into the CCR program.

MS. WILLIAMS: I have no further questions.

HEARING OFFICER WEBB: Thank you.

MS. BUGEL: I have just one -- one or two follow-up questions.

REDIRECT EXAMINATION

BY MS. BUGEL:

Q. In Debbie's questioning of you,

Mr. Becker, you indicated that nothing in Part 620 requires CWLP to do groundwater monitoring, correct?

A. Correct. For the surface impoundments initially, correct.

Q. For the surface impoundments initially.

But once you agreed to do that monitoring, it did, in fact, indicate exceedances of Part 620 standards?

A. Yes.

MS. BUGEL: That's all my questions.

MS. WILLIAMS: No.

HEARING OFFICER WEBB: Okay, thanks.

THE WITNESS: Thank you.

HEARING OFFICER WEBB: Can I interest anyone in a 5-to-10-minute recess before the next witness?

MS. BUGEL: Yes.

HEARING OFFICER WEBB: Okay. Let's go off the record for about 10 minutes.

(Break.)

HEARING OFFICER WEBB: I think we are ready to go back on the record, please, and we are ready for the Complainants to call their next witness.

MS. BUGEL: Complainants call Brad Hunsberger.

HEARING OFFICER WEBB: Will the court reporter please swear in the witness.

(The witness was duly sworn.)

MS. BUGEL: And Complainants move to treat the witness as adverse and examine him as if he is under cross-examination pursuant to Rule 101.624(a) based on the fact that he is a consultant for Respondent.

HEARING OFFICER WEBB: Yes, that's fine.

MS. BUGEL: Thank you.

BRAD HUNSBERGER,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BUGEL:

Q. Mr. Hunsberger, good afternoon.

What company do you work for?

A. Andrews Engineering.

Q. And what is your position with that company?

A. I'm a senior vice-president.

Q. Have you held a previous position with Andrews?

A. I have.
Q. And what position was that?
A. Vice-president and then director of hydrogeological services.
Q. And how many years have you been at Andrews?
A. 39.
Q. And what are your responsibilities in your current position?
A. The responsibilities include oversight of the hydrogeologic environmental aspects of the company and overall company operation.
Q. And what kinds of tasks does that responsibility involve?
A. Anything to do with the hydrogeologic work that's required normally by regulatory entities.
Q. And by anything to do with hydrogeologic work required by regulatory entities, can you give us some examples of your daily tasks?
A. Oversight of staff. Review of projects that are related to landfills. Any other environmentally-sensitive clientele that we have.
Q. And what kind of work does Andrews, the

company, perform?

A. We perform multiple roles. Engineering, hydrogeologic environmental, contaminated properties, environmentally-sensitive properties, typically soil, water, anything that's related to that. We do quite a bit of Illinois Department of Transportation work, largely with environmental site assessments.

Q. And what is the relationship between Andrews and CWLP?

A. Andrews Engineering has worked with City Water, Light, and Power since 1987 on various tasks, including closure of the old landfill, landfill design of the current facility, and then on an as-needed basis with respect to the impoundments.

Q. And what is your role in the work that Andrews performs for CWLP?

A. I typically coordinate that with CWLP and then my staff.

Q. Would you have reviewed the work of other staff members working on the groundwater monitoring program for CWLP?

A. For the most part, yes.

Q. And specifically, that would have been Ron Cubic (phonetic) and Kim Van Pelt?
A. That would be correct.
Q. And what year did you start working on the CWLP site?
A. 1988.
Q. You personally, okay.
And did that work start out as the hydrogeologic investigation for the Ashland (inaudible)?
A. Yes, it did.
Q. And one reason that a hydrogeologic investigation was needed for the landfill is because there are shallow groundwater at the site, correct?
A. Any groundwater.
Q. What do you mean when you say "any groundwater"?
A. It doesn't necessarily have to be shallow.
Q. Do you recall needing to investigate the landfill from a stability standpoint?
A. That was largely done by our engineers.
Q. Do you recall potential uplift issues at

the landfill?

A. None.

Q. And is there, in fact, shallow land -- groundwater at the landfill site?

A. Yes.

Q. In 2011, was Andrews retained to provide the groundwater monitoring program for the impoundments at CWLP?

A. We were.

Q. And you were involved in that project, correct?

A. Yes, I was.

Q. And in fact, in 2011, the regulations that were the basis for the monitoring program were Part 620, correct?

A. I don't know that it was specific to 620. There was no monitoring program that existed prior to that. The state had asked that a monitoring program be submitted for approval and that's what we worked on initially. The 620 regulations do not define groundwater monitoring programs.

Q. We are marking an exhibit for the record and -- we are marking an exhibit for the record as Exhibit 45. And I will represent for the record

that this is the Illinois Environmental Protection Agency Violation Notice. I am placing that exhibit in front of you.

Do you have Exhibit 45 in front of you?

A. I do.

Q. And you are familiar with this document?

A. I have seen it, yes.

Q. And you've reviewed it before today?

A. Yes, I have.

Q. And can you please state what your understanding of this document is?

A. The violation was issued based on the groundwater monitoring program that was approved, installed, and then sampled and analyzed, and the agency took the data and issued a violation notice.

Q. And can you please turn to Attachment A. Attachment A lists boron violations. Do you see that?

A. I do.

Q. And Attachment A lists sulfate violations. Do you see that?

A. I do.

Q. And Attachment A lists TDS violations.

Do you see that?

A. I do.

Q. And these violations took place in wells AP-1-R, AP-2, and AP-3. Do you see that?

A. Yes.

Q. And I realize now I missed one. The violations also took place in AP-2-R. Do you see that?

A. AP-2 and AP-2-R are the same.

Q. The violation notice lists them separately, correct?

A. Yes, it does. That well was replaced, the "R" is replacement.

Q. Okay. And you've discussed IEPA's notices of violation with staff at CWLP, correct?

A. This particular violation notice?

Q. Yes.

A. No.

Q. You've never discussed this with anyone at CWLP?

A. Andrews was not involved in the follow up with this violation notice.

Q. So let me be clear. Were you ever involved in any work at CWLP that was done in

response to the notices of violation?
A. No, I don't believe so.
Q. Did you ever discuss mitigating exceedances at any of the downgradient wells at the Dallman and Lakeside Ash Ponds with anyone at CWLP?
A. Relating to this document or unrelated?
Q. Unrelated.
A. I'm sure that I have.
Q. And did you previously discuss assessing the concentrations of exceedances at the downgradient wells?
A. As part of the design for the 257 groundwater monitoring program.
MS. BUGEL: Complainants move for Exhibit 45 to be admitted into the record.
MS. WILLIAMS: We have no objection.
HEARING OFFICER WEBB: Exhibit 45 is admitted.
(Complainants' Exhibit No. 45 was admitted into evidence.)
BY MS. BUGEL:
Q. So we are now going to turn to an exhibit used at the previous May hearing, it is Exhibit 7.
And just to be clear, this is also -- to

be clear for the record, Exhibit 7 is one of the lengthy documents. So we have bundled a collection of excerpts from Exhibit 7 so that we didn't have to dig through the lengthy versions.

MS. WILLIAMS: I just want to make sure, if I have the lengthy version in front of me, I can follow along, but you said you were going to use the same PDF page numbers and whatnot.

MS. BUGEL: Okay, very good.

BY MS. BUGEL:

Q. So I am going to refer you to Page 894, and again that's an excerpt, and we are giving you -- we have PDF pages in the upper right-hand corner, and when I say anything before that is what I am referring to.

So this has some images, and because of the size of them, they printed out on different pages.

I apologize. We had a printing error, we are missing part of the image, but we can grab the federal groundwater monitoring report from 2026 and turn to Page 27 instead, Exhibit 41.

MS. WILLIAMS: Do you have the exhibit number for that one yet?

MS. BUGEL: Exhibit 41.

I realize we ran into the same problem with that, with Page 2 of that exhibit. So we are just going to wing it and not have any exhibits in front of us.

BY MS. BUGEL:

Q. I am going to ask you, did Andrews Engineering choose the well location of well AP-5?

A. No, I don't believe so. I think that was dictated by U.S. EPA. AP-5?

Q. AP-5.

A. Hang on a second.

I can't recall where that one is at.

Q. Would your January 2019 fact deposition refresh your memory on that?

A. Possibly.

Q. I am looking at your January -- we are distributing copies of the 2019 deposition, I am turning to Page 28 and looking at Line 19. I will put that in front of you, if you could read to yourself --

A. Yes.

Q. -- question at Line 18 and your answer in

your fact deposition, if you can read that to yourself.

A. Uh-huh.

Q. Does that refresh your recollection?

A. I'm sure if that's what I said, that's what it is.

Q. And do you recall how you determined that well location?

MS. WILLIAMS: Do you need a map?

THE WITNESS: I do, yes.

BY THE WITNESS:

A. Yes, I do recall.

BY MS. BUGEL:

Q. And can you tell me what that well location was based on?

A. The location needed to be upgradient and away from any of the impoundments.

Q. Yes.

And AP-4 is also an upgradient well, correct?

A. It is partially upgradient but it's also downgradient at the Lakeside.

Q. And do you recall why it was necessary to install AP-5 in 2011?

A. Yes. To get a second well that would show spatial variability of background groundwater equality.

Q. And was the location -- I am sorry, let me rephrase that.

Was the groundwater chemistry in AP-4 part of the reason that it was necessary to install AP-5?

A. No.

Q. You believed the groundwater chemistry in AP-4 was better than background, correct?

A. I think it's representative of background. It was utilized in derivation of the background concentrations. So it would not necessarily be better than background, it's part of background.

Q. And is AP-5 in a location that is more representative of background than AP-4?

A. Not necessarily.

Q. Does AP-5 generally have higher concentrations of various metals than AP-4?

A. I don't recall. I would have to look.

Q. Is there something you can look at that would help you?

A. If the annual reports are still up here, that would have data in it.
Q. The annual reports are still up there.
A. Okay. And you are specifically talking about metals?
Q. Yes.
A. Most of them are non-detect. The vast majority of metals are non-detect.
Q. What about arsenic?
A. AP-5 is non-detect and AP-4 has some detections.
Q. What level of detections?
A. What do you mean by that?
Q. Well, you said some detections. I'm just trying to get a number.
Above background?
A. Above the reporting limit -- the laboratory reporting limit.
Q. And can you give me a number? What's the the reporting limit?
A. One part per billion.
Q. And what is the detection level? I am sorry, what is the level detected?
A. It varies but it's around 20.

Q. 20 parts per billion?
A. 20 parts per billion.
Q. So is AP-5 in a location that is more representative of background compared to AP-4?
A. Not necessarily. It's showing spatial variability. The AP-4 is down in the Sugar Creek floodway, or its drainage way, and AP-5 is up and out of that drainage way. In both areas we have groundwater that's moving into the system from those locations.
So utilizing data from both of those wells provides us with the best spatial variability to account for when drying the background concentration. So that data has been provided to both Illinois EPA and U.S. EPA and they are in concurrence with that.
Q. Okay. I have a few questions about AP-4.
Earlier when we mentioned AP-4, I am trying to find out, is AP-4 representative of background?
A. Yes, I believe it is.
Q. Is AP-4 -- does AP-4 show any -- I'm sorry. Is AP-4 downgradient of any of the ash ponds at CWLP?

A. It's slightly downgradient on Lakeside.

Q. And if AP-4 is downgradient of Lakeside, it could be impacted by Lakeside, correct?

A. Based on the data that we've seen, it does not appear that way. And that's what ultimately was the determined utilization of AP-4 as part of background that the groundwater quality at that location was very clean.

Q. Okay, let's move on.

MS. BUGEL: Can we please have the next exhibit? We are in the process of marking Exhibit No. 46.

And for the record, I will represent that this top cover sheet says OBN Fact Sheet. And if we flip to the very first page, it is a letter to Miss Parker dated March 17, 2014.

BY MS. BUGEL:

Q. Do you have that in front of you?

A. I do.

Q. And are you familiar with this letter?

A. I am.

Q. And if you turn to Page 6, which is Bates Page 27102, does it have your signature on this letter?

A. Yes, it does.
Q. And were you involved in developing the contents of this letter?
A. Yes.
Q. And Page 27097, which was also the very first page of the letter, there's a bullet point.
Do you see the first bullet point on that page?
A. I do.
Q. And this bullet point says "Complete the tasks identified by the Illinois Environmental Protection Agency, Illinois EPA, as part of its ash impoundment strategy and in response to its correspondence dated February 20th, 2014."
Do you see that?
A. I do.
Q. Do you know what the correspondence referenced in this is?
A. Yes. I think that's the violation notice.
Q. Is that the violation notice that we just made an exhibit?
A. I would presume so.
Q. And did your involvement in this work

require you to be familiar with the violation notice?

A. I already said I was familiar with the violation notice. We had no interaction or follow up between City Water, Light, and Power and IEPA.

Q. And do you recall whether CWLP accepted the proposal contained in this letter?

A. This letter didn't go to them.

Q. I will rephrase the question. I apologize, I misspoke.

Did CWLP accept the proposal of contained -- for the consulting work contained in this letter?

A. I believe so.

Q. And turning to the next page, 27098, do you have that page in front of you?

A. Yes.

Q. This letter has three major tasks -- categories of tasks. Page 27098 to 2709 -- I am sorry, 27100. Do you see that?

A. Yes, I do.

Q. And the first task is to review and update previous investigations and plans. Do you see that?

A. Yes.

Q. And do you -- and the second task is evaluation of groundwater quality. Do you see that?

A. I do.

Q. And the third task is corrective action plan. Do you see that?

A. Yes.

Q. And Andrews did not ever develop a corrective action plan for CWLP that is discussed in this letter, correct?

A. That is correct.

Q. Okay. Can you explain why not?

A. Yes, I can.

The 841s were in the process and the plan was to allow them to further that process prior to making commitment and, of course, the 841s got trashed, the 845s came back at a later date but following the 257s.

That was the purpose, was not to go out and do something that was not going to be in -- along the same lines as to what they were looking for.

Q. And can you please explain what the 841s

are, for the record?

A. They were the first attempt at the CCR rules for the State of Illinois.

Q. Andrews did not ever perform a nature and extent for the parameters identified in the violation notice, correct?

A. Are you asking if it was never done?

Q. I'm asking if a nature and extent was ever done for boron, sulfate, and TDS at CWLP?

A. Those were included in the nature and extent report that was done in 2025.

Q. And the year contained on this letter was 2014, correct?

A. Yes, that is correct.

Q. And what year did you say nature and extent was done?

A. That was done as part of the rules in 2025.

Q. Okay.

A. Let me premise that, too, that a significant amount of investigation work went on throughout those years to evaluate the nature and extent and then it was done in accordance with the Illinois regulatory --

Q. I am going to continue to ask questions, if you don't mind.

A. Sure, okay.

Q. Andrews did not develop a corrective action plan for boron, sulfate, and TDS under Part 620, correct?

A. That is correct.

Q. And Andrews never assessed the scope of contamination for boron, sulfate, and TDS around wells AP-1, 2, and 3, correct?

A. No, I would disagree with that.

Q. Prior to 2019, did Andrews ever assess the scope of contamination around wells 1, 2, and 3 for boron, sulfate, and TDS?

A. We installed a lot of wells to assess the groundwater quality. I can't recall what timeframe different phases of drilling occurred.

Q. The Part 257 federal CCR rules, is it necessary to assess the scope of contamination -- I'm sorry, assess -- let me -- is it necessary to assess the scope of contamination under the federal CCR rules for boron, sulfate, or TDS?

A. Those are Class 3 parameters. So the answer to that is, no, it's a Class 4 that drives

it.

Q. And under the federal CCR rules, that would mean Andrews Engineering has never assessed the scope of contamination around wells AP-1, 2, and 3 for boron, sulfate, and TDS, correct?

A. Under the 257 rules?

Q. Yes, that was my question, under the 257 rules.

A. Not specifically for those parameters, but other parameters that encompass the program.

Q. And --

A. They get pulled in as part of that.

Q. And under Part 620, Andrews Engineering never assessed the scope of contamination for boron, sulfate, and TDS at AP-1, 2, and 3, correct?

A. Not specifically as part of 620, correct.

Q. And assessing the contamination is an initial step to determine mitigation, correct?

A. Yes.

Q. And mitigation and corrective action, are those generally the same?

A. Yes.

Q. And is it your understanding that the

first step in any potential corrective action regarding groundwater impacts would be to evaluate the nature and extent of contamination?

A. Yes.

Q. And did you -- so let me -- you had conversations about determining mitigation with CWLP about boron, sulfate, and TDS at AP-1, 2, and 3?

A. At some point, yes.

Q. And would it have been in relation to the scope of work letter that we were just reviewing?

A. The March 17th, 2014, letter?

Q. Yes.

A. No.

Q. No, okay. Exhibit 46, no.

I am just confirming that that's Exhibit 46, for the record.

So when did you have conversations with CWLP about mitigation at AP-1, 2, and 3?

A. We installed numerous wells in that area as part of the 257 groundwater monitoring program and then subsequently the 845, and discussions have been ongoing through that process on where this is leading.

Q. When -- when the CWLP site was shipped into the Part 257 rules, it was your opinion that it was no longer necessary to assess contamination and determine mitigation for wells AP-1, 2, and 3, correct?

A. Would you ask that again?

Q. Can I ask the court reporter to read it back, please?

HEARING OFFICER WEBB: Can you please read back the last question.

(Record read.)

BY THE WITNESS:

A. The answer to that is no. As the monitoring programs expanded, we got additional information as part of that, that helped us further assess what was going on out there.

BY MS. BUGEL:

Q. And do you recall giving a deposition in this proceeding, or three?

A. Yes.

Q. And do you recall giving your deposition in January of 2019?

A. Generally.

Q. And at that deposition do you recall me

asking you this -- or my colleague asking you this question and you giving this answer:

So I am referring to Page 88, Line 18.

"Question: When you talked about assessing the contamination that was an initial step to determining mitigation, did those conversations include the AP-1, 2, and 3 wells?"

"Answer: They originally did and then when I feel that the site was pushed into the 257 rules, then it was no longer necessary."

Do you recall being asked that question and giving that answer?

A. I don't recall that question but I can see that answer. I still read into that answer as because all of these other guidances and climates were coming into play was taking care of the initial requirement.

Q. And the Part 257 federal CCR rules became applicable in October of 2015, correct?

A. I believe that is correct, yes.

Q. Let me stop there.

MS. BUGEL: Complainants move for admission of Exhibit 46 into the record. That's the scope report with the OBN fact sheet.

MS. WILLIAMS: No objection.
HEARING OFFICER WEBB: Exhibit 46 is admitted.
(Complainants' Exhibit No. 46 was admitted into evidence.)
BY MS. BUGEL:
Q. Do we still have Exhibit 26?
So just to be fair, for the record, we have just placed in front of you Exhibit 26. Do you see that?
A. I do.
Q. And just for the record, Exhibit 26 was admitted in the May hearing.
Are you familiar with this document?
A. I'm sure I am. I'm looking for a date.
Q. Well, let me just also say for the record this has Bates No. 008643 on it.
And I agree, it is a little bit hard to find a date on it, but what I've done, to be able to get a date, is look through some of the site maps and whatnot at the back, because some of those have dates on them.
For instance, if you look at Bates Page 008667, on that figure I see a date of first quarter 2016. If you look at 008665, that Figure

3 has a date of October 2017 on it.

A. Yes. Some of the printout for the statistics have September and October dates 2017.

Q. Okay. So does that -- does that refresh your memory as to when this document was prepared?

A. Yes, it does.

Q. So I am going to ask again, are you familiar with this document?

A. Yes. I've seen it, yes.

Q. And can you describe it for the record?

A. It's identified as groundwater monitoring plan and it also has background concentrations in it.

Q. And was this groundwater monitoring program prepared for the 40 CFR Part 257 rules?

A. Yes, it was.

Q. And there was a previous monitoring program for the CWLP site, correct?

A. Yes.

Q. And the previous monitoring program was develop in 2011?

A. That is correct.

Q. And can you explain how this document altered the monitoring plan that was developed in

2011?

A. We list the parameters, that's different. The number of wells are different. The number of wells initially were the same. What's different is the background concentrations that were used for statistical derivation.

Q. And it also has two different appendices that are used for monitoring, correct?

A. I would presume that would be Appendix 3 and Appendix 4 parameters.

Q. And that was my question. It breaks the ammolites into Appendix 3 and Appendix 4 parameters?

A. Yes.

Q. And Appendix 3 is assessment monitoring?

A. No. Appendix 3 is detection monitoring.

Q. Thank you. Appendix 3 is detection monitoring.

And Appendix 4 is assessment monitoring, correct?

A. Correct.

Q. And so, can you describe the difference in monitoring parameters boron -- well, let me just ask them one at a time.

Can you describe the difference in monitoring a parameter such as boron under the 2011 groundwater monitoring program versus the 2017 groundwater monitoring program?

A. There shouldn't be any difference.

Q. And if there were an exceedance of boron under the 2011 program versus the 2017 program, would the response be different?

A. I would have to see what was written in the program. I don't know that, off the top of my head.

Q. Do you know if any parameters have exceeded the -- their standard in assessment monitoring under Part 257?

A. Currently?

Q. Yes.

A. Arsenic and cobalt.

Q. And have you been involved in characterizing the nature and extent of impacts for those exceedances at CWLP?

A. We have.

Q. At what well or wells?

A. We looked at wells AP-7, AP-8, and RW-3 for arsenic on the north end and then cobalt was

in a well or two on the west end. I don't remember the names -- or the numbers of those wells.

Q. Okay. And can you generally describe what those -- what has been involved in characterizing the nature and extent of impacts for those parameters at those wells?

A. Yes. Additional wells were installed to evaluate the extent both on the west side and on the north side.

Q. How many additional wells?

A. At least six additional wells and possibly more, without looking at a map.

Q. And that nature and extent investigation would be in the area around the impacted wells, correct?

A. Yes.

Q. And I want to turn -- I would like to turn to Exhibit 7, the closure construction permit, and that would be the excerpts that we are going to view.

You are familiar with this document, correct?

A. I am.

Q. And it has your signature on the first page?

A. It does.

Q. And can you please tell me -- can you tell me what your understanding of this document is?

A. This is the contaminant transport model which was included as part of the closure alternative assessment.

Q. So just turning to the very first page of Exhibit 7, if you had the whole of Exhibit 7 in front of you, do you have an understanding of what this document is?

A. That's a large document, closure construction permit application.

Q. Thank you.

And can you tell me what your involvement in developing this document was?

A. My largest involvement had to do with the contaminant transport model, communication with our modeler, derivation of the contaminant transport model. Some of the other information that was in this application was done by our engineers.

Q. And can we please turn to Page 808 of this exhibit.

This page has wells AP-1R and AP-2A on it, correct?

A. Yes.

Q. And the "R" after a well, what does that indicate?

A. Replacement.

Q. And what does the "A" after AP-2A indicate?

A. That means it's been replaced twice.

Q. And would the top of the casing be approximately the same before and after replacement?

A. Generally. It depends on what it was before.

Q. So the top of the casing here for AP-1R is at 535.6 feet, correct?

A. Yes.

Q. And the top of the casing for 2A is at 536.1 feet, correct?

A. Yes.

Q. And do you have an understanding of whether that top of the casing would have been

generally the same before and after replacement?

A. I would expect they would be relatively close.

Q. And the ground surface for both of these is 533 feet?

A. Generally, yes.

Q. 533.1 and 533.6?

A. That's what's in the table.

Q. Plug waters that topped AP-1 and AP-2 would have had to reach 535 to 536 feet, correct?

A. It would be slightly less than that. That's top of protected casing versus the top of the inner pipe. The top of the inner pipe is slightly less than that, but it's within a few inches, yes.

Q. Okay. And we can bundle those back together, we will be coming back to this, so we want to kind of keep them in order.

And we are turning to Exhibit 6.

We've placed in front of you what is already marked as Exhibit 6 which was introduced at the May hearing. Are you familiar with this exhibit?

A. I believe so.

Q. And looking -- looking at Exhibit 6, the very cover page, at the bottom of that page, it has your name on it, correct?

A. Yes.

Q. Would that indicate that this was sent to Darin LeCrone at IEPA by Andrews Engineering?

A. Yes.

Q. So as you look through this, was Andrews involved in developing some of the responses contained in this letter?

And just for the record, I am specifically looking at Attachment A, responses to October 10, 2023, generally permit application review letter?

A. Yes, I'm sure that we were involved in this.

(Pause.)

HEARING OFFICER WEBB: Miss Bugel, if you could resume your questioning.

BY MS. BUGEL:

Q. So just to recap where we were, you had stated that Andrews was involved in developing the responses contained in Attachment -- Attachment A to this letter, correct?

A. That is correct.
Q. And did you review the entire document?
A. I'm sure at some point I did, yes.
Q. And I want to look at Page 5. When I refer to Page 5, I am referring to PDF Page 5 in the upper right-hand corner.
Do you see the last response on this page, 1.1.2 discussing the impact of the FEMA flood zone? Do you see that?
A. Yes.
Q. And do you agree that a 100-year flood, waters would rise to roughly 545 feet?
A. Not necessarily.
Q. And do you recall giving an expert deposition in this proceeding?
A. Three of them.
Q. One fact deposition, two expert depositions?
A. Yes.
Q. And in your first expert deposition, do you -- well, let me re-ask the question.
Do you agree that -- is your concern that there are areas on the FEMA map that are not accurate?

A. That is correct.

Q. Okay. But that wouldn't affect flood waters rising to 545 feet still, would it?

A. It sure could. This is based on the FEMA flood map which had been admitted to (inaudible.)

Q. And are you disagreeing with the idea that in a 100-year flood waters would rise roughly to 545 feet?

A. I don't know that to be accurate.

Q. Okay. Do you recall giving an expert deposition in this proceeding?

A. I do.

Q. And do you recall giving that deposition on September 9th of 2019?

A. Not specifically.

Q. And I am looking at Page 18, Line 15 -- no, I'm sorry, Line 19. Do you recall being asked this question and giving this answer:

"Question: Okay. And so you are not disagreeing with the idea that in a 100-year flood, waters would rise roughly to 545 feet?"

"Answer: Correct."

Do you recall being asked that question and giving that answer?

A. Not specifically, no.

Q. Okay. So, the tops of the berms surrounding the ash ponds are about 545 feet, correct?

A. Yes.

Q. The bottom of the ash ponds is lower than 545 feet, correct?

A. Correct.

Q. If Sugar Creek flooded, do you have a sense of how close the flood waters would flow to the berms, to the west of Dallman Ash Pond, to the clarification ponds, Lakeside Ash Ponds, and the lime softening pond?

A. The flood waters could be at the toe of the berm.

Q. And do you agree that the toe of the berm is the base of the slope where it meets up with the ground elevation?

A. Yes.

Q. And we can set Exhibit 6 aside for the time being.

And turn to Exhibit 7 again, the closure construction permit, permit application.

Is this the most recent closure

construction permit application submitted on behalf of CWLP?

A. If you are asking is it the most recent closure plan, the answer is no.

Q. I am not asking if it's the most recent closure plan. I am asking if it's the most recent closure construction permit application?

A. I believe this is still pending before the Illinois EPA, yes.

Q. And this contains modeling, correct?

A. That is correct.

Q. And if you turn to PDF Page 719 -- actually, let's turn to PDF Page 718. Does that contain contaminant transport modeling?

A. Attachment 2 is the contaminant transport modeling.

Q. And then if you turn the page, it says closure alternatives assessment contaminant transport model. Do you see that?

A. Yes.

Q. And this was prepared by Andrews Engineering?

A. Yes, it was.

Q. And were you involved in the preparation

of the contaminant transport model?

A. Yes, I was.

Q. And can you explain what a contaminant transport model is?

A. It's a computer model that's similarly (inaudible) transport within a given environment.

Q. And why is a contaminant transport model performed?

A. In this case, the model was performed to show that the closure activities would suffice for corrective action and bring the downgradient well water quality in compliance with the background concentrations.

Q. You are not aware of anymore recent contaminant transport model performed for CWLP, correct?

A. That is correct.

Q. And this modeling -- model groundwater flow after closure at CWLP, correct?

A. It does.

Q. And in the modeling, the CWLP ponds were modeled after closure as having an outward gradient, correct?

A. Yes.

Q. And does that mean that the potentiometric surface is lower than the bottom of the impoundment?

A. No.

Q. And do you recall giving an expert deposition in this proceeding on June 26, 2025?

A. Yes.

Q. And in that deposition I asked the following question and you gave me the following answer:

"Question: Did the models that Andrews used for CWLP impoundments contain an input that reflected what the elevation of groundwater would be surrounding the impoundments after closure in place?"

"Answer: The answer overall is yes. There's not a specific level. The key is whether it's an outward gradient into the system or an inward gradient into the system. So it was modeled after closure as an outward gradient. So what that means is that the potentiometric surface is lower than the bottom of the impoundment."

Do you remember me asking that question and you giving that answer?

A. Yes. That was a good answer.

The outward gradient can exist while the liquid level on the inside is decreasing because it is still feeding the system, there's still an outward gradient. So the potentiometric surface doesn't necessarily hack the bottom of the impoundment to still have an upward gradient since the internal liquids in the core space of the CCR is still driving an outward gradient.

So the answer that I gave you before is correct and this explains what my answer this time was. Nothing has changed, that's a good answer. I'm just saying that the liquid on the inside until they are fully drained or extracted are forcing an outward gradient.

Q. So did the models that Andrews used for CWLP have a potentiometric surface that was lower than the bottom of the impoundment?

A. After the impoundment, dewater be there naturally, or by an act of measure, yes. And that makes it more conservative because your solute is pushed into the system and the model then calculates what the transport and the concentrations are. Once that goes to a zero

grading, there's no more solute into the system.

Q. Can you explain what the potentiometric surface is?

A. It's the height that groundwater will rise to under the current pressure system. We don't have a shallow water system. We don't have a -- what we have is a confined or semi-confined system within the uppermost aquifer.

So the pressures in the sand -- basal sand can have what seems to be an elevated water level and monitoring well, when in reality it may not be that high, if you excavate to a soil, you might not get any water. However, potentiometric surface is higher than that and because it's isolated.

Q. Did you say that CWLP has an unconfined aquifer?

A. I think everything I've ever said was it's confined, semi-confined.

Q. So with that, the potentiometric surface -- okay, I understand.

I want to turn back to Exhibit 7, which is what we still have in front of us. Can you please turn to PDF Page 756?

We are going to come back to that. That's part of the copies that got cut off.

So let's look at PDF Page -- let's look at PDF Page 894 in Exhibit 7.

A. Okay.

MS. BUGEL: And can we go off the record for a minute?

HEARING OFFICER WEBB: Sure, we will go off the record for a minute.

(Break.)

HEARING OFFICER WEBB: Let's go back on the record.

We are back on the record.

We have decided that this is a good spot to recess for the day and we will reconvene tomorrow at 9:00 a.m. Thank you.

(The hearing adjourned at 3:50 p.m.)

I, PAMELA S. MORGAN, Certified Shorthand Reporter in the State of Illinois, do hereby certify that the above hearing was recorded stenographically by me and was reduced to typewritten form by means of Computer-Aided Transcription.

I further certify that the foregoing deposition transcript is a true, correct, and complete record of the testimony given and of all proceedings had before me.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor financially interested directly or indirectly in this action.



PAMELA S. MORGAN, C.S.R. 084-001687

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